

# Napa County

1195 THIRD STREET  
SUITE 310  
NAPA, CA 94559



## Agenda - Final

**Tuesday, July 16, 2024**

**9:00 AM**

**Board of Supervisors Chambers  
1195 Third Street, Third Floor**

## **Flood Control and Water Conservation District**

*Scott Sedgley, City of Napa (Chairperson)*  
*Joelle Gallagher, District 1, (Vice Chairperson)*  
*Anne Cottrell, District 3*  
*Paul Dohring, City of St. Helena*  
*Leon Garcia, City of American Canyon*  
*Ryan Gregory, District 2*  
*Irais Lopez-Ortega, City of Calistoga*  
*Marjorie Mohler, Town of Yountville*  
*Beth Painter, City of Napa*  
*Alfredo Pedroza, District 4*  
*Belia Ramos, District 5*

**GENERAL INFORMATION**

The Napa County Flood Control and Water Conservation District meets as specified in its adopted annual calendar in regular session at 1195 Third Street, Suite 305, Napa, California 94559. The meeting room is wheelchair accessible. Assistive listening devices and interpreters are available through the Clerk of the Board of the Napa County Board of Supervisors. Requests for disability related modifications or accommodations, aids or services may be made to the Clerk of the Board's office no less than 72 hours prior to the meeting date by contacting (707) 253-4580.

**The agenda is divided into three sections:**

**CONSENT ITEMS** - These matters may include routine financial or administrative actions, as well as the final adoption of two-reading ordinances and are approved by a single vote.

**PUBLIC HEARINGS** - These items are noticed public hearings pursuant to government code.

**ADMINISTRATIVE ITEMS** - These items include significant policy and administrative actions and are classified by program areas.

All materials relating to an agenda item for an open session of a regular meeting of the Napa County Flood Control and Water Conservation District which are delivered to the Clerk and are provided to a majority or all of the Directors of the Board, staff or the public within 72 hours of but prior to the meeting will be available for public inspection, at the time of such distribution, in the office of the District Secretary, 1195 Third Street, Suite 305, Napa, California 94559, Monday through Friday, between the hours of 8:00 a.m. and 5:00 p.m., except for County holidays. Materials distributed to a majority or all of the members of the Board at the meeting will be available for public inspection at the public meeting if prepared by the members of the Board or County staff and after the public meeting if prepared by some other person. Availability of materials related to agenda items for public inspection does not include materials which are exempt from public disclosure under Government Code sections 6253.5, 6254, 6254.3, 6254.7, 6254.15, 6254.16, or 6254.22.

ANY MEMBER OF THE AUDIENCE DESIRING TO ADDRESS THE BOARD ON A MATTER ON THE AGENDA please proceed to the podium and, after receiving recognition from the Chairperson, give your name and your comments or questions. In order that all interested parties have an opportunity to speak, please be brief and limit your comments to the specific subject under discussion. Time limitations shall be at the discretion of the Chairperson or Board.

**AGENDA AVAILABLE ONLINE AT [www.countyofnapa.org](http://www.countyofnapa.org) or [www.napaflooddistrict.org](http://www.napaflooddistrict.org)**

**How to Watch or Listen to the Napa County Flood Control and Water Conservation District Meetings**

The Napa County Flood Control and Water Conservation District will continue to meet pursuant to the adopted 2024 calendar available at the following link:

<https://www.countyofnapa.org/1429/Board-of-Supervisors-Special-Districts-C>

The District realizes that not all County residents have the same ways to stay engaged, so several alternatives are offered. Please watch or listen to the Napa County Flood Control and Water Conservation District meeting in one of the following ways:

1. Attend in-person at the Board of Supervisors Chambers, 1195 Third Street, Napa, CA 94559.
2. Watch on Zoom via [www.zoom.us/join](http://www.zoom.us/join) and enter Meeting ID 827-699-932-82 or listen on Zoom by calling 1-669-444-9171 then enter Meeting ID 827-699-932-82.
3. Watch via the Internet – view the Live Stream via Granicus by going to the following link:  
[http://napa.granicus.com/ViewPublisher.php?view\\_id=5](http://napa.granicus.com/ViewPublisher.php?view_id=5)
4. You may submit public comment for any item that appears on the agenda, or general public comment for any item or issue that does not appear on the agenda, as follows:  
Via email: send your comment to the following email address:  
[publiccomment@countyofnapa.org](mailto:publiccomment@countyofnapa.org). EMAILS WILL NOT BE READ ALOUD.

If you have any questions, contact us via telephone at (707) 253-4580 or email [clerkoftheboard@countyofnapa.org](mailto:clerkoftheboard@countyofnapa.org).

1. CALL TO ORDER; ROLL CALL

2. PLEDGE OF ALLEGIANCE

3. APPROVAL OF MINUTES

- A. Approve minutes from the June 18, 2024 meeting.

[24-1211](#)

**Attachments:** [June 18, 2024](#)

4. PRESENTATIONS AND COMMENDATIONS

5. CONSENT ITEMS

- A. Approve Purchase and Sale Agreement 250012B (FC) for the full acquisition of fee title of property located at 501 North Bay Drive (APN 044-220-017), Napa, California, owned by Enzo Orciuoli at a price of \$675,000.00. (Fiscal Impact: \$675,000 Expense; Flood Projects; Budgeted; Discretionary)

[24-980](#)

**Attachments:** [Agreement](#)

- B. Approval of Agreement 250073B (FC) with Larry Walker Associates (LWA) for professional services related to implementation of the Phase II Municipal National Pollutant Discharge Elimination System (NPDES) Permit. (Fiscal Impact: \$169,000 Expense, NPDES Stormwater Management Fund, Budgeted, Discretionary)

[24-1090](#)

**Attachments:** [Agreement](#)

- C. Approve and authorize Amendment No. 1 to Agreement No. 230007B (FC) with the Napa County Resource Conservation District (RCD), to increase the maximum amount of compensation to \$206,350 per fiscal year and to extend the term from July 1, 2024 through June 30, 2025 for services and expenses pertaining to public education and outreach, coordinating volunteer river cleanups, and developing and maintaining hydrologic models of selected stream systems. (Fiscal Impact \$206,350 Expense, Watershed Projects Fund, Budgeted, Discretionary)

[24-1093](#)

**Attachments:** [Agreement](#)

- D. Approve and authorize Amendment No. 4 to Agreement No. F-103 (FC) with Somach, Simmons & Dunn for Fiscal Year 2023-24, with an annual maximum cost of \$85,000 for specialized services necessary to advise, assist, and represent the District in its dispute over proper interpretation of the 2013 Area of Origin Settlement Agreement with the California Department of Water Resources (DWR). (Fiscal Impact: \$25,000 Expense; Flood District; Budgeted; Discretionary)

[24-1180](#)

**Attachments:** [Agreement](#)



- E. Approve and authorize a lobbying certificate in conjunction with entering into the Project Cooperation Agreement for the Napa River/Napa Creek Flood Protection Project. (No Fiscal Impact; Mandatory) [24-1208](#)

**Attachments:** [Certificate](#)

**6. DISCUSSION OF ITEMS REMOVED FROM THE CONSENT CALENDAR**

**7. PUBLIC COMMENT**

At this time, anyone may address the Board of the Napa County Flood Control and Water Conservation District regarding any subject not on today's agenda over which the Board has jurisdiction. Individuals will be limited to a three-minute presentation. No action will be taken by the Board of the Napa County Flood Control and Water Conservation District as a result of any item presented at this time.

**8. ADMINISTRATIVE ITEMS**

- A. Update on the progress of the Napa River/Napa Creek Flood Protection Project. (No Fiscal Impact; Discretionary) [24-1185](#)

**9. PUBLIC HEARINGS**

- A. PUBLIC HEARING - Napa River/Napa Creek Flood Control Project, Flood Walls North of the Bypass [24-1144](#)

Open Public Hearing and adopt a Resolution of Necessity with respect to portions of certain property owned by Jose Cruz Calderon and Maximino Ballines (No Fiscal Impact; Discretionary)

**Attachments:** [Resolution](#)  
[Exhibits A-F](#)

**10. DISTRICT MANAGER'S/ENGINEER'S REPORTS AND ANNOUNCEMENTS**

**11. BOARD OF DIRECTORS REPORTS AND ANNOUNCEMENTS**

**12. BOARD OF DIRECTORS FUTURE AGENDA ITEMS**

**13. CLOSED SESSION**

- A. CONFERENCE WITH REAL PROPERTY NEGOTIATOR [24-1170](#)  
(Government Code Section 54956.8)  
Properties: APN 044-314-005  
Negotiating Party: Richard Thomasser, Flood District Manager, William and Cathi Bickford  
Under Negotiation: Price/Terms/Conditions of Payment

**14. ADJOURNMENT**

**ADJOURN TO THE NAPA COUNTY FLOOD CONTROL AND WATER  
CONSERVATION DISTRICT REGULAR MEETING, TUESDAY, AUGUST 13, 2024 AT  
9:00 AM.**

I HEREBY CERTIFY THAT THE AGENDA FOR THE ABOVE STATED MEETING WAS POSTED AT A LOCATION FREELY ACCESSIBLE TO MEMBERS OF THE PUBLIC AT THE NAPA COUNTY ADMINISTRATIVE BUILDING, 1195 THIRD STREET, NAPA, CALIFORNIA ON FRIDAY, JULY 12, 2024 BY 5:00 P.M. A HARDCOPY SIGNED VERSION OF THE CERTIFICATE IS ON FILE WITH THE DISTRICT SECRETARY AND AVAILABLE FOR PUBLIC INSPECTION.

Neha Hoskins (By e-signature)

NEHA HOSKINS, District Secretary



# Napa County

## Board Agenda Letter

1195 THIRD STREET  
SUITE 310  
NAPA, CA 94559  
www.countyofnapa.org  
Main: (707) 253-4580

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Flood Control and Water Conservation District **Agenda Date:** 7/16/2024

**File ID #:** 24-1211

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**TO:** Napa County Flood Control and Water Conservation District  
**FROM:** Neha Hoskins - Clerk of the Board/Secretary of the District Board  
**REPORT BY:** Paulette Cooper - Deputy Clerk of the Board II  
**SUBJECT:** Approval of Minutes

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### **RECOMMENDATION**

Approve minutes from the June 18, 2024 meeting.

### **BACKGROUND**

Clerk of the Board/Secretary of the District Board requests approval of minutes from the June 18, 2024 meeting.

### **FISCAL & STRATEGIC PLAN IMPACT**

Is there a Fiscal Impact? No

### **ENVIRONMENTAL IMPACT**

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.



# Meeting Minutes

## Napa County Flood Control and Water Conservation District

Scott Sedgley, City of Napa (Chairperson)  
Joelle Gallagher, District 1, (Vice Chairperson)  
Anne Cottrell, District 3  
Paul Dohring, City of St. Helena  
Leon Garcia, City of American Canyon  
Ryan Gregory, District 2  
Irais Lopez-Ortega, City of Calistoga  
Marjorie Mohler, Town of Yountville  
Beth Painter, City of Napa  
Alfredo Pedroza, District 4  
Belia Ramos, District 5

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<b>Tuesday, June 18, 2024</b>	<b>9:00 AM</b>	<b>Board of Supervisors Chambers</b> <b>1195 Third Street, Third Floor</b>
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1. CALL TO ORDER; ROLL CALL

**Present:** Chairperson Scott Sedgley, Vice-Chairperson Joelle Gallagher, Directors Anne Cottrell, Paul Dohring, Juan Garcia, Ryan Gregory, Irais Lopez-Ortega, Marjorie Mohler, and Beth Painter. **Directors Alfredo Pedroza, and Belia Ramos were excused. Director Leon Garcia joined the meeting during Public Comment. The meeting was called to order by Chairperson Scott Sedgley.**

2. PLEDGE OF ALLEGIANCE

**Chairperson Scott Sedgley led the assembly in the Pledge of Allegiance.**

3. APPROVAL OF MINUTES

A. Approve minutes from the June 11, 2024 meeting.

[24-1104](#)

**Motion Text:** Approve the Minutes.

**Voting Yes:** Gallagher, Mohler, Cottrell, Dohring, L. Garcia, Gregory, and Lopez-Ortega

**Excused:** Pedroza, and Ramos

**Abstain:** J. Garcia, Painter, and Sedgley

**Recusals:** None

**Result:** Passed

4. PRESENTATIONS AND COMMENDATIONS

**None**

## 5. CONSENT ITEMS

**Motion Text:** Approve the Consent Calendar.

**Voting Yes:** Gregory, Painter, Cottrell, Dohring, Gallagher, J. Garcia, L. Garcia, Lopez-Ortega, Mohler, and Sedgley

**Excused:** Pedroza, and Ramos

**Recusals:** None

**Result:** Passed

- A. Approve and authorize Purchase and Sale Agreement No. 240292B (FC) with Ailene M. Pritchett and Agreement No. 240291B (FC) with Ailene M. Pritchett, Mary Delzompo, Linda Barbosa, and Christy Mary Stewart to purchase property necessary for the Napa River Estuary Enhancement and Public Access Project and authorize the District Manager to sign and execute any additional documents necessary to complete the Project. (Fiscal Impact: \$5,025,000 Expense; Flood Projects - Measure A Fund; Budgeted; Discretionary)

[24-231](#)

**Enactment No:** A-240291B (FC); A-240292B (FC)

- B. Approve and authorize Amendment No. 2 to Agreement No. 220223B (FC) with HDR Engineering, Inc. (HDR), increasing the maximum amount by \$1,403,999 to a new total of \$6,876,460 to complete design, environmental documentation and permitting of the Floodwalls North of the Bypass Project; and approval of Budget Amendment increasing appropriations by \$2,500,000 in Consulting Services offset by the reduction in appropriations in Land. (Fiscal Impact: \$2,500,000 Expense, Flood Project Budget, Not budgeted; Discretionary)  
[4/5 vote required]

[24-961](#)

**Enactment No:** A-220223B (FC) Amend. 2

- C. Approve and authorize Amendment No. 2 to Agreement No. 220322B (FC) with Associated Right of Way Services (ARWS) for the Napa River/ Napa Creek Flood Protection Project - Floodwalls North of the Bypass (Project) to fund the consultants for Real Estate acquisition for the Project through FY 2024-25. (Fiscal Impact \$700,000; Flood; Not Budgeted; Discretionary)

[24-963](#)

**Enactment No:** A-220322B (FC) Amend. 2

## 6. DISCUSSION OF ITEMS REMOVED FROM THE CONSENT CALENDAR

None

## 7. PUBLIC COMMENT

None

## 8. ADMINISTRATIVE ITEMS

None

## 9. PUBLIC HEARINGS

## A. PUBLIC HEARING - Napa County Flood Control and Water Conservation District Budgets

[24-641](#)

Adopt a Resolution with respect to the proposed Napa County Flood Control and Water Conservation District Fiscal Year 2024-25 budgets continued from June 11, 2024, Public Hearing. (Fiscal Impact: \$63,784,233 Expense; Napa County Flood Control District; Discretionary)  
[14 affirmative votes required]

**Watershed & Flood Control District Manager Richard Thomasser made presentation.**

**Chair Scott Sedgley opened the Public Hearing.**

**Discussion held.**

**Chair Scott Sedgley closed the Public Hearing.**

**Motion Text: Close the Public Hearing.**

**Voting Yes: Cottrell, Painter, Dohring, J. Garcia, L. Garcia, Gallagher, Gregory, Lopez-Ortega, Mohler, and Sedgley**

**Excused: Pedroza, and Ramos**

**Recusals: None**

**Result: Passed**

**Motion Text: Adopt the Resolution.**

**Voting Yes: L. Garcia, Gregory, Cottrell, Dohring, J. Garcia, Gallagher, Lopez-Ortega, Mohler, Painter, and Sedgley**

**Excused: Pedroza, and Ramos**

**Recusals: None**

**Result: Passed**

**Enactment No: R-2024-12 (FC)**

## 10. DISTRICT MANAGER'S/ENGINEER'S REPORTS AND ANNOUNCEMENTS

**Watershed & Flood Control District Manager Richard Thomasser stated that staff and consultants are working hard on completing all first written offers for real estate acquisitions for the Flood Walls North of the Bypass Contract. By the end of July all the property owners that are involved in the project will have received their first written offer for just compensation for their property.**

**Thomasser stated that the Sacramento District U.S. Army Corps of Engineers received a communication from the Assistant Secretary of the Army and Corps Headquarters requesting the U.S. Army Corps to complete their review of the Project Cooperation Agreement (PCA), which is the agreement that must be executed to receive reimbursement for construction efforts, by the end of July. The Sacramento and San Francisco divisions are working hard to complete the task. Thomasser will be reaching out to Auditor-Controller Tracy Schulze for financial self-certification. The PCA will be adopted hopefully by the end of the year or early 2025.**

11. BOARD OF DIRECTORS REPORTS AND ANNOUNCEMENTS

None

12. BOARD OF DIRECTORS FUTURE AGENDA ITEMS

None

13. CLOSED SESSION

A. CONFERENCE WITH REAL PROPERTY NEGOTIATOR

[24-983](#)

(Government Code Section 54956.8)

Properties: APNs 044-230-002, 044-230-003

Negotiating Party: Richard Thomasser, Flood District Manager, Cruz  
Calderon Jose Etal

Under Negotiation: Price/Terms/Conditions of Payment

**Closed session held. No reportable action.**

14. ADJOURNMENT

**ADJOURN TO THE NAPA COUNTY FLOOD CONTROL AND WATER  
CONSERVATION DISTRICT REGULAR MEETING, TUESDAY, JULY 16, 2024 AT  
9:00 AM.**

NEHA HOSKINS, District Secretary



# Napa County

## Board Agenda Letter

1195 THIRD STREET  
SUITE 310  
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Main: (707) 253-4580

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Flood Control and Water Conservation District **Agenda Date:** 7/16/2024

**File ID #:** 24-980

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**TO:** Napa County Flood Control and Water Conservation District  
**FROM:** Richard Thomasser - District Manager  
**REPORT BY:** Andrew Butler - District Engineer  
**SUBJECT:** Approve a Purchase and Sale Agreement 250012B (FC)

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### **RECOMMENDATION**

Approve Purchase and Sale Agreement 250012B (FC) for the full acquisition of fee title of property located at 501 North Bay Drive (APN 044-220-017), Napa, California, owned by Enzo Orciuoli at a price of \$675,000.00. (Fiscal Impact: \$675,000 Expense; Flood Projects; Budgeted; Discretionary)

### **BACKGROUND**

The Napa River/Napa Creek Flood Protection Project covers 6.9 miles of the Napa River, as well as 0.6 miles of the Napa Creek. Components of this project include widening the river channel through the creation of both marsh plain and floodplain terraces adjacent to the river, replacing several bridges, including the railroad bridge over the Napa River, and the creation of a bypass channel through downtown Napa. The overall project requires the acquisition of property interests on approximately 300 parcels of land.

The Floodwalls North of the Bypass Project (Project), the next phase of the larger Napa River/Napa Creek Flood Protection Project, extends approximately 1 mile along the west bank of the Napa River from the River Terrace Inn on the south end to the Elks Grove Townhomes to the north. Major components of the Project include a setback concrete or sheet pile floodwall along the bank of the river, improved scour protection under the Lincoln Ave bridge, completing the floodwall on the north side of the dry bypass channel, and construction of a public trail south of Lincoln Avenue that will connect the existing Napa River trail to the Oxbow Commons including a new pedestrian crossing of Lincoln Avenue. This phase of the Project requires acquisition of easements or fee title on approximately 45 parcels in the City of Napa.

The subject of this item, the required property rights proposed for acquisition at 501 North Bay Drive, APN 044-220-017, comprise 61,744 SF in fee title take. There are no existing structures or other permanent improvements on the subject property. The District obtained an appraisal of the required property rights and District negotiators and the property owner agreed upon a reasonable purchase price, subject to Board approval.



Staff requests consideration and approval of a Purchase and Sale Agreement in the amount of \$675,000 for acquisition of fee title to the property for the Project.

### **FISCAL & STRATEGIC PLAN IMPACT**

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	Yes
Where is it budgeted?	Subdivision 8001000
Is it Mandatory or Discretionary?	Discretionary
Is the general fund affected?	No
Future fiscal impact:	All property acquisitions are part of the Project's annual budget.
Consequences if not approved:	Delays in beginning construction which could lead to increase in costs that are not included in the budget, loss of allocated federal funds, or increased flood risk in the City of Napa.

### **ENVIRONMENTAL IMPACT**

ENVIRONMENTAL DETERMINATION: Acquisition of the Subject Property is part of the Napa River/Napa Creek Flood Protection Project and was included in the Final Environmental Impact Report (FEIR) for the Project that was certified by the District on May 4, 1999, for which a Notice of Determination was filed on May 7, 1999. The Final Supplemental Environmental Impact Statement (FSEIS) for the Project was certified by the Corps of Engineers in its Record of Decision filed on June 9, 1999. On April 2, 2009, the City of Napa determined that the Napa River/Napa Creek Flood Protection Project is consistent with the City's General Plan Envision Napa 2020.

## PURCHASE AND SALE AGREEMENT 2500128(CFC)

**THIS PURCHASE AND SALE AGREEMENT** ("Agreement") is entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2024 ("Effective Date"), by and between **ENZO ORCIUOLI, AN UNMARRIED MAN** (hereinafter referred to as "Grantor"), and **NAPA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, A SPECIAL DISTRICT OF THE STATE OF CALIFORNIA** (hereinafter referred to as "Grantee").

### RECITALS

**WHEREAS**, Grantor owns certain real property, including all improvements located thereon, located in the County of Napa, State of California, and more particularly known as Assessor's Parcel Number: 044-220-017 on the Napa County Assessor's Maps in effect on the date first above written; and

**WHEREAS**, in conjunction with the construction of the Napa River Napa Creek Flood Protection Project located in the County of Napa (hereinafter referred to as the "Project") Grantee desires to purchase and Grantor is willing to sell and convey to Grantee for the price and under the terms and conditions specified herein, a fee simple interest in APN 044-220-017 and further defined below as "the Property;"

**WHEREAS**, to accomplish the foregoing desires of Grantee and Grantor, the parties desire to enter into this Agreement for purchase and sale of the Property under the terms and conditions set forth herein below; and

**WHEREAS**, Grantor and Grantee recognize that the sale of the Property is subject to approval of the Napa County Flood Control and Water Conservation District Board and that this Agreement shall have no force or effect unless and until said Board approval has been obtained, which approval shall be obtained before execution of the Agreement by Grantee.

### TERMS

**NOW, THEREFORE**, in consideration of the promises set forth herein and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, GRANTEE and GRANTOR agree as follows:

#### ARTICLE 1 THE PROPERTY

Grantor hereby agrees to sell, sign, and convey to Grantee, and Grantee hereby agrees to purchase from Grantor, all of Grantor's right, title, and interest in and to the following, upon all of the terms, covenants and conditions set forth in this Agreement.

**1.1. Real Property.** That certain real property located at 501 North Bay Drive, Napa, CA 94559 APN: 044-220-017, more particularly described in Exhibit A attached hereto and

incorporated herein by this reference (the “Land”) consisting of approximately 1.42 acres, together with all improvements located thereon (the “Improvements”); together with all rights, privileges, easements, and appurtenances to the Land and Improvements, if any, including, without limitation, all of Grantor’s right, title and interest in and to any and all mineral and water rights, easements, rights-of-way, and other appurtenances used in connection with the beneficial use for enjoyment of the Land and Improvements (the Land, and the Improvements and all such easements and appurtenances are sometimes collectively referred to herein as the “Real Property”).

1.2. **Personal Property.** All personal property and fixtures (if any) owned by Grantor and located on the Real Property (the “Personal Property”).

1.3. **Intangible Property.** All of Grantor’s interest (if any) in and to any guarantees, licenses, approvals, certificates, permits or warranties relating to the Real Property and/or the Personal Property to the extent assignable (collectively the “Intangible Property”). The Real Property, the Personal Property, and the Intangible Property are sometimes collectively hereinafter referred to as the “Property.”

1.4. **Sale and Conveyance.** Grantor shall sell to Grantee and Grantee shall purchase from Grantor the Property upon the terms and conditions set forth in Articles 2 and 3 hereof.

## ARTICLE 2 PURCHASE PRICE

2.1. **Purchase Price.** The purchase price (“Purchase Price”) for the Property shall be **SIX HUNDRED SEVENTY-FIVE THOUSAND AND NO/100 DOLLARS (\$675,000.00).**

2.2. **Payment of Purchase Price.** The purchase price shall be payable all in cash upon close of Escrow (as defined below) in accordance with Section 4.2.

## ARTICLE 3 CONDITIONS TO PURCHASE AND SALE

3.1. **Conditions Precedent to Purchase and Sale.** The obligation of Grantee to purchase and Grantor to sell the Property is expressly conditioned upon the satisfaction, prior to Closing, of each of the conditions set forth in this Section 3.1 (the “Conditions Precedent”).

3.1.1 **Title.** Grantee has obtained a preliminary title report dated July 18, 2023, from First American Title Company (the “Title Report”), a copy of which is attached hereto as Exhibit B. Grantee acknowledges and agrees that the Property shall be conveyed subject only to exceptions 1,2,3,4,5,6 and 7 (the “Approved Exceptions”). All other exceptions (“Disapproved Exceptions”) shall be removed from title to the Property at or before Closing. Any new exceptions that post date [date of new preliminary title report], and which are not otherwise approved in writing by Grantee or extinguished by the conveyance contemplated hereby, shall be removed as a Condition Precedent to Closing.

3.1.2 **Execution of Deed.** Grantor shall be ready, willing, and able to convey title to the Property by executing the Grant Deed in the form of Exhibit C (the "Grant Deed") (collectively, the "Deed"), all subject only to the Approved Exceptions.

3.1.3 **Deposit of Deed.** Grantor shall have deposited into Escrow (as defined below) the Deed identified in Section 3.3 as provided for in Section 4.1.1, conveying title to the Property (subject to the Approved Exceptions) to the Grantee.

3.1.4 **Title Insurance.** The Title Company shall be prepared to issue an ALTA Standard Owner Policy of Title Insurance in the amount of the purchase price insuring title to the Property vested in Grantee subject only to the Approved Exceptions (the "Title Policy").

3.1.5 **Certificate of Acceptance.** Grantee has obtained a resolution of the District Board authorizing recordation of the Deed and has deposited properly executed Certificate of Acceptance into Escrow.

3.1.6 **Termination of Lease.** Grantee has no obligation to Close until the Lease has been terminated.

3.1.7 **No Breach.** There shall be no material breach of any of Grantor's representations, warranties, or covenants set forth in Article 5.

3.1.8 **Documentary Deposit.** Grantor and Grantee shall have each deposited into Escrow all materials required to be deposited under Article 4.

### 3.2. **Grantee's Remedies.**

3.2.1 **Conditions Precedent.** If any of the foregoing Conditions Precedent which inure to the benefit of Grantee are not satisfied, Grantee shall have the right either to waive the condition in question and proceed with the purchase of the Property pursuant to all of the other terms of this Agreement, or, in the alternative, to terminate this Agreement and any money deposited into Escrow by Grantee shall be returned to Grantee, and thereafter neither party shall have any further rights, obligations, or liabilities hereunder except to the extent that any right, obligation, or liability set forth herein expressly survives termination of this Agreement.

3.2.2 **Default.** If Grantor fails to perform any of its obligations or is otherwise in default under this Agreement, Grantee shall have the right to give notice to Grantor specifically setting forth the nature of said failure and stating that Grantor shall have a period of ten (10) calendar days to cure such failure. If Grantor has not cured such failure within such period (or, if such failure is not capable of being cured within ten (10) calendar days), Grantor either has not commenced in good faith the curing of such failure within such period or does not diligently thereafter complete such cure prior to the Closing Date, as may be extended under the terms of this Agreement, Grantee's sole and exclusive remedy shall be one of the following:

3.2.3 **Waiver.** Waive such failure and proceed to the Closing pursuant to all of the other terms of this Agreement; or

3.2.4 **Terminate.** Grantee may terminate this Agreement by notice to Grantor and Escrow Agent to that effect. Nothing herein shall be deemed a waiver by Grantee of its right or ability to exercise its power of eminent domain to acquire the Property after a termination of this Agreement. By entering into this Agreement, Grantor expressly waives any right to challenge Grantee's exercise of its power of eminent domain to acquire the Property for the Project.

3.2.5 **Eminent Domain.** If the Napa County Flood Control and Water Conservation District Board ("Board") adopts a Resolution of Necessity, such adoption will not be deemed to terminate this Agreement, unless Grantee elects to terminate this Agreement (in whole or in part) in writing. The terms of any provision not terminated will thereafter continue in effect until either a settlement is reached or a final order of condemnation under California Code of Civil Procedure ("CCP") section 1268.030 is entered by the court. In no event will Grantee's right of possession set forth hereinabove be deemed terminated until a court issues a final order of condemnation or the parties reach a settlement. In the event the Board adopts a Resolution of Necessity, Grantee, at its sole discretion, will instruct the escrow agent to release the amount deposited into escrow back to Grantee. Grantee will thereafter deposit the amount of the appraised value of the property which is the subject of the Resolution of Necessity to the State Condemnation Fund pursuant to CCP § 1255.010, et seq. The date of valuation under CCP § 1263.110 et seq. will be deemed to be the date upon which Grantee deposited the Purchase Price unto escrow as provided hereinabove. Nothing herein shall be deemed to dictate, preclude, or limit, in any way, the Board's exercise of its discretion in determining whether to adopt a Resolution of Necessity to condemn all or any portion of the Property.

### 3.3. **Grantor's Remedies.**

3.3.1 **Conditions Precedent.** If any of the foregoing Conditions Precedent which inure to the benefit of Grantor are not satisfied, Grantor shall have the right to either waive the condition in question and proceed with the sale of the Property pursuant to all of the other terms of this Agreement, or, in the alternative, to terminate this Agreement and any amounts deposited into Escrow shall be returned to Grantee, and thereafter neither party shall have any further rights, obligations, or liabilities hereunder except to the extent that any right, obligation or liability set forth herein expressly survives termination of this Agreement.

## ARTICLE 4 CLOSING AND ESCROW

4.1. **Deposits into Escrow.** Grantee has established an escrow (the "Escrow") with First American Title of Napa, 1700 2nd St #120, Napa, CA 94559 hereinafter referred to as "Title Company" or "Escrow Agent" for the account of the GRANTOR, Escrow No. T0021153-006. A copy of this Agreement, duly executed by both parties, shall be promptly deposited therein. Subject to Section 4.2.2, below, this Agreement shall serve as a summary for escrow instructions to Escrow Agent, as escrow holder, for consummation of the purchase and sale contemplated hereby. Prior to or on the Closing Date, the Parties shall deposit the following into the Escrow:



4.1.1 **Grantor.** Grantor shall deposit the following into Escrow:

- (a) The Grant Deed, fully executed and suitable for recordation; and
- (b) If required by the Escrow Agent, a FIRPTA Affidavit stating Grantor's U.S. taxpayer identification number and that the Grantor is a "United States person" as defined by Internal Revenue Code sections 1445(f)(3) and 7701(b); and
- (c) Such other documents and instruments as may be required by other provisions of this Agreement or may be reasonably required by Escrow Agent or otherwise to carry out the terms and intent of this Agreement.

4.1.2 **Grantee.** Grantee shall deposit the following into Escrow:

- (a) Cash or immediately available funds in the amount of the Purchase Price together with such additional cash in the amount necessary to pay Grantee's share of closing costs and prorations, as hereinafter set forth; and
- (b) Executed Certificate of Acceptance for the Deed; and
- (c) Such other documents and instruments as may be required by any other provision of this Agreement or as may reasonably be required by Escrow Agent or otherwise to carry out the term and intent of this Agreement.

4.2. **Close of Escrow.**

4.2.1 **Closing Date.** Escrow shall close on or before the ninetieth (90<sup>th</sup>) day following execution of this Agreement by Grantee or upon such other date as is mutually agreed upon by Grantee and Grantor (the "Closing Date").

4.2.2 **Closing of Escrow.** When the Conditions Precedent listed in Section 3.1 have been satisfied or waived by Grantee and Grantor and Escrow Agent has received all necessary cash and documents and is in a position to issue the Title Policy, as provided in Section 3.1.4, Escrow Agent shall immediately close Escrow as provided below (the "Closing"). The parties to this Agreement shall cooperate with each other and the Escrow Agent in preparing and executing such further documents (including further escrow instructions) as may be reasonably necessary to close Escrow as contemplated by this Agreement; provided however, that in the event of any conflict between the provisions of this Agreement and any such further documents or escrow instructions, the terms of this Agreement shall control.

4.2.3 **Procedure.** Escrow Agent shall close Escrow as follows:

4.2.3.1 **Record Deed.** Date and record the Grant Deed all in the Official Records of Napa County.

4.2.3.2 **Deliver Copies of Deed.** Deliver one (1) certified copy of the Deed to Grantee.

4.2.3.3 **Pay to Grantor.** Pay to Grantor the funds in Escrow equal to the Purchase Price, reduced only by Grantor's share of prorations, as hereinafter set forth in Section 4.2.4, below.

4.2.3.4 **Deliver Title Policy.** Deliver the Title Policy to Grantee.

4.2.3.5 **Closing Statement.** Prepare and deliver to Grantee and Grantor one signed copy of the Escrow Agent's closing statement showing all receipts and disbursements of the Escrow.

#### 4.2.4 **Closing Costs and Prorations.**

4.2.4.1 **Closing Costs.** Grantee and Grantor shall each pay its own attorney's fees in connection with negotiating this Agreement and closing the Escrow. Grantee shall pay recording costs, if any, Escrow fees, the title insurance premium, and any documentary transfer taxes.

4.2.4.2 **Prorations.** All non-delinquent real estate taxes and assessments on the Property shall be prorated as of the Possession Date shall be prorated in accordance with California Revenue and Taxation Code section 5081, *et. seq.* Grantor authorizes Grantee to deduct from the Purchase Price at Closing any amount necessary to satisfy any delinquent taxes, together with penalties and interest thereon, and any taxes or assessment or bonds which are to be cleared from title to the Property. All ordinary operating expenses and charges of the Property including, without limitation, public utility charges, maintenance, management, and other service charges, shall be prorated on an accrual basis as of the Date of Possession.

### ARTICLE 5 REPRESENTATIONS AND WARRANTIES

5.1. **Grantor's Representations and Warranties.** Grantor represents and warrants to Grantee that the following matters are true and correct in all material respects as of the execution of this Agreement and will also be true and correct in all material respects as of the Closing.

5.1.2 **Authority to Sign.** GRANTOR and the signatories for GRANTOR represent and warrant that GRANTOR'S signatories to this Agreement are authorized to enter into this Agreement and that no other authorizations are required to implement this Agreement on behalf of GRANTOR. The parties agree that written evidence of such authorization shall be submitted by each party to the other party prior to the close of escrow.

5.1.3 **No Violation of Agreement; Litigation.** Neither the execution, delivery or performance of this Agreement by Grantor will result in the breach of any terms, conditions, or provisions of, or conflict with or constitute a default under the terms of any indenture, deed to secure debt, mortgage, deed of trust, note, evidence of indebtedness, or any other agreement or instrument by which Grantor or the Property is bound. Grantor has no knowledge of any pending or threatened litigation, actions, applications, orders, protests, proceedings, or complaints against or affecting title to the Property or Grantor's interest therein.

5.1.4 **Compliance with Laws.** Grantor has received no written notice alleging violations of any federal, state, or municipal laws or ordinances with regard to any portion of the Property.

5.1.5 **Hazardous Materials.** Grantor has received no notice from any governmental authority or entity alleging the presence of, any Hazardous Materials on, under, or about the Property. The term "Hazardous Materials means any hazardous or toxic material, substance, irritant, chemical or waste, which is (A) defined, classified, designated, listed or otherwise considered under any environmental law as a "hazardous waste," "hazardous substance," "hazardous material," "extremely hazardous waste," "acutely hazardous waste," "radioactive waste," "biohazardous waste," "pollutant," "toxic pollutant," "contaminant," "restricted hazardous waste," "infectious waste," "toxic substance," or any other term or expression intended to define, list, regulate or classify substances by reason of properties harmful to health, safety or the indoor or outdoor environment, (B) toxic, ignitable, corrosive, reactive, explosive, flammable, infectious, radioactive, carcinogenic, or mutagenic, and which is or becomes regulated by any local, state, or federal governmental authority, (C) asbestos and asbestos containing materials, (D) an oil, petroleum, petroleum based product or petroleum additive, derived substance, or breakdown product, (E) urea formaldehyde foam insulation, (F) polychlorinated biphenyls (PCBs), (G) freon and other chlorofluorocarbons, (H) any drilling fluids, produced waters and other wastes associated with the exploration, development, or production of crude oil, natural gas or geothermal resources, (I) lead-based paint, and (J) mold, rot, fungi, and bacterial matter, and (K) Per- and Polyfluoroalkly substances (PFAs).

5.1.6 **Existing Lease.** Except as identified herein, there are no leases, subleases, occupancies, tenancies, or licenses in effect pertaining to the Property, or any portion thereof, which will be binding upon Grantee after Closing and no person has any possessory interest in the Property or right to acquire all or any part of the Property. The foregoing notwithstanding, Grantor represents that it has provided Grantee with a complete and accurate copy of the lease between it and Anytime Towing dated N/A together with any amendments thereto (the "Lease"). Grantor agrees to indemnify and hold Grantee harmless from any claims arising under the Lease that predate the Possession Date, as identified in Section 5.1.8 below.

5.1.7 **Grantor Not a Foreign Person.** Grantor is not a foreign person within the meaning of section 1445 of the Internal Revenue Code of 1986, as amended.

5.1.8 **Right of Possession.** It is agreed and confirmed by the parties hereto that notwithstanding other provisions in this Agreement, the right of possession and use of the Property by the Grantee, including the right to remove and dispose of improvements, commences on the date the amount identified in Paragraph 2.1, herein, is deposited into the escrow controlling this transaction ("Possession Date"), and that the amount shown in Paragraph 2.1, herein, includes, but is not limited to, full payment for such possession and use, including damages, if any, from and after said date. Notwithstanding the foregoing, Grantee makes no representation that the Project will be constructed, and no liability or obligation whatsoever will be incurred by Grantee by reason of any failure to construct the Project for any reason.



## ARTICLE 6 GENERAL PROVISIONS

6.1. **Federal Compliance.** The parties to this contract shall, pursuant to Title 49, Code of Federal Regulations, Section 21.7 (a), comply with all elements of Title VI of the Civil Rights Act of 1964. This requirement under Title VI and the Code of Federal Regulations is to complete the USDOT-Non-Discrimination Assurance requiring compliance with Title VI of the Civil Rights Act of 1964, 49 C.F.R. Parts 21 and 28 C.F.R Section 50.3. Further, no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subject to discrimination under any program or activity that is the subject of this Agreement.

6.2. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties relating to the subject of this Agreement and supersedes all previous agreements, promises, representations, understandings, and negotiations, whether written or oral, among the parties with respect to the subject matter hereof. The performance of this Agreement constitutes the entire consideration for the conveyance of the Property and shall relieve GRANTEE of all further obligations or claims on this account or on account of the location, grade, or operation of the PROJECT as designed.

6.3. **Waiver and Release.** Grantor understands the Purchase Price is the total compensation for the acquisition of the Property, the use and occupancy by Grantee as of the Date of Possession, any trees, landscaping, or improvement located thereon, severance damages or loss of business goodwill associated with the occupancy and use of the Property, construction of the Project as designed together with any claims related to those items which Grantor may have now or in future and specifically acknowledges that it has read, understands, and knowingly waives any rights Grantor may have pursuant to the provisions of California Civil Code, section 1542, which states:

“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.”

\_\_\_\_\_  
(Grantor)

6.4. **Legal Advice.** Grantor has been afforded the opportunity to seek independent legal advice from its attorneys with respect to the advisability of executing this Agreement and the meaning of the provisions hereof. The provisions of this Agreement shall be construed as to the fair meaning and not for or against any party based upon any attribution of such party as the sole source of the language in question.

6.5. **Further Assurances.** The parties agree to perform such further acts and to execute and deliver such additional documents and instruments as may be reasonably required in order to carry out the provisions of this Agreement and the intentions of the parties.

6.6. **Gender, Number.** As used herein, the singular shall include the plural and the masculine shall include the feminine and nonbinary, wherever the context so requires.

6.7. **Governing Law; Venue.** This Agreement shall be governed, interpreted, construed, and enforced in accordance with the laws of the State of California. Venue for any legal proceeding brought under this Agreement shall be in Napa County Superior Court.

6.8. **Headings.** The captions and paragraph and subparagraph headings used in this Agreement are inserted for convenience of reference only and are not intended to define, limit, or affect the construction or interpretation of any term or provision hereof.

6.9. **Modification, Waiver.** No modification, waiver, amendment, or discharge of this Agreement shall be valid unless the same is in writing and signed by both parties.

6.10. **No Other Inducement.** The making, execution, and delivery of this Agreement by the parties hereto has been induced by no representations, statements, warranties, or agreements other than those expressed herein.

6.11. **Severability.** If any term, provision, covenant, or condition of this Agreement is held to be invalid, void, or otherwise unenforceable, to any extent, by any court of competent jurisdiction, the remainder of this Agreement shall be severable and shall not be affected thereby, and each of the remaining terms, provisions, covenants, or conditions of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

6.12. **Successors.** All terms of this Agreement shall be binding upon, inure to the benefit of, and be enforceable by the parties hereto and their respective heirs, legal representatives, successors, and assigns.

6.13. **Waiver.** The waiver by one party of the performance of any term, provision, covenant, or condition shall not invalidate this Agreement, nor shall it be considered as a waiver by such party of any other term, provision, covenant, or condition. Delay by any party in pursuing any remedy or in insisting upon full performance for any breach or failure of any term, provision, covenant, or condition shall not prevent such party from later pursuing remedies or insisting upon full performance for the same or any similar breach or failure.

6.14. **Attorney's Fees.** Should any litigation be commenced between the parties to this Agreement concerning the sale or the rights or duties of the parties in relation thereto, the party prevailing in such litigation shall be entitled, in addition to such other relief as may be provided by this Agreement, to a reasonable sum as and for attorney's fees in such litigation, or in a separate action brought for that purpose. Such litigation shall be brought in the Superior Court of California, County of Napa, a Unified Court.

6.15. **Notices.** All notices, requests, demands, and other communications under this Agreement shall be in writing and shall be deemed to have been duly given on the date of

GRANTOR: Orciuoli  
Project Name: Napa River Napa Creek Flood Protection Project

APN: 044-220-017

delivery if served personally on the party to whom notice is to be given, or if mailed, five (5) days after mailing by first class mail, registered or certified mail, postage prepaid, and properly addressed as follows. Any party may change its address for purposes of this section by giving the other parties written notice of the new address in the manner set forth above.

GRANTEE: Napa County Flood Control and Water Conservation District  
804 First Street  
Napa, CA 94559

GRANTOR: Enzo Orciuoli  
131 Lilienthal Ave.  
Napa, CA 94558

6.16. **No Real Estate Commissions.** Each party represents and warrants to the other that it has not engaged or dealt with any broker or finder in connection with this transaction, has not acted in a way that would entitle any such brokers or finders to any commission, and it shall defend, indemnify and hold the other party harmless from all claims, losses, damages, costs, and expenses, including reasonable attorneys' fees, arising from or related to any assertion by any broker or finder contrary to the foregoing representations and warranties where the same is based upon the acts or alleged acts of the indemnifying party.

6.17. **Condition of Property.** Grantor shall not subject the Property to any additional liens, exceptions, encumbrances, easements, or rights of way after the Effective Date, neither shall Grantor make or permit any material changes or alterations to the Property other than necessary or typical maintenance and repairs. Risk of loss prior to Closing shall be borne by Grantor.

6.18. **Electronic, Facsimile, & Counterpart Copies of Agreement Valid and Binding for Preliminary Purpose.** GRANTEE and GRANTOR agree that any electronic or facsimile copy of this Agreement or counterpart copies, including all attachments, signatures, and initials appearing thereon, shall be valid and binding on GRANTOR for purposes of presentation of the Agreement to GRANTEE's governing board for approval, but that all such copies shall be replaced prior to close of escrow by a fully executed original which shall be delivered to and kept in the official records of GRANTEE.

6.19. **Approval of GRANTEE.** GRANTOR understands that this Agreement is subject to the approval of GRANTEE's Board or authorized designee and that this Agreement shall have no force or effect unless and until such approval has been obtained.

6.20. **Counterparts Signature.** This Agreement may be executed in counterparts, each of which shall be an original, but all counterparts shall constitute one agreement.

GRANTOR: Orciuoli  
Project Name: Napa River Napa Creek Flood Protection Project

APN: 044-220-017

**IN WITNESS WHEREOF**, the parties have executed this Agreement as of the day and year first above written.

**GRANTEE:**

NAPA COUNTY FLOOD CONTROL AND  
WATER CONSERVATION DISTRICT, a  
special district of the State of California

By: \_\_\_\_\_  
SCOTT SEDGLEY, Chairperson  
Board of Supervisors

**GRANTOR:**

ENZO ORCIUOLI, An Unmarried Man

By:  \_\_\_\_\_  
ENZO ORCIUOLI

<p>APPROVED AS TO FORM Office of District Counsel</p> <p>By: <u>Shana A. Bagley</u> Deputy District Counsel</p> <p>Date: <u>February 21, 2024</u></p>	<p>APPROVED BY THE NAPA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT</p> <p>Date: _____</p> <p>Processed By: _____</p> <p>Deputy Clerk of the Board</p>	<p>ATTEST: NEHA HOSKINS Clerk of the Board</p> <p>By: _____</p>
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GRANTOR: Orciuoli  
Project Name: Napa River Napa Creek Flood Protection Project

APN: 044-220-017

**EXHIBIT A**  
**LEGAL DESCRIPTION**



ORDER NO: T0021153-006  
 UPDATED REPORT #: 1

## EXHIBIT A

### LEGAL DESCRIPTION

The land referred to in this report is situated in the City of Napa County of Napa, State of California, and is described as follows:

Commencing at a point on the southern line of the 56 foot strip of land conveyed to the City of Napa by deed recorded August 26, 1965 in [Book 729 of Official Records at page 630](#), Napa County Records, distant thereon south 89° 51' east 195 feet from the northeastern corner of Parcel Three as shown on the Map entitled, "Record of Survey Map of the Lands of Kenneth Rose, et al", filed September 26, 1962 in [Book 9 of Surveys at page 93](#), Napa County Records; running thence along the lines of the 56 foot strip of land above referred to (being also the southern line of North Bay Drive and the eastern line of Wall Street) south 89° 51' east 40.08 feet on a curve to the left with a radius of 76 feet through a central angle of 90° 09' an arc distance of 119.58 feet, and north 84.80 feet to the northern line of Parcel Four, as shown on the Record of Survey Map above referred to; thence south 89° 51' east 204.07 feet to the northeastern corner of said Parcel Four; thence south 22° west 330.16 feet to the southeastern corner of said Parcel Four; thence north 89° 51' west 196.67 feet to a point that bears south 89° 51' east 195 feet from the southeastern corner of Parcel Three above referred to; thence north 145.44 feet to the point of commencement.

APN: 044-220-017

GRANTOR: Orciuoli  
Project Name: Napa River Napa Creek Flood Protection Project

APN: 044-220-017

**EXHIBIT B**  
**GRANT DEED**



**RECORDING REQUESTED BY:**

Napa County Flood Control and Water  
Conservation District

**WHEN RECORDED MAIL TO:**

Napa County Flood Control and Water  
Conservation District  
804 First Street  
Napa, CA 94559

The undersigned grantee hereby declares this  
instrument to be exempt from Recording Fees  
(Govt. Code §§ 6103 and 27383) and  
Documentary Transfer Tax (Revenue and  
Taxation Code §11922). *Government*  
*Agency Acquiring Title*

APN: 044-220-017

Space Above This Line for Recorder's Use

**GRANT DEED**

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

**ENZO ORCIUOLI, AN UNMARRIED MAN**

Hereby GRANTS TO

**NAPA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, a special district of  
the State of California**


The following described real property in the City of Napa, County of Napa, State of California:

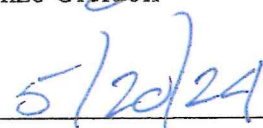
LEGAL DESCRIPTION AND MAP ATTACHED HERETO AS EXHIBITS "A" AND "B" AND MADE A PART HEREOF



GRANTOR:

ENZO ORCIUOLI, AN UNMARRIED MAN

By:   
Enzo Orciuoli

Date:   
5/20/24

## CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

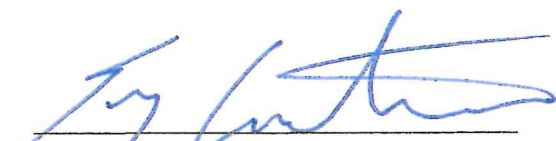
A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which the certificate is attached, and not the truthfulness, accuracy, or validity of that document.

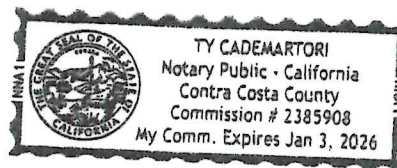
STATE OF CALIFORNIA  
COUNTY OF NAPA

On this 20<sup>th</sup> day of MAY, 2024, before me, TY CADEMARTORI, a Notary Public in and for the State of California, personally appeared ENZO ORCIUOLI 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 the day and year first above written.

  
NOTARY PUBLIC



**EXHIBIT A****Legal Description**



ORDER NO: T0021153-006  
 UPDATED REPORT #: 1

## EXHIBIT A

### LEGAL DESCRIPTION

The land referred to in this report is situated in the City of Napa County of Napa, State of California, and is described as follows:

Commencing at a point on the southern line of the 56 foot strip of land conveyed to the City of Napa by deed recorded August 26, 1965 in Book 729 of Official Records at page 630, Napa County Records, distant thereon south 89° 51' east 195 feet from the northeastern corner of Parcel Three as shown on the Map entitled, "Record of Survey Map of the Lands of Kenneth Rose, et al", filed September 26, 1962 in Book 9 of Surveys at page 93, Napa County Records; running thence along the lines of the 56 foot strip of land above referred to (being also the southern line of North Bay Drive and the eastern line of Wall Street) south 89° 51' east 40.08 feet on a curve to the left with a radius of 76 feet through a central angle of 90° 09' an arc distance of 119.58 feet, and north 84.80 feet to the northern line of Parcel Four, as shown on the Record of Survey Map above referred to; thence south 89° 51' east 204.07 feet to the northeastern corner of said Parcel Four; thence south 22° west 330.16 feet to the southeastern corner of said Parcel Four; thence north 89° 51' west 196.67 feet to a point that bears south 89° 51' east 195 feet from the southeastern corner of Parcel Three above referred to; thence north 145.44 feet to the point of commencement.

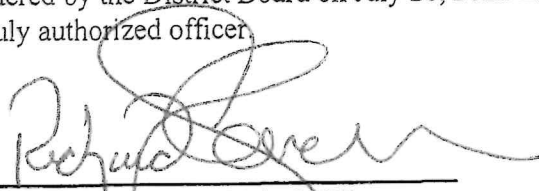
APN: 044-220-017

# CERTIFICATE OF ACCEPTANCE

## GRANT DEED (Portion of APN 044-220-017)

Pursuant to California Government Code section 27281, this is to certify that the interest in real property granted by the Grant Deed from ENZO ORCIUOLI, AN UNMARRIED MAN, to the NAPA FLOOD CONTROL AND WATER CONSERVATION DISTRICT ("District"), a special district of the State of California, is hereby accepted by its assignee as ordered by the District Board on July 26, 2022 and the District consents to the recordation thereof by its duly authorized officer.

Date: 5-29-24

  
\_\_\_\_\_  
RICHARD THOMASSER  
District Manager

APPROVED AS TO FORM:  
District Legal Counsel

By: Shana A. Bagley  
Date: 04/20/2023

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which the certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA  
COUNTY OF NAPA

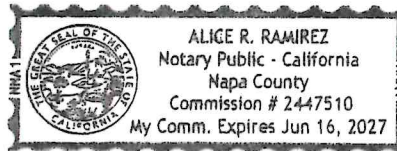
On this 29 day of May, 20 24, before me, Alice R. Ramirez, a Notary Public in and for the State of California, personally appeared Richard M. Thomasser proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to 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 the day and year first above written.

Alice R. Ramirez

NOTARY PUBLIC



GRANTOR: Orciuoli  
Project Name: Napa River Napa Creek Flood Protection Project

APN: 044-220-017

**EXHIBIT C**  
**PRELIMINARY TITLE REPORT**



**First American Title  
Company of Napa**

ORDER NO: T0021153-006  
UPDATED REPORT #: 1

## PRELIMINARY REPORT

**First American Title Insurance Company**

*First American Title Company of Napa*

*California Department of Insurance License No. 2553-6*

**1700 Second Street, Suite 120, P.O. Box 388, Napa, CA 94559**

**Tel: (707) 254-4500 - Fax: (707) 492-5120**

**Property Address:**

713 Silverado Trail  
Napa, CA 94559

**Assessor's Parcel Number:**

044-220-017

**Buyer/Borrower:**

Enzo Orciuoli

**Direct Title Inquiries to:**

Kevin Dornbush

Email: KDornbush@FirstAmNapa.com

**Seller/Owner:**

**Reference Number:**

In response to the application for a policy of title insurance referenced herein, First American Title Insurance Company hereby reports that it is prepared to issue, or cause to be issued, as of the date hereof, a policy or policies of title insurance describing the land and the estate or interest therein hereinafter set forth, insuring against loss which may be sustained by reason of any defect, lien or encumbrance not shown or referred to as an exception herein or not excluded from coverage pursuant to the printed Schedules, Conditions and Stipulations or Conditions of said policy forms.

The printed Exceptions and Exclusions from the coverage and Limitations on Covered Risks of said policy or policies are set forth in Attachment One. The policy to be issued may contain an arbitration clause. When the Amount of Insurance is less than that set forth in the arbitration clause, all arbitrable matters shall be arbitrated at the option of either the Company or the Insured as the exclusive remedy of the parties. Limitations on Covered Risks applicable to the CLTA and ALTA Homeowner's Policies of Title Insurance which establish a Deductible Amount and a Maximum Dollar Limit of Liability for certain coverages are also set forth in Attachment One. Copies of the policy forms should be read. They are available from the office which issued this report.

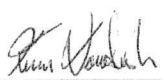
This report (and any supplements or amendments hereto) is issued solely for the purpose of facilitating the issuance of a policy of title insurance and no liability is assumed hereby. If it is desired that liability be assumed prior to the issuance of a policy of title insurance, a Binder or Commitment should be requested.

The policy(s) of title insurance to be issued hereunder will be policy(s) of First American Title Insurance Company.

**Please read the exceptions shown or referred to herein and the exceptions and exclusions set forth in Attachment One of this report carefully. The exceptions and exclusions are meant to provide you with notice of matters which are not covered under the terms of the title insurance policy and should be carefully considered.**

**It is important to note that this preliminary report is not a written representation as to the condition of title and may not list all liens, defects and encumbrances affecting title to the land.**

Dated as of July 18, 2023 at 7:30 A.M.

By:   
Authorized Signatory





***First American Title  
Company of Napa***

ORDER NO: **T0021153-006**  
UPDATED REPORT #: **1**

The form of policy or policies of title insurance contemplated by this report is:

ALTA Owner's Policy (6/17/06) with Regional Exceptions (Standard Coverage)

A specific request should be made if another form or additional coverage is desired.

TITLE TO SAID ESTATE OR INTEREST AT THE DATE HEREOF IS VESTED IN:

**ENZO ORCIUOLI, AN UNMARRIED MAN**

THE ESTATE OR INTEREST IN THE LAND HEREINAFTER DESCRIBED OR REFERRED TO COVERED  
BY THIS REPORT IS:

**A FEE**

THE LAND REFERRED TO IN THIS REPORT IS DESCRIBED AS FOLLOWS:

**See Exhibit A attached hereto and made a part hereof.**



**First American Title  
Company of Napa**

ORDER NO: T0021153-006  
UPDATED REPORT #: 1

## EXHIBIT A

### LEGAL DESCRIPTION

The land referred to in this report is situated in the City of Napa County of Napa, State of California, and is described as follows:

Commencing at a point on the southern line of the 56 foot strip of land conveyed to the City of Napa by deed recorded August 26, 1965 in Book 729 of Official Records at page 630, Napa County Records, distant thereon south 89° 51' east 195 feet from the northeastern corner of Parcel Three as shown on the Map entitled, "Record of Survey Map of the Lands of Kenneth Rose, et al", filed September 26, 1962 in Book 9 of Surveys, at page 93, Napa County Records; running thence along the lines of the 56 foot strip of land above referred to (being also the southern line of North Bay Drive and the eastern line of Wall Street) south 89° 51' east 40.08 feet on a curve to the left with a radius of 76 feet through a central angle of 90° 09' an arc distance of 119.58 feet, and north 84.80 feet to the northern line of Parcel Four, as shown on the Record of Survey Map above referred to; thence south 89° 51' east 204.07 feet to the northeastern corner of said Parcel Four; thence south 22° west 330.16 feet to the southeastern corner of said Parcel Four; thence north 89° 51' west 196.67 feet to a point that bears south 89° 51' east 195 feet from the southeastern corner of Parcel Three above referred to; thence north 145.44 feet to the point of commencement.

APN: 044-220-017



***First American Title  
Company of Napa***

ORDER NO: T0021153-006  
UPDATED REPORT #: 1

AT THE DATE HEREOF, EXCEPTIONS TO COVERAGE IN ADDITION TO THE PRINTED EXCEPTIONS AND EXCLUSIONS IN SAID POLICY FORM WOULD BE AS FOLLOWS:

1. General and special taxes and assessments for the fiscal year 2023-2024, a lien not yet due or payable.
2. The lien of supplemental taxes, if any, assessed pursuant to Chapter 3.5 commencing with Section 75 of the California Revenue and Taxation Code.
3. Any claim that any portion of the land is below the ordinary high water mark where it was located prior to any artificial or avulsive changes in the location of the shoreline or riverbank.
4. Any rights, interests, or easements in favor of the public, which exist or are claimed to exist over any portion of said land covered by water, including a public right of access to the water.
5. Any claim that any portion of the land is or was formerly tidelands or submerged lands.
6. An easement for pipe lines for the transmission and distribution of water and incidental purposes, recorded January 31, 1883 as Book 39 of Deeds at page 100 of Official Records.  
In Favor of : Napa City Water Company

The location of the easement cannot be determined from the public record.

7. Rights of parties in possession.

**-END OF EXCEPTIONS-**



**First American Title  
Company of Napa**

ORDER NO: T0021153-006  
UPDATED REPORT #: 1

**Information Notes:**

- a. The following taxes are shown for proration purposes only:  
General and special taxes and assessments for the fiscal year 2022-2023  
First Installment : \$1,071.55 Paid  
Second Installment : \$1,071.55 Paid  
Tax Rate Area : 2000  
A. P. No. : 044-220-017
- b. The Assessor's Parcel Number(s), if any, contained in the legal description herein, are for quick identification purposes only, and are not a part of the actual legal descriptions.
- c. Any statement regarding the acreage of the herein described land contained within the legal description in this report is derived from the public record and is for recorded deed purposes only. The Policy of Title Insurance contemplated by this report provides no insurance with respect to acreage and no acreage statement will appear within the legal description of such policy.
- d. The County Recorder may charge an additional \$20.00 recording fee, if not provided with a "Preliminary Change of Ownership Report" Form, for each Deed to be recorded. The purchaser is responsible for completing and signing this form.
- e. Before an escrow can close, or funds placed in a Savings Account, the Seller must furnish a Taxpayer Identification Number to us so that we can file an IRS Form 1099S or its equivalent, with the Internal Revenue Service. This procedure is required by Section 6045 of the Internal Revenue Code.
- f. The policy to be issued may contain an arbitration clause. When the Amount of Insurance is less than the certain dollar amount set forth in any applicable arbitration clause, all arbitrable matters shall be arbitrated at the option of either the Company of the Insured as the exclusive remedy of the parties. If you desire to review the terms of the policy, including any arbitration clause that may be included, contact the office that issued this Commitment or Report to obtain a sample of the policy jacket for the policy that is to be issued in connection with your transaction.

**Lenders Supplemental Report:**

- g. According to the public records, there has been no conveyance of the land within a period of two years prior to the date of this report, except as follows:

NONE

July 24, 2023  
Mark

Encinas/kt



**First American Title  
Company of Napa**

ORDER NO: T0021153-006  
UPDATED REPORT #: 1

## RESTRICTIVE COVENANT NOTIFICATION

The following statement is deemed attached as a coversheet to any declaration, governing document, or deed identified in the above exceptions:

**If this document contains any restriction based on age, race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, familial status, marital status, disability, veteran or military status, genetic information, national origin, source of income as defined in subdivision (p) of Section 12955, or ancestry, that restriction violates state and federal fair housing laws and is void, and may be removed pursuant to Section 12956.2 of the Government Code by submitting a "Restrictive Covenant Modification" form, together with a copy of the attached document with the unlawful provision redacted to the county recorder's office. The "Restrictive Covenant Modification" form can be obtained from the county recorder's office and may be available on its internet website. The form may also be available from the party that provided you with this document. Lawful restrictions under state and federal law on the age of occupants in senior housing or housing for older persons shall not be construed as restrictions based on familial status.**

Information for processing a "Restrictive Covenant Modification" form:

1. Print a complete copy of the document in question. Strike out what you believe to be unlawful restrictive language in the document.
2. Print and complete the "Restrictive Covenant Modification" ("RCM") form. Note that the signature on the form must be acknowledged by a notary public or other qualified officer.
3. Submit the completed RCM form and the document with your strike-outs to the County Clerk-Recorder's Office for the county where the property is located. No fee is required for this service.
4. The County Clerk-Recorder's Office will forward the RCM form and the document with your strike-outs to the Office of the County Counsel, who will determine whether the document contains any unlawful restrictions.
5. The Office of the County Counsel will return the RCM form and the document with your strike-outs to the County Clerk-Recorder's Office along with its determination. If approved, a Deputy County Counsel will sign the RCM, and the County Clerk-Recorder's Office will record, image and index it. If the Office of the County Counsel determines that the document does not contain an unlawful restriction, the County Clerk-Recorder's Office will not record the RCM.
6. The approved RCM will be returned to the submitter by mail.

**The "Restrictive Covenant Modification" form is included.**

[Restrictive Covenant Modification form](#)



***First American Title  
Company of Napa***

ORDER NO: T0021153-006  
UPDATED REPORT #: 1

**WARNING:**

The map attached, if any, may or may not be a survey of the land depicted hereon. First American disclaims any liability for loss or damage which may result from reliance on this map except to the extent coverage for such loss or damage is expressly provided by the terms and provisions of the title insurance policy, if any, to which this map is attached.

**[CLICK HERE FOR MAP](#)**



**First American Title  
Company of Napa**

ORDER NO: T0021153-006  
UPDATED REPORT #: 1

## **PRIVACY POLICY**

### **We are Committed to Safeguarding Customer Information**

In order to better serve your needs now and in the future, we may ask you to provide us with certain information. We understand that you may be concerned about what we will do with such information – particularly any personal or financial information. We agree that you have a right to know how we will utilize the personal information you provide to us. Therefore, together with our parent company, The First American Corporation, we have adopted this Privacy Policy to govern the use and handling of your personal information.

### **Applicability**

This Privacy Policy governs our use of the information which you provide to us. It does not govern the manner in which we may use information we have obtained from any other source, such as information obtained from a public record of from another person or entity. First American has also adopted guidelines that govern our use of personal information regardless of its source. First American calls these guidelines its *Fair Information Values*, a copy of which can be found on our website at [www.firstam.com](http://www.firstam.com).

### **Type of Information**

Depending upon which of our services you are utilizing, the types of nonpublic personal information that we may collect include:

- Information we receive from you on applications, forms and in other communications to us, whether in writing, in person, by telephone or any other means;
- Information about your transactions with us, our affiliated companies, or others; and
- Information we receive from a consumer reporting agency.

### **Use of Information**

We request information from you for our own legitimate business purposes and not for the benefit of any nonaffiliated party. Therefore, we will not release your information to nonaffiliated parties except: (1) as necessary for us to provide the product or service you have requested for us, or (2) as permitted by law. We may, however, store such information indefinitely, including the period after which any customer relationship has ceased. Such information may be used for any internal, such as quality control efforts or customer analysis. We may also provide all of the types of nonpublic personal information listed above to one or more of our affiliated companies. Such affiliated companies include financial service providers, such as title insurers, property and casualty insurers, and trust and investment advisory companies, or companies involved in real estate services, such as appraisal companies, home warranty companies, and escrow companies. Furthermore, we may also provide all the information we collect, as described above, to companies that perform marketing services on our behalf, on behalf of our affiliated companies, or to other financial institutions with whom we or our affiliated companies have joint marketing agreements.

### **Former Customers**

Even if you are no longer our customer, our Privacy Policy will continue to apply to you.

### **Confidentiality and Security**

We will use our best efforts to ensure that no unauthorized parties have access to any of your information. We restrict access to nonpublic personal information about you to those individuals and entities who need to know that information to provide products or services to you. We will use our best efforts to train and oversee our employees and agents to ensure that your information will be handled responsibly and in accordance with this Privacy Policy and First American's *Fair Information Values*. We currently maintain physical, electronic, and procedural safeguards that comply with federal regulations to guard your nonpublic personal information.



**ATTACHMENT ONE (Revised 06-03-11)****CALIFORNIA LAND TITLE ASSOCIATION  
STANDARD COVERAGE POLICY – 1990****EXCLUSIONS FROM COVERAGE**

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to building or zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien, or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
- (b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
3. Defects, liens, encumbrances, adverse claims or other matters:
  - (a) whether or not recorded in the public records at Date of Policy, but created, suffered, assumed or agreed to by the insured claimant;
  - (b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;
  - (c) resulting in no loss or damage to the insured claimant;
  - (d) attaching or created subsequent to Date of Policy; or
  - (e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the insured mortgage or for the estate or interest insured by this policy.
4. Unenforceability of the lien of the insured mortgage because of the inability or failure of the insured at Date of Policy, or the inability or failure of any subsequent owner of the indebtedness, to comply with the applicable doing business laws of the state in which the land is situated.
5. Invalidity or unenforceability of the lien of the insured mortgage, or claim thereof, which arises out of the transaction evidenced by the insured mortgage and is based upon usury or any consumer credit protection or truth in lending law.
6. Any claim, which arises out of the transaction vesting in the insured the estate of interest insured by this policy or the transaction creating the interest of the insured lender, by reason of the operation of federal bankruptcy, state insolvency or similar creditors' rights laws.

**EXCEPTIONS FROM COVERAGE - SCHEDULE B, PART I**

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records.  
Proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public records.
2. Any facts, rights, interests, or claims which are not shown by the public records but which could be ascertained by an inspection of the land or which may be asserted by persons in possession thereof.
3. Easements, liens or encumbrances, or claims thereof, not shown by the public records.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by the public records.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b) or (c) are shown by the public records.
6. Any lien or right to a lien for services, labor or material not shown by the public records.

**CLTA HOMEOWNER'S POLICY OF TITLE INSURANCE (02-03-10)****ALTA HOMEOWNER'S POLICY OF TITLE INSURANCE****EXCLUSIONS**

In addition to the Exceptions in Schedule B, You are not insured against loss, costs, attorneys' fees, and expenses resulting from:

1. Governmental police power, and the existence or violation of those portions of any law or government regulation concerning:
  - a. building;
  - b. zoning;
  - c. land use;
  - d. improvements on the Land;
  - e. land division; and
  - f. environmental protection.

This Exclusion does not limit the coverage described in Covered Risk 8.a., 14, 15, 16, 18, 19, 20, 23 or 27.

2. The failure of Your existing structures, or any part of them, to be constructed in accordance with applicable building codes. This Exclusion does not limit the coverage described in Covered Risk 14 or 15.
3. The right to take the Land by condemning it. This Exclusion does not limit the coverage described in Covered Risk 17.
4. Risks:
  - a. that are created, allowed, or agreed to by You, whether or not they are recorded in the Public Records;
  - b. that are Known to You at the Policy Date, but not to Us, unless they are recorded in the Public Records at the Policy Date;
  - c. that result in no loss to You; or
  - d. that first occur after the Policy Date - this does not limit the coverage described in Covered Risk 7, 8.e., 25, 26, 27 or 28.
5. Failure to pay value for Your Title.
6. Lack of a right:
  - a. to any land outside the area specifically described and referred to in paragraph 3 of Schedule A; and
  - b. in streets, alleys, or waterways that touch the Land.
 This Exclusion does not limit the coverage described in Covered Risk 11 or 21.
7. The transfer of the Title to You is invalid as a preferential transfer or as a fraudulent transfer or conveyance under federal bankruptcy, state insolvency, or similar creditors' rights laws.

#### LIMITATIONS ON COVERED RISKS

Your insurance for the following Covered Risks is limited on the Owner's Coverage Statement as follows:

- For Covered Risk 16, 18, 19, and 21 Your Deductible Amount and Our Maximum Dollar Limit of Liability shown in Schedule A.

The deductible amounts and maximum dollar limits shown on Schedule A are as follows:

		Your Deductible Amount	Our Maximum Dollar Limit of Liability
Covered Risk 16:		1.00% of Policy Amount Shown in Schedule A or \$2,500.00 (whichever is less)	\$10,000.00
Covered Risk 18:		1.00% of Policy Amount Shown in Schedule A or \$5,000.00 (whichever is less)	\$25,000.00
Covered Risk 19:		1.00% of Policy Amount Shown in Schedule A or \$5,000.00 (whichever is less)	\$25,000.00
Covered Risk 21:		1.00% of Policy Amount Shown in Schedule A or \$2,500.00 (whichever is less)	\$5000.00

#### AMERICAN LAND TITLE ASSOCIATION RESIDENTIAL TITLE INSURANCE POLICY (6-1-87)

#### EXCLUSIONS

In addition to the Exceptions in Schedule B, you are not insured against loss, costs, attorneys' fees, and expenses resulting from:

1. Governmental police power, and the existence or violation of any law or government regulation. This includes building and zoning ordinances and also laws and regulations concerning:
  - \* land use
  - \* improvements on the land
  - \* land division
  - \* environmental protection
 This exclusion does not apply to violations or the enforcement of these matters which appear in the public records at Policy Date. This exclusion does not limit the zoning coverage described in Items 12 and 13 of Covered Title Risks.
2. The right to take the land by condemning it, unless:
  - \* a notice of exercising the right appears in the public records
  - \* on the Policy Date
  - \* the taking happened prior to the Policy Date and is binding on you if you bought the land without knowing of the taking
3. Title Risks:
  - \* that are created, allowed, or agreed to by you
  - \* that are known to you, but not to us, on the Policy Date – unless they appeared in the public records
  - \* that result in no loss to you
  - \* that first affect your title after the Policy Date – this does not limit the labor and material lien coverage in Item 8 of Covered Title Risks
4. Failure to pay value for your title.
5. Lack of a right:
  - \* to any land outside the area specifically described and referred to in Item 3 of Schedule A

OR

\* in streets, alleys, or waterways that touch your land

This exclusion does not limit the access coverage in Item 5 of Covered Title Risks.

#### **2006 ALTA LOAN POLICY (06-17-06) EXCLUSIONS FROM COVERAGE**

The following matters are expressly excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys' fees, or expenses that arise by reason of:

1. (a) Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
  - (i) the occupancy, use, or enjoyment of the Land;
  - (ii) the character, dimensions, or location of any improvement erected on the Land;
  - (iii) the subdivision of land; or
  - (iv) environmental protection;
 or the effect of any violation of these laws, ordinances, or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5.
  - (b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 6.
2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
3. Defects, liens, encumbrances, adverse claims, or other matters
  - (a) created, suffered, assumed, or agreed to by the Insured Claimant;
  - (b) not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
  - (c) resulting in no loss or damage to the Insured Claimant;
  - (d) attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 11, 13 or 14); or
  - (e) resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Insured Mortgage.
4. Unenforceability of the lien of the Insured Mortgage because of the inability or failure of an Insured to comply with applicable doing business laws of the state where the Land is situated.
5. Invalidity or unenforceability in whole or in part of the lien of the Insured Mortgage that arises out of the transaction evidenced by the Insured Mortgage and is based upon usury or any consumer credit protection or truth-in-lending law.
6. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction creating the lien of the Insured Mortgage, is
  - (a) a fraudulent conveyance or fraudulent transfer, or
  - (b) a preferential transfer for any reason not stated in Covered Risk 13(b) of this policy.
7. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the Insured Mortgage in the Public Records. This Exclusion does not modify or limit the coverage provided under Covered Risk 11(b).

The above policy form may be issued to afford either Standard Coverage or Extended Coverage. In addition to the above Exclusions from Coverage, the Exceptions from Coverage in a Standard Coverage policy will also include the following Exceptions from Coverage:

#### **EXCEPTIONS FROM COVERAGE**

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) that arise by reason of:

1. (a) Taxes or assessments that are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records; (b) proceedings by a public agency that may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.
2. Any facts, rights, interests, or claims that are not shown by the Public Records but that could be ascertained by an inspection of the Land or that may be asserted by persons in possession of the Land.
3. Easements, liens or encumbrances, or claims thereof, not shown by the Public Records.
4. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land and not shown by the Public Records.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b), or (c) are shown by the Public Records.
6. Any lien or right to a lien for services, labor or material not shown by the Public Records.

#### **2006 ALTA OWNER'S POLICY (06-17-06) EXCLUSIONS FROM COVERAGE**

The following matters are expressly excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys' fees, or expenses that arise by reason of:

1. (a) Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
  - (i) the occupancy, use, or enjoyment of the Land;
  - (ii) the character, dimensions, or location of any improvement erected on the Land;
  - (iii) the subdivision of land; or
  - (iv) environmental protection;

or the effect of any violation of these laws, ordinances, or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5.

- (b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 6.
- 2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
- 3. Defects, liens, encumbrances, adverse claims, or other matters
  - (a) created, suffered, assumed, or agreed to by the Insured Claimant;
  - (b) not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
  - (c) resulting in no loss or damage to the Insured Claimant;
  - (d) attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 9 and 10); or
  - (e) resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Title.
- 4. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction vesting the Title as shown in Schedule A, is
  - (a) a fraudulent conveyance or fraudulent transfer; or
  - (b) a preferential transfer for any reason not stated in Covered Risk 9 of this policy.
- 5. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the deed or other instrument of transfer in the Public Records that vests Title as shown in Schedule A.

The above policy form may be issued to afford either Standard Coverage or Extended Coverage. In addition to the above Exclusions from Coverage, the Exceptions from Coverage in a Standard Coverage policy will also include the following Exceptions from Coverage:

#### **EXCEPTIONS FROM COVERAGE**

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) that arise by reason of:

- 1. (a) Taxes or assessments that are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records; (b) proceedings by a public agency that may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.
- 2. Any facts, rights, interests, or claims that are not shown in the Public Records but that could be ascertained by an inspection of the Land or that may be asserted by persons in possession of the Land.
- 3. Easements, liens or encumbrances, or claims thereof, not shown by the Public Records.
- 4. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land and that are not shown by the Public Records.
- 5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b), or (c) are shown by the Public Records.
- 6. Any lien or right to a lien for services, labor or material not shown by the Public Records.

#### **ALTA EXPANDED COVERAGE RESIDENTIAL LOAN POLICY (07-26-10)** **EXCLUSIONS FROM COVERAGE**

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

- 1. (a) Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
  - (i) the occupancy, use, or enjoyment of the Land;
  - (ii) the character, dimensions, or location of any improvement erected on the Land;
  - (iii) the subdivision of land; or
  - (iv) environmental protection;

or the effect of any violation of these laws, ordinances, or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5, 6, 13(c), 13(d), 14 or 16.

- (b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 5, 6, 13(c), 13(d), 14 or 16.
- 2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
- 3. Defects, liens, encumbrances, adverse claims, or other matters
  - (a) created, suffered, assumed, or agreed to by the Insured Claimant;
  - (b) not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
  - (c) resulting in no loss or damage to the Insured Claimant;
  - (d) attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 11, 16, 17, 18, 19, 20, 21, 22, 23, 24, 27 or 28); or
  - (e) resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Insured Mortgage.
- 4. Unenforceability of the lien of the Insured Mortgage because of the inability or failure of an Insured to comply with applicable doing business laws of the state where the Land is situated.
- 5. Invalidity or unenforceability in whole or in part of the lien of the Insured Mortgage that arises out of the transaction evidenced by the Insured Mortgage and is based upon usury, or any consumer credit protection or truth-in-lending law. This Exclusion does not modify or limit the coverage provided in Covered Risk 26.

6. Any claim of invalidity, unenforceability or lack of priority of the lien of the Insured Mortgage as to Advances or modifications made after the Insured has Knowledge that the vestee shown in Schedule A is no longer the owner of the estate or interest covered by this policy. This Exclusion does not modify or limit the coverage provided in Covered Risk 11.
7. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching subsequent to Date of Policy. This Exclusion does not modify or limit the coverage provided in Covered Risk 11(b) or 25.
8. The failure of the residential structure, or any portion of it, to have been constructed before, on or after Date of Policy in accordance with applicable building codes. This Exclusion does not modify or limit the coverage provided in Covered Risk 5 or 6.
9. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction creating the lien of the Insured Mortgage, is
  - (a) a fraudulent conveyance or fraudulent transfer, or
  - (b) a preferential transfer for any reason not stated in Covered Risk 27(b) of this policy.



# Napa County

## Board Agenda Letter

1195 THIRD STREET  
SUITE 310  
NAPA, CA 94559  
www.countyofnapa.org  
Main: (707) 253-4580

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Flood Control and Water Conservation District **Agenda Date:** 7/16/2024

**File ID #:** 24-1090

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**TO:** Napa County Flood Control and Water Conservation District  
**FROM:** Richard Thomasser - District Manager  
**REPORT BY:** Jeff Skinner - Stormwater Program Manager  
**SUBJECT:** Agreement No. 250073B (FC) with Larry Walker Associates

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### **RECOMMENDATION**

Approval of Agreement 250073B (FC) with Larry Walker Associates (LWA) for professional services related to implementation of the Phase II Municipal National Pollutant Discharge Elimination System (NPDES) Permit. (Fiscal Impact: \$169,000 Expense, NPDES Stormwater Management Fund, Budgeted, Discretionary)

### **BACKGROUND**

LWA has been providing professional services to the Napa County Flood Control and Water Conservation District (District) since 2014. The District wishes to continue to retain LWA's assistance with implementation of a variety of provisions in the Phase II NPDES permit. Under the agreement, LWA will provide a number of services to the permittees of the Napa Countywide Stormwater Pollution Prevention Program (NCSPPP). Permittees include Napa County, the cities of Napa, American Canyon, St. Helena, and Calistoga, and the Town of Yountville. The NCSPPP has been collaborating on NPDES permit compliance since 2003 with funding for the program provided by the permittees. The scope of work includes assistance with a number of tasks including: permit renewal assistance, trash reduction planning, post construction implementation, direct permittee support, trainings for municipal staff, annual report assistance, and program planning and compliance support.

### **FISCAL & STRATEGIC PLAN IMPACT**

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	Yes
Where is it budgeted?	NPDES Stormwater Management Subdivision 8000501
Is it Mandatory or Discretionary?	Discretionary
Discretionary Justification:	The services to be performed by LWA under this agreement are programmed tasks included in the Fiscal Year 2024-2025 budget of the NCSPPP.
Is the general fund affected?	No

Future fiscal impact:	Services to be performed by LWA under the agreement are programmed into the Fiscal Year 2024-2025 budget of the NCSPPP.
Consequences if not approved:	NCSPPP permittees would have to contract separately and individually for these services, which is less efficient and more costly.

**ENVIRONMENTAL IMPACT**

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.



**NAPA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT  
AGREEMENT NO \_\_\_\_\_ (FC)**

**250073B**

**PROFESSIONAL SERVICES AGREEMENT**

**THIS AGREEMENT** is made and entered into effective as of July 1, 2024, by and between the Napa County Flood Control and Water Conservation District, a special district of the State of California (“DISTRICT”), Larry Walker Associates, a California corporation, whose mailing address is 1480 Drew Avenue, Suite 100 Davis, CA 95618, hereinafter referred to as “CONTRACTOR;” DISTRICT and CONTRACTOR may be referred to below individually as “Party” and collectively as “Parties.”

**RECITALS**

**WHEREAS**, DISTRICT wishes to obtain specialized services, as authorized by Government Code section 31000, in order to develop tools, templates, and procedures for NAPA Countywide Stormwater Pollution Prevention Program (NCSPPP) member agencies to comply with the 2013 Phase II National Pollutant Discharge Elimination System (NPDES) stormwater permit, hereinafter referred to as “PHASE II PERMIT;” and

**WHEREAS**, CONTRACTOR is willing to provide such specialized services to DISTRICT under the terms and conditions set forth herein.

**NOW, THEREFORE**, for and in consideration of the recitals stated above and incorporated herein by this reference and the mutual obligations of the parties expressed herein, DISTRICT hereby engages the services of CONTRACTOR, and CONTRACTOR agrees to serve DISTRICT in accordance with the terms and conditions set forth below.

**TERMS**

1. **Term of the Agreement.** The term of this Agreement shall commence on the date first above written and shall expire on June 30, 2025, unless terminated earlier in accordance with Paragraphs 9 (Termination for Cause), 10 (Other Termination), or 23(a) (Covenant of No Undisclosed Conflict); except that the obligations of the Parties under Paragraphs 7 (Insurance) and 8 (Indemnification) shall continue in full force and effect after said expiration date or early termination in relation to acts or omissions occurring prior to such dates during the term of the Agreement, and the obligations of CONTRACTOR to DISTRICT shall also continue after said expiration date or early termination in relation to the obligations prescribed by Paragraphs 15 (Confidentiality), 20 (Taxes), and 21 (Access to Records/Retention). The term of this Agreement shall be automatically renewed for an additional year at the end of each fiscal year, under the terms and conditions then in effect, not to exceed four (4) additional years, unless either Party gives the other Party written notice of intention not to renew no less than thirty (30) days prior to the expiration of the then current term. For purposes of this Agreement, “fiscal year” shall mean the period commencing on July 1 and ending on June 30.

2. **Scope of Services.** CONTRACTOR shall provide DISTRICT those services set forth in Exhibit "A," attached hereto and incorporated by reference herein.

3. **Compensation.**

(a) Rates. In consideration of CONTRACTOR's fulfillment of the promised work, DISTRICT shall pay CONTRACTOR at the rates set forth in Exhibit "B," attached hereto and incorporated by reference herein.

(b) Expenses. Travel and other expenses will be reimbursed by DISTRICT upon submission of an invoice in accordance with Paragraph 4 at the rates and/or in accordance with the policy(s) set forth in Exhibit "B."

(c) Maximum Amount. Notwithstanding subparagraphs (a) and (b), the maximum payments under this Agreement shall be a total of one hundred sixty-nine thousand dollars (\$169,000) for professional services and expenses; provided, however, that such amounts shall not be construed as guaranteed sums, and compensation shall be based upon services actually rendered and expenses actually incurred.

4. **Method of Payment.**

(a) Invoices. All payments for compensation shall be made only upon presentation by CONTRACTOR to DISTRICT of an itemized billing invoice in a form acceptable to the Napa County Auditor which indicates, at a minimum, CONTRACTOR's name, address, Social Security or Taxpayer Identification Number, itemization of the hours worked or, where compensation is on a per-task basis, a description of the tasks completed during the billing period, the person(s) actually performing the services and the position(s) held by such person(s), and the approved hourly or task rate.

(b) Expenses. If the Agreement provides for expense reimbursement, requests for reimbursement shall describe the nature and cost of the expense, the date incurred. With the exception of per diem reimbursements, receipts must be attached.

(c) Fixed Price. If the Agreement provides for a fixed price, if CONTRACTOR presents interim invoices, CONTRACTOR must state the percentage of work completed, which must be verified by COUNTY, i.e., 35% design, 95% design, draft report, et cetera, at which time CONTRACTOR shall be paid the equivalent percentage of the fixed price.

(d) CONTRACTOR shall submit invoices not more often than monthly to the Stormwater Program Manager, who, after review and approval as to form and content, shall submit the invoice to the Napa County Auditor no later than fifteen (15) calendar days following receipt. A sample invoice showing the level of detail required is attached as Exhibit "C."

(e) Legal status. So that DISTRICT may properly comply with its reporting obligations under federal and state laws pertaining to taxation, if CONTRACTOR is or becomes a corporation during the term of this Agreement, proof that such status is currently recognized by and complies with the laws of both the state of incorporation or organization and the State of California, if different, shall be provided to the Stormwater Program Manager upon request in a form satisfactory to the Napa County Auditor. Such proof shall include, but need not be limited to, a copy of any annual or other periodic filings or registrations required by the state of origin or California, the current address for service of process on the corporation or limited liability partnership, and the name of any agent designated for service of process by CONTRACTOR within the State of California.

5. **Independent Contractor.** CONTRACTOR shall perform this Agreement as an independent contractor. CONTRACTOR and the officers, agents, and employees of CONTRACTOR are not, and shall not be deemed, DISTRICT employees for any purpose, including workers' compensation and employee benefits. CONTRACTOR shall, at CONTRACTOR's own risk and expense, determine the method and manner by which duties imposed on CONTRACTOR by this Agreement shall be performed; provided, however, that DISTRICT may monitor the work performed by CONTRACTOR. DISTRICT shall not deduct or withhold any amounts whatsoever from the compensation paid to CONTRACTOR, including, but not limited to amounts required to be withheld for state and federal taxes, unless required to do so by court order. As between the Parties to this Agreement, CONTRACTOR shall be solely responsible for all such payments.

6. **Specific Performance.** It is agreed that CONTRACTOR, including the agents or employees of CONTRACTOR, shall be the sole providers of the services required by this Agreement. Because the services to be performed by CONTRACTOR under the terms of this Agreement are of a special, unique, unusual, extraordinary, and intellectual or time-sensitive character which gives them a peculiar value, the loss of which cannot be reasonably or adequately compensated in damages in an action of law, DISTRICT, in addition to any other rights or remedies which DISTRICT may possess, shall be entitled to injunctive and other equitable relief to prevent a breach of this Agreement by CONTRACTOR.

7. **Insurance.** CONTRACTOR shall obtain and maintain in full force and effect throughout the term of this Agreement, and thereafter as to matters occurring during the term of this Agreement, the following insurance coverage:

(a) **Workers' Compensation Insurance.** To the extent required by law during the term of this Agreement, CONTRACTOR shall provide workers' compensation insurance for the performance of any of CONTRACTOR's duties under this Agreement, including but not limited to, coverage for workers' compensation and employer's liability and a waiver of subrogation, and shall provide DISTRICT with certification of all such coverages upon request by DISTRICT's Risk Manager.

(b) **Liability Insurance.** CONTRACTOR shall obtain and maintain in full force and effect during the term of this Agreement the following liability insurance coverages, **issued by a company admitted to do business in California and having an A.M. Best rating of A:VII or better, or equivalent self-insurance:**

(1) **General Liability.** Commercial general liability [CGL] insurance coverage (personal injury and property damage) of not less than ONE MILLION DOLLARS (\$1,000,000) combined single limit per occurrence, covering liability or claims for any personal injury, including death, to any person and/or damage to the property of any person arising from the acts or omissions of CONTRACTOR or any officer, agent, or employee of CONTRACTOR under this Agreement. If the coverage includes an aggregate limit, the aggregate limit shall be no less than twice the per occurrence limit.

(2) **Professional Liability/Errors and Omissions.** Professional liability [or errors and omissions] insurance for all activities of CONTRACTOR arising out of or in connection with this Agreement in an amount not less than ONE MILLION DOLLARS (\$1,000,000) per claim.



(3) Comprehensive Automobile Liability Insurance. Comprehensive automobile liability insurance (Bodily Injury and Property Damage) on owned, hired, leased and non-owned vehicles used in conjunction with CONTRACTOR's business of not less than ONE MILLION DOLLARS (\$1,000,000) combined single limit per occurrence. Coverage shall be business auto insurance coverage using Insurance Services Office (ISO) form number CA 0001 06 92 including symbol 1 (any Auto) or the exact equivalent. If CONTRACTOR owns no vehicles, this requirement may be satisfied by a non-owned auto endorsement to the General Liability Insurance described in subparagraph (b)(1) above. If CONTRACTOR or CONTRACTOR's employees, officers, or agents will use personal automobiles in any way in the performance of this Agreement, CONTRACTOR shall provide evidence of personal auto liability coverage for each such person upon request.

(c) Certificates of Coverage. All insurance coverages referenced in 7(b), above, shall be evidenced by one or more certificates of coverage or, with the consent of DISTRICT's Risk Manager, demonstrated by other evidence of coverage acceptable to DISTRICT's Risk Manager, which shall be filed by CONTRACTOR with the County Counsel prior to commencement of performance of any of CONTRACTOR's duties.

(1) The certificate(s) or other evidence of coverage shall reference this Agreement by its DISTRICT number or title and department; shall be kept current during the term of this Agreement; shall provide that DISTRICT shall be given no less than thirty (30) days prior written notice of any non-renewal, cancellation, other termination, or material change, except that only ten (10) days prior written notice shall be required where the cause of non-renewal or cancellation is non-payment of premium; and shall provide that the inclusion of more than one insured shall not operate to impair the rights of one insured against another insured, the coverage afforded applying as though separate policies had been issued to each insured, but the inclusion of more than one insured shall not operate to increase the limits of the company's liability.

(2) Waiver of Subrogation and Additional Insured Endorsements. For the commercial general liability insurance coverage referenced in 7(b)(1) and, for the comprehensive automobile liability insurance coverage referenced in 7(b)(3) where the vehicles are covered by a commercial policy rather than a personal policy, CONTRACTOR shall also file with the evidence of coverage an endorsement from the insurance provider naming DISTRICT, its officers, employees, agents, and volunteers as additional insureds and waiving subrogation. For the Workers Compensation insurance coverage, CONTRACTOR shall file an endorsement waiving subrogation with the evidence of coverage.

(3) The certificate or other evidence of coverage shall provide that if the same policy applies to activities of CONTRACTOR not covered by this Agreement, then the limits in the applicable certificate relating to the additional insured coverage of DISTRICT shall pertain only to liability for activities of CONTRACTOR under this Agreement, and that the insurance provided is primary coverage to DISTRICT with respect to any insurance or self-insurance programs maintained by DISTRICT. The additional insured endorsements for the general liability coverage shall use Insurance Services Office (ISO) Form No. CG 20 09 11 85 or CG 20 10 11 85, or equivalent, including (if used together) CG 2010 10 01 and CG 2037 10 01; but shall not use the following forms: CG 20 10 10 93 or 03 94.

(4) Upon request by DISTRICT's Risk Manager, CONTRACTOR shall provide or arrange for the insurer to provide within thirty (30) days of the request, certified copies of the actual insurance policies or relevant portions thereof.

(d) Deductibles/Retentions. Any deductibles or self-insured retentions shall be declared to, and be subject to approval by, DISTRICT's Risk Manager, which approval shall not be denied unless the DISTRICT's Risk Manager determines that the deductibles or self-insured retentions are unreasonably large in relation to compensation payable under this Agreement and the risks of liability associated with the activities required of CONTRACTOR by this Agreement. At the option of and upon request by DISTRICT's Risk Manager if the Risk Manager determines that such deductibles or retentions are unreasonably high, either the insurer shall reduce or eliminate such deductibles or self-insurance retentions as respects DISTRICT, its officers, employees, agents, and volunteers or CONTRACTOR shall procure a bond guaranteeing payment of losses and related investigations, claims administration, and defense expenses.

(e) Inclusion in Subcontracts. CONTRACTOR agrees to require all subcontractors and any other entity or person who is involved in providing services under this Agreement to comply with the Workers Compensation and General Liability insurance requirements set forth in this Paragraph 7.

**8. Hold Harmless/Defense/Indemnification.**

(a) In General. To the full extent permitted by law, CONTRACTOR shall defend at its own expense, indemnify, and hold harmless DISTRICT and its officers, agents, employees, volunteers, or representatives from and against any and all liability, claims, actions, proceedings, losses, injuries, damages, or expenses of every name, kind, and description, including litigation costs and reasonable attorney's fees incurred in connection therewith, brought for or on account of personal injury (including death) or damage to property, to the extent arising from all acts or omissions of CONTRACTOR or its officers, agents, employees, volunteers, contractors, and subcontractors in rendering services under this Agreement, excluding, however, such liability, claims, actions, losses, injuries, damages, or expenses arising from the sole negligence or willful acts of DISTRICT or its officers, agents, employees, volunteers, representatives, or other contractors or their subcontractors. Each Party shall notify the other Party immediately in writing of any claim or damage related to activities performed under this Agreement. The Parties shall cooperate with each other in the investigation and disposition of any claim arising out of the activities under this Agreement, providing that nothing shall require either Party to disclose any documents, records, or communications that are protected under peer review privilege, attorney-client privilege, or attorney work product privilege.

(b) Employee Character and Fitness. CONTRACTOR accepts responsibility for determining and approving the character and fitness of its employees (including volunteers, agents, or representatives) to provide the services required of CONTRACTOR under this Agreement, including completion of a satisfactory criminal/background check and period rechecks to the extent permitted by law. Notwithstanding anything to the contrary in this Paragraph, CONTRACTOR shall hold DISTRICT and its officers, agents, and employees harmless from any liability for injuries or damages resulting from a breach of this provision or CONTRACTOR's actions in this regard.

**9. Termination for Cause.** If either Party shall fail to fulfill in a timely and proper manner that Party's obligations under this Agreement or otherwise breach this Agreement and fail to cure such failure or breach within ten (10) days of receipt of written notice from the other Party describing the nature of the breach, the non-defaulting Party may, in addition to any other



remedies it may have, terminate this Agreement by giving five (5) days prior written notice to the defaulting Party in the manner set forth in Paragraph 13 (Notices). The DISTRICT's District Engineer is hereby authorized to make all decisions and take all actions required under this Paragraph to terminate this Agreement on behalf of DISTRICT for cause.

10. **Other Termination.** This Agreement may be terminated by either Party for any reason and at any time by giving prior written notice of such termination to the other Party specifying the effective date thereof at least thirty (30) days' prior to the effective date, as long as the date the notice is given and the effective date of the termination are in the same fiscal year; provided, however, that no such termination may be effected by DISTRICT unless an opportunity for consultation is provided prior to the effective date of the termination. DISTRICT's District Engineer is hereby authorized to make all decisions and take all actions required under this Paragraph to terminate this Agreement on behalf of DISTRICT for the convenience of DISTRICT.

11. **Disposition of, Title to, and Payment for Work Upon Expiration or Termination.**

(a) Upon expiration of this Agreement or termination for cause under Paragraph 9 or termination for convenience of a Party under Paragraph 10:

(1) To the extent CONTRACTOR has provided services through Software and Applications materials licensed to DISTRICT, DISTRICT shall promptly return the Software and Application materials to CONTRACTOR. In addition, to the extent CONTRACTOR maintains DISTRICT data on those portions of digital software hosted by CONTRACTOR and not controlled by DISTRICT ("District data"), CONTRACTOR shall promptly return DISTRICT data to DISTRICT Information Technology Department (ITS) in a format designated by ITS and shall subsequently purge DISTRICT data from CONTRACTOR's systems upon confirmation from DISTRICT that the copy of the data provided to DISTRICT is comprehensive of the data previously hosted by CONTRACTOR.

(2) All finished or unfinished documents and other materials, if any, and all rights therein shall become, at the option of DISTRICT, the property of and shall be promptly returned to DISTRICT, although CONTRACTOR may retain a copy of such work for its personal records only, except as otherwise provided under Paragraph 15 (Confidentiality) of this Agreement. Unless otherwise expressly provided in this Agreement, any copyrightable or patentable work created by CONTRACTOR under this Agreement shall be deemed a "work made for hire" for purposes of copyright or patent law and only DISTRICT shall be entitled to claim or apply for the copyright or patent thereof. Notwithstanding the foregoing and to the extent services under this Agreement involve the development of previously patented inventions or copyrighted software, then upon expiration or termination of this Agreement, title to, ownership of, and all applicable patents, copyrights, and trade secrets in the products developed or improved under this Agreement, shall remain with CONTRACTOR or any other person or entity if such person previously owned or held such patents, copyrights, and trade secrets, and such persons shall retain complete rights to market such product; provided, however, that DISTRICT shall receive, at no additional cost, a perpetual license to use such products for its own use or the use of any consortium or joint powers agency to which DISTRICT is a Party. If the product involves a source code, CONTRACTOR shall either provide a copy of the source code to DISTRICT or shall place the source code in an escrow account, at CONTRACTOR's expense, from which the source code may be withdrawn and used by DISTRICT for the sole

purpose of maintaining and updating the system dependent upon such code when such use is necessary to prevent loss of service to DISTRICT.

(b) CONTRACTOR shall be entitled to receive compensation for any satisfactory work completed prior to expiration or receipt of the notice of termination or commenced prior to receipt of the notice of termination and completed satisfactorily prior to the effective date of the termination; except that CONTRACTOR shall not be relieved of liability to DISTRICT for damages sustained by DISTRICT by virtue of any breach of the Agreement by CONTRACTOR whether or not the Agreement expired or otherwise terminated, and DISTRICT may withhold any payments not yet made to CONTRACTOR for purpose of setoff until such time as the exact amount of damages due to DISTRICT from CONTRACTOR is determined.

12. **No Waiver.** The waiver by either Party of any breach or violation of any requirement of this Agreement shall not be deemed to be a waiver of any such breach in the future, or of the breach of any other requirement of this Agreement.

13. **Notices.** All notices required or authorized by this Agreement shall be in writing and shall be delivered in person or by deposit in the United States mail, by certified mail, postage prepaid, return receipt requested. Any mailed notice, demand, request, consent, approval, or communication that Party desires to give the other Party shall be addressed to the other Party at the address set forth below. Either Party may change its address by notifying the other Party of the change of address. Any notice sent by mail in the manner prescribed by this paragraph shall be deemed to have been received on the date noted on the return receipt or five days following the date of deposit, whichever is earlier.

DISTRICT

Jeff Skinner  
Stormwater Program Manager  
804 First Street  
Napa, CA 94559

CONTRACTOR

Larry Walker Associates  
Owner  
1480 Drew Avenue, Suite 100  
Davis, CA 95618

14. **Compliance with Napa County Policies on Waste, Harassment, Drug/Alcohol-Free Workplace, and Computer Use.** CONTRACTOR hereby agrees to comply, and require its employees and subcontractors to comply, with the following policies, copies of which are on file with the Clerk of the Board of Supervisors and incorporated by reference herein. CONTRACTOR also agrees that it shall not engage in any activities, or permit its officers, agents and employees to do so, during the performance of any of the services required under this Agreement, which would interfere with compliance or induce violation of these policies by DISTRICT employees or contractors.

(a) Waste Source Reduction and Recycled Product Content Procurement Policy adopted by resolution of the Board of Supervisors on March 26, 1991.

(b) County of Napa "Policy for Maintaining a Harassment and Discrimination Free Work Environment" revised effective August 23, 2005.

(c) County of Napa Drug and Alcohol Policy adopted by resolution of the Board of Supervisors on June 25, 1991.



(d) Napa County Information Technology Use and Security Policy adopted by resolution of the Board of Supervisors on April 17, 2001. To this end, all employees and subcontractors of CONTRACTOR whose performance of services under this Agreement requires access to any portion of the DISTRICT computer network shall sign and have on file with DISTRICT's ITS Department prior to receiving such access the certification attached to said Policy.

(e) Napa County Workplace Violence Policy, as stated in the Napa County Policy Manual Part I, Section 37U.

**15. Confidentiality.**

(a) Maintenance of Confidential Information. Confidential information is defined as all information disclosed to CONTRACTOR which relates to DISTRICT's past, present, and future activities, as well as activities under this Agreement. CONTRACTOR shall hold all such information as CONTRACTOR may receive, if any, in trust and confidence, except with the prior written approval of DISTRICT, expressed through its County Counsel. Upon cancellation or expiration of this Agreement, CONTRACTOR shall return to DISTRICT all written and descriptive matter which contains any such confidential information, except that CONTRACTOR may retain for its files a copy of CONTRACTOR's work product if such product has been made available to the public by DISTRICT.

**16. No Assignments or Subcontracts.**

(a) In General. A consideration of this Agreement is the personal reputation of CONTRACTOR; therefore, CONTRACTOR shall not assign any interest in this Agreement or subcontract any of the services CONTRACTOR is to perform hereunder without the prior written consent of DISTRICT, which shall not be unreasonably withheld. The inability of the assignee to provide personnel equivalent in experience, expertise, and numbers to those provided by CONTRACTOR, or to perform any of the remaining services required under this Agreement within the same time frame required of CONTRACTOR shall be deemed to be reasonable grounds for DISTRICT to withhold its consent to assignment. For purposes of this subparagraph, the consent of DISTRICT may be given by the County Counsel.

(b) Effect of Change in Status. If CONTRACTOR changes its status during the term of this Agreement from or to that of a corporation, limited liability partnership, limited liability company, general partnership, or sole proprietorship, such change in organizational status shall be viewed as an attempted assignment of this Agreement by CONTRACTOR. Failure of CONTRACTOR to obtain approval of such assignment under this Paragraph shall be viewed as a material breach of this Agreement.

**17. Amendment/Modification.** Except as specifically provided herein, this Agreement may be modified or amended only in writing and with the prior written consent of both Parties. Failure of CONTRACTOR to secure such authorization in writing in advance of performing any extra or changed work shall constitute a waiver of any and all rights to adjustment in the contract price or contract time and no compensation shall be paid for such extra work.

**18. Interpretation; Venue.**

(a) Interpretation. The headings used herein are for reference only. The terms of the Agreement are set out in the text under the headings. This Agreement shall be governed by the laws of the State of California without regard to the choice of law or conflicts.



(b) Venue. This Agreement is made in Napa County, California. The venue for any legal action in state court filed by either Party to this Agreement for the purpose of interpreting or enforcing any provision of this Agreement shall be in the Superior Court of California, County of Napa, a unified court. The venue for any legal action in federal court filed by either Party to this Agreement for the purpose of interpreting or enforcing any provision of this Agreement lying within the jurisdiction of the federal courts shall be the Northern District of California. The appropriate venue for arbitration, mediation, or similar legal proceedings under this Agreement shall be Napa County, California; however, nothing in this sentence shall obligate either Party to submit to mediation or arbitration any dispute arising under this Agreement.

19. **Compliance with Laws.** CONTRACTOR shall observe and comply with all applicable Federal, State, and local laws, ordinances, and codes. Such laws shall include, but not be limited to, the following, except where prohibited by law:

(a) Non-Discrimination. During the performance of this Agreement, CONTRACTOR and its subcontractors shall not deny the benefits thereof to any person on the basis of race, color, ancestry, national origin or ethnic group identification, religion or religious creed, gender or self-identified gender, sexual orientation, marital status, age, mental disability, physical disability, genetic information, or medical condition (including cancer, HIV, and AIDS), or political affiliation or belief, nor shall they discriminate unlawfully against any employee or applicant for employment because of race, color, ancestry, national origin or ethnic group identification, religion or religious creed, gender or self-identified gender, sexual orientation, marital status, age (over 40), mental disability, physical disability, genetic information, or medical condition (including cancer, HIV, and AIDS), use of family care leave, or political affiliation or belief. CONTRACTOR shall ensure that the evaluation and treatment of employees and applicants for employment are free of such discrimination or harassment. In addition to the foregoing general obligations, CONTRACTOR shall comply with the provisions of the Fair Employment and Housing Act (Government Code section 12900, et seq.), the regulations promulgated thereunder (Title 2, California Code of Regulations, section 7285.0, et seq.), the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (sections 11135-11139.5), and any state or local regulations adopted to implement any of the foregoing, as such statutes and regulations may be amended from time to time. To the extent this Agreement subcontracts to CONTRACTOR services or works required of DISTRICT by the State of California pursuant to agreement between DISTRICT and the State, the applicable regulations of the Fair Employment and Housing Commission implementing Government Code section 12990 (a) through (f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are expressly incorporated into this Agreement by reference and made a part hereof as if set forth in full, and CONTRACTOR and any of its subcontractors shall give written notice of their obligations thereunder to labor organizations with which they have collective bargaining or other agreements.

(b) Documentation of Right to Work. CONTRACTOR agrees to abide by the requirements of the Immigration and Control Reform Act pertaining to assuring that all newly-hired employees of CONTRACTOR performing any services under this Agreement have a legal right to work in the United States of America, that all required documentation of such right to work is inspected, and that INS Form 1-9 (as it may be amended from time to time) is completed and on file for each employee. CONTRACTOR shall make the required documentation available upon request to DISTRICT for inspection.

(c) Inclusion in Subcontracts. To the extent any of the services required of CONTRACTOR under this Agreement are subcontracted to a third party, CONTRACTOR shall include all of the provisions of this Paragraph 19 in all such subcontracts as obligations of the subcontractor.

20. **Taxes.** CONTRACTOR agrees to file federal and state tax returns or applicable withholding documents and to pay all applicable taxes or make all required withholdings on amounts paid pursuant to this Agreement and shall be solely liable and responsible to make such withholdings and/or pay such taxes and other obligations including, without limitation, state and federal income and FICA taxes. CONTRACTOR agrees to indemnify and hold DISTRICT harmless from any liability it may incur to the United States or the State of California as a consequence of CONTRACTOR's failure to pay or withhold, when due, all such taxes and obligations. In the event that DISTRICT is audited for compliance regarding any withholding or other applicable taxes or amounts, CONTRACTOR agrees to furnish DISTRICT with proof of payment of taxes or withholdings on those earnings.

21. **Access to Records/Retention.** DISTRICT, any federal or state grantor agency funding all or part of the compensation payable hereunder, the State Controller, the Comptroller General of the United States, or the duly authorized representatives of any of the above, shall have access to any books, documents, papers, and records of CONTRACTOR which are directly pertinent to the subject matter of this Agreement for the purpose of making audit, examination, excerpts, and transcriptions. Except where longer retention is required by any federal or state law, CONTRACTOR shall maintain all required records for at least seven (7) years after DISTRICT makes final payment for any of the work authorized hereunder and all pending matters are closed, whichever is later.

22. **Authority to Contract.** CONTRACTOR and DISTRICT each warrant hereby that they are legally permitted and otherwise have the authority to enter into and perform this Agreement.

23. **Conflict of Interest.**

(a) Covenant of No Undisclosed Conflict. The Parties to the Agreement acknowledge that they are aware of the provisions of Government Code section 1090, et seq., and section 87100, et seq., relating to conflict of interest of public officers and employees. CONTRACTOR hereby covenants that it presently has no interest not disclosed to DISTRICT and shall not acquire any interest, direct or indirect, which would conflict in any material manner or degree with the performance of its services or confidentiality obligation hereunder, except as such as DISTRICT may consent to in writing prior to the acquisition by CONTRACTOR of such conflict. CONTRACTOR further warrants that it is unaware of any financial or economic interest of any public officer or employee of DISTRICT relating to this Agreement. CONTRACTOR agrees that if such financial interest does exist at the inception of this Agreement, DISTRICT may terminate this Agreement immediately upon giving written notice without further obligation by DISTRICT to CONTRACTOR under this Agreement.

(b) Statements of Economic Interest. CONTRACTOR acknowledges and understands that DISTRICT has developed and approved a Conflict of Interest Code as required by state law which requires CONTRACTOR to file with the Elections Division of the Napa DISTRICT Assessor-Clerk Recorder "assuming office," "annual," and "leaving office"

Statements of Economic Interest as a “consultant,” as defined in California Code of Regulations, title 2, section 18701, subd. (a)(2), unless it has been determined in writing that CONTRACTOR, although holding a “designated” position as a consultant, has been hired to perform a range of duties so limited in scope as to not be required to fully comply with such disclosure obligation.

CONTRACTOR agrees to timely comply with all filing obligations for a consultant under DISTRICT’s Conflict of Interest Code unless such a determination is on file on the filing dates for each of the required Statements of Economic Interest.

24. **Third Party Beneficiaries.** Nothing contained in this Agreement shall be construed to create any rights in third parties and the Parties do not intend to create such rights.

25. **Attorney's Fees.** In the event that either Party commences legal action of any kind or character to either enforce the provisions of this Agreement or to obtain damages for breach thereof, the prevailing Party in such litigation shall be entitled to all costs and reasonable attorney's fees incurred in connection with such action.

26. **Severability.** If any provision of this Agreement, or any portion thereof, is found by any court of competent jurisdiction to be unenforceable or invalid for any reason, such provision shall be severable and shall not in any way impair the enforceability of any other provision of this Agreement.

27. **Integration.** This Agreement represents the entire agreement between DISTRICT and CONTRACTOR regarding the subject matter contained herein. No enforceable oral representations or other agreements have been made by the parties except as specifically stated herein.

28. **Counterparts.** This Agreement may be executed in counterparts, which when taken together, shall constitute a single signed original as though all parties had executed the same page.

*[REMAINDER OF PAGE LEFT BLANK INTENTIONALLY]*

**IN WITNESS WHEREOF**, this Agreement was executed by the Parties hereto effective as of the date first above written.

**LARRY WALKER ASSOCIATES**

By Jeffrey D. Walker Digitally signed by Jeffrey D. Walker  
Date: 2024.06.26 09:16:56 -07'00'

**JEFFREY WALKER, Chief  
Financial Officer**

By Sandra Mathews Digitally signed by Sandra Mathews  
Date: 2024.06.13 15:18:10 -07'00'

**SANDRA MATHEWS, Vice  
President**

"CONTRACTOR"

**NAPA COUNTY FLOOD CONTROL AND  
WATER CONSERVATION DISTRICT, a  
special district of the State of California**

By: \_\_\_\_\_  
**SCOTT SEDGLEY**  
Chairperson of the Board of Directors

"DISTRICT"

<p><b>APPROVED AS TO FORM</b> Office of District Counsel</p> <p>By: <u>Shana A. Bagley</u> District Counsel</p> <p>Date: <u>May 22, 2024</u></p>	<p><b>APPROVED BY THE BOARD OF DIRECTORS OF THE NAPA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT</b></p> <p>Date: _____ Processed By: _____ _____ Deputy Secretary of the District Board</p>	<p><b>ATTEST:</b> Secretary of the District Board</p> <p>By: _____</p>
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## EXHIBIT “A”

### Larry Walker Associates Proposal for Professional Services for the Napa Countywide Stormwater Pollution Prevention Program April 2024

#### **Proposed Scope of Services**

Communities in Napa County are subject to California’s General Permit for Small Municipal Separate Storm Sewer Systems (MS4), hereafter Phase II Permit. The Napa Countywide Stormwater Pollution Prevention Program (NCSPPP) coordinates the efforts of the local programs to provide consistency between the individual member agencies’ approaches.

Larry Walker Associates (LWA) will provide professional services to NCSPPP to assist with the development of tools for the Napa municipalities to comply with the current Phase II Permit, support NCSPPP during the permit reissuance negotiations, and assist with the implementation of the reissued permit. The proposed tasks in this scope of services identify potential areas of assistance during fiscal years 2024-25. To allow NCSPPP to maintain continuity in tracking permit implementation costs, task numbers have been preserved, even if no work is anticipated for those tasks.

LWA will work collaboratively with the NCSPPP Program Manager to effectively and efficiently provide NCSPPP with the requested regulatory and program support. We recognize that flexibility is essential in providing stormwater services to NCSPPP, and we anticipate the necessity of adjusting and adapting the tasks and budgets, in coordination with the Program Manager, to meet the needs and resources of the program and member agencies.

This scope of work does not include health and safety related services, including identification of field hazards for NCSPPP staff or the staff of its member agencies.

All work will be performed on a time and materials basis. **Table 1** provides budget projections for the tasks listed below. LWA will work with NCSPPP to develop task schedules designed to meet the program’s needs and provide final deliverables prior to the applicable regulatory deadlines.

**Draft Deliverables:** All draft documents will be delivered in an editable, digital format (e.g., Microsoft Word, Excel, PowerPoint).

**Final Deliverables:** Final documents will be delivered as digital copies in portable document format (Adobe Acrobat) including text, tables, and figures and as editable, digital copy in the original source software (e.g., Microsoft Word, Excel, PowerPoint).

#### **Task 1. Revise the Construction Site Runoff Control Requirements Document**

In 2014, the Napa County Construction Site Runoff Control Requirements was updated and transformed into the *NCSPPP Erosion and Sediment Control Plan Guidance for Applicants and Review Staff* to assist applicants and municipal review staff in determining whether the local erosion and sediment control requirements apply to the proposed activities and to provide guidance on preparing and reviewing Erosion and Sediment Control Plans (ESCPs).

No work in FY 24-25 is anticipated on this task.

## **Task 2. Spill Response Plan (E.9.e)**

In 2016, NCSPPP updated the 2014 *Illicit Discharge Response Plan* to establish the procedures for responding to illicit discharges and fulfill the requirements of Provision E.9.e of the Phase II Permit.

No work in FY 24-25 is anticipated on this task.

## **Task 3. Construction Site Inventory and Prioritization (E.10.a and E.10.c)**

In 2014, NCSPPP created support tools to assist member agencies with creating construction site inventories and a prioritization process for inspections. These tools were later incorporated into the *Erosion and Sediment Control Plan Guidance for Applicants and Review Staff* and a mobile App.

No work in FY 24-25 is anticipated on this task.

## **Task 4. Gaps and Impediments for E.12 Implementation and Enforceable Mechanisms (E.12.g and E.12.j)**

In 2014, NCSPPP collaborated with other Phase II Permittees to develop the *BASMAA Post-Construction Manual*. As part of that effort, potential gaps and impediments were assessed; and none were identified.

No work in FY 24-25 is anticipated on this task.

## **Task 5. Update Stormwater Ordinance (E.6.a and E.10.c)**

In 2014, NCSPPP assisted member agencies with revising their stormwater ordinances per the requirements of the Phase II Permit. These ordinances were subsequently adopted by each member agency.

LWA will assist NCSPPP with revisions to stormwater ordinances based on the needs of the member agencies or changes in permit requirements.

## **Task 6. Develop and Deliver Training: Erosion and Sediment Control Procedures for Plan Reviewers and Inspectors (E.7.b.2)**

LWA will assist NCSPPP with developing and delivering training workshops for municipal staff and construction contractors regarding construction Best Management Practices (BMPs), ESCP requirements and review processes, and a review of the Construction General Permit requirements. For each training session planned, LWA will work with NCSPPP to develop an agenda focused on the identified key messages and a training format suitable for the target audience. Training may include: presentation modules, in-class desktop exercises, or field demonstrations to reinforce the key messages. Each training will include a knowledge survey prior to and following training, the results of which can be used for the effectiveness assessments required by the Phase II Permit.

## **Task 7. Develop and Deliver Training: Pollution Prevention and Good Housekeeping (E.7.b.3)**

No work in FY 24-25 is anticipated on this task.

**Task 8. Develop Illicit Discharge Detection and Elimination Procedures (E.9.d)**

During 2014 through 2016, NCSPPP created support tools to assist member agencies in creating procedures to respond to illicit discharges. These procedures were later incorporated into the *Illicit Discharge Response Plan*.

No work in FY 24-25 is anticipated on this task.

**Task 9. Develop Approach to Storm Drain System Prioritization (E.11.f)**

In 2015, NCSPPP developed an approach to assess and prioritize storm drain system maintenance to provide guidance for member agencies.

No work in FY 24-25 is anticipated on this task.

**Task 10. Develop Guidance for Landscape Design and Maintenance (E.11.j)**

In 2015, NCSPPP drafted a Landscape Design and Maintenance Program template for member agencies that summarized practices to reduce the use of water, pesticides, herbicides, and fertilizers in a single document to facilitate communication of the compliance activities within each agency, the public, and interested regulators.

No work in FY 24-25 is anticipated on this task.

**Task 11. Develop Operations and Maintenance Verification Program for Post-Construction BMPs (E.12.h)**

In 2016, NCSPPP developed an approach to conduct the operations and maintenance verification and provide tools to assist member agencies with implementing the program required by Provision E.12.h.

No work in FY 24-25 is anticipated on this task.

**Task 12. Provide As-Needed Assistance**

This task is no longer used.

**Task 13. TMDL Work Plan**

In 2017, the State Water Board amended the Phase II Permit to incorporate and revise the TMDLs implementation actions (Attachment G). NCSPPP member agencies, identified in Attachment G, are responsible for actions to attain the TMDL waste load allocations. In the future, additional TMDLs may be added to the Phase II Permit through a reopener or when the permit is reissued.

No work in FY 24-25 is anticipated on this task. Specific tasks to support TMDL negotiations and implementation planning have been added to the Scope of Work.

**Task 14. Public Education Strategy & Outreach Plans**

In 2014 and 2015, NCSPPP developed a *Public Education, Outreach, Involvement, and Participation Strategy* and pollutant-specific outreach plans to deliver stormwater pollution prevention messages to target audiences.

No work in FY 24-25 is anticipated on this task.

#### **Task 15. Annual Report Support**

The Phase II Permit requires NCSPPP member agencies to report annually on compliance with the permit provisions in the State's SMARTS database. The annual report includes completing the online questionnaire and uploading required reports.

LWA will provide as-needed assistance to NCSPPP in completing the Annual Report and developing guidance for permittees to complete the SMARTS questionnaire.

The LWA team will assist NCSPPP in completing the 2024-2025 (Year 11) TMDL-Effectiveness Assessment Report and subsequent annual TMDL-Effectiveness Assessment Reports. For these reports, the LWA team will coordinate with NCSPPP on the schedule for data collection, drafting, review, and finalization.

#### **Task 16. Street Sweeping Program Evaluation**

This task is no longer used.

#### **Task 17. Municipal Facility Assessment Procedures**

This task is no longer used.

#### **Task 18. Municipal Operations and Maintenance BMPs**

In 2016, NCSPPP developed a *Municipal Field Operations and Maintenance Activities Best Management Practices Guidelines* template for its member agencies to provide information for municipal staff and municipal contractors on the protection of stormwater during field activities. The guidelines document included an inspection plan and checklist.

No work in FY 24-25 is anticipated on this task.

#### **Task 19. Illicit Discharge Detection and Elimination Training**

This task is no longer used.

#### **Task 20. Trash Reduction Planning and Implementation**

LWA will provide as needed assistance to NCSPPP and member agencies planning for the trash reduction requirements of the statewide Trash Amendments. This assistance may include assisting with the development or review of the implementation plans.

#### **Task 21. General E.10 Support**

No work in FY 24-25 is anticipated on this task.

#### **Task 22. PEAIP Implementation Support**

No further work is anticipated on this task. PEAIP reporting would occur under Task 15.



**Task 23. General E.12 Support**

No work in FY 24-25 is anticipated on this task.

**Task 24. Sediment TMDL/Road Crossing BMPs**

This task is no longer used.

**Task 25. Direct Permittee Support**

LWA will provide as directed support directly to the local Napa jurisdictions based upon their individual needs for permit implementation.

**Task 26. Program Planning and Compliance Assistance**

LWA will provide support to the NCSPPP Program Manager to plan for future implementation needs of the program and project management. This may include: formulating a strategy for future tasks; meeting with the NCSPPP Program Manager; consultations on compliance approaches; and assisting with program and project management. LWA will participate in periodic meetings and conference calls with the NCSPPP Program Manager to discuss upcoming tasks and programmatic strategic planning.

**Task 27. Public Education Surveys**

No work in FY 24-25 is anticipated on this task.

**Task 28. Develop Municipal Corp Yard SWPPP Template**

This task is no longer used.

**Task 29. Customize Municipal Facility SWPPPs**

In 2017, NCSPPP assisted its member agencies by developing a municipal facility (Corporation Yard) SWPPP template (Task 28), then customizing SWPPPs member agencies hot spot facilities.

LWA will assist NCSPPP and its member agencies, as needed, with revisions to the SWPPPs or development of SWPPPs for newly identified hot spot facilities.

**Task 30. NCSPPP Meetings**

As directed, LWA will participate in the regular meetings of the NCSPPP Management Committee or other meetings identified by the NCSPPP Program Manager. Participation may include: attending meetings, either in person or by conference call; arranging for conference calling or web-based meetings; preparing agendas or agenda items; and reviewing meeting notes.

**Task 31. Program Review**

This task is no longer used.

### **Task 32. Permit Renewal Assistance**

The State Water Board is currently in the process of reissuing the Phase II Permit. This process include advance work by permittees to identify proposed changes and stakeholder engagement meetings, followed by informal and formal comment periods.

LWA will assist NCSPPP during the renewal of the Phase II Permit to allow the program to effectively communicate needed changes. Tasks may include: identifying key sections and language for modification; coordinating with other Phase II Permittees through regional and statewide coordinating committees; developing presentations, talking points, or comments for public workshops and hearings; drafting comment letters; and developing summaries and briefings for NCSPPP member agencies on proposed changes.

### **Task 33. Funding Study**

No work in FY 24-25 is anticipated on this task.

### **Task 34. Review Napa Resource Conservation District TMDL Monitoring Summary Report**

Napa Resource Conservation District (RCD) is performing TMDL monitoring work intended to satisfy the requirements of Attachment G. This work commenced in FY 16-17 and will conclude at the end of FY 18-19, pending any Water Board requirement to continue the work beyond the initial 3-year period. The RCD will produce a report summarizing the results of the 3-year study.

No further work is anticipated on this task. Reviews of the report when needed occur under Task 15.

### **Task 35. CGP Compliance Support on Napa County Jail Project**

No further work is anticipated on this task.

### **Task 36. PCBs Demo and Bridge Program**

As directed, LWA will assist NCSPPP with planning and developing the PCB demolition and bridge program as required by the upcoming Phase II Permit renewal.

### **Task 37. Source Area Designation Evaluation**

As directed, LWA will assist NCSPPP with source area designation evaluation for compliance with Mercury and PCBs TMDLs as required by the upcoming Phase II Permit renewal.

### **Task 38. Load Reduction Analysis Approach**

As directed, LWA will assist NCSPPP with load reduction analysis approach for compliance with Mercury and PCBs TMDLs as required by the upcoming Phase II Permit renewal.

### **Task 39. Asset Management Guidance and Preparation**

As directed, LWA will assist NCSPPP with planning and developing asset management guidance and preparation as required by the upcoming Phase II Permit renewal.

**Task 40. Cost Reporting and Preparation**

As directed, LWA will assist NCSPPP with cost reporting and preparation as required by the upcoming Phase II Permit renewal.

## Proposed Budget

The proposed budget for the work described above is provided in **Table 1**. Work would be performed on a time and materials basis. Costs are based on projections of the level of effort anticipated.

**Table 1. Proposed Budget**

Task	Description	2024-2025 Budget
1	Revise the 2013 Napa County Construction Site Runoff Control Requirements	\$0
2	Spill Response Plan (E.9.e)	\$0
3	Task no longer used.	
4	Task no longer used.	
5	Develop Model Stormwater Ordinance (E.6.a and E.10.c)	\$12,000
6	Develop and Deliver Training: Erosion and Sediment Control Procedures for Plan Reviewers and Inspectors (E.7.b.2)	\$8,000
7	Develop and Deliver Training: Pollution Prevention and Good Housekeeping and IDDE/Spill Response (E.7.b.3)	\$0
8	Update IDDE response procedure	\$0
9	Develop Approach to Storm Drain System Prioritization (E.11.f)	\$0
10	Develop Guidance for Landscape Design and Maintenance (E.11.j)	\$0
11	Develop Operations and Maintenance Verification Program for Post-Construction BMPs (E.12.h) and Develop and deliver training for E.12	\$0
12	Task no longer used.	
13	TMDL Workplan (PCBs and Hg)	\$0
14	Public Education Strategy & Outreach Plans	\$0
15	Annual Report Support	\$25,000
16	Task no longer used.	
17	Task no longer used.	
18	Muni. O&M BMPs	\$0
19	Task no longer used.	
20	Trash Reduction Planning & Implementation	\$10,000
21	General E.10 Support	\$0
22	Update PEAIP	\$0
23	General E.12 Support	\$0
24	Task no longer used.	
25	Direct Permittee Support	\$10,000
26	Program Planning and Compliance Assistance	\$20,000

<b>Task</b>	<b>Description</b>	<b>2024-2025 Budget</b>
27	Public Education Surveys	\$0
28	SWPPP Template Revision	\$0
29	Customize SWPPPs for Muni Corp Yards	\$10,000
30	NCSPPP Meetings	\$8,000
31	Task no longer used.	
32	Permit Renewal Assistance	\$20,000
33	Funding Study	
34	Task no longer used.	
35	CGP compliance support on Napa County Jail Project	\$0
36	PCBs Demo and Bridge Program	\$8,000
37	Source Area Designation Evaluation	\$16,000
38	Load Reduction Analysis Approach	\$12,000
39	Asset Management Guidance and Preparation	\$5,000
40	Cost Reporting Guidance and Preparation	\$5,000
	<b>Total</b>	<b>\$169,000</b>



**EXHIBIT "B"**

LARRY WALKER ASSOCIATES, INC.

Rate Sheet Effective July 1, 2024 – June 30, 2025

TITLE	RATE (\$/Hour)	REIMBURSABLE COSTS	
Administrative	\$80	Travel	
Contract Manager	\$150	Local Mileage	Current IRS Rate
Graphic Designer	\$138	Auto Rental	Actual Expense
Project Staff I-C	\$146	Room	Actual Expense
Project Staff I-B	\$171	Subsistence and Per Diem Meals <sup>®</sup>	Current GSA Rate
Project Staff I-A	\$196	Breakfast	Current GSA Rate
Project Staff II-B	\$215	Lunch	Current GSA Rate
Project Staff II-A	\$241	Dinner	Current GSA Rate
Senior Staff I	\$261	Incidentals	Current GSA Rate
Senior Staff II	\$281	Report Reproduction and Copying	
Associate I	\$295	Per Color Copy, In-House	\$0.89
Associate II	\$315	Per Black and White Copy, In-House	\$0.08
Vice President	\$332	Per Binding, In-House	\$1.95
Executive Vice President	\$347	Special Postage and Express Mail	Actual Expense
Senior Executive	\$357	Third-Party Material Preparation	Actual Expense
President	\$357	Other Direct Costs	Actual Expense
Daily Equipment Rental Rates (Daily Rate)			
Single Parameter Meters & Equipment		\$30.00	
Digital Flow Meter		\$60.00	
Multi-Parameter Field Meters & Sondes		\$100.00	
RTK-GPS, River Surveyor, Tracer Study Equipment		\$250.00	
Multi-Parameter Continuous Remote Sensing		\$40.00	
Field Rig (Field Vehicle and All Equipment)		\$200.00	
Subcontractors		Actual Expense Plus 10% Fee	
Note: (1) Charged when overnight lodging is required. U.S. General Services Administration rates specified by location of work at <a href="https://www.gsa.gov">gsa.gov</a>			

5/1/2024

**EXHIBIT "C"****[Company Name]**

[Street Address]

[City, ST ZIP Code]

Phone [phone] Fax [fax]

Taxpayer ID #

**SAMPLE  
INVOICE**

INVOICE # \_\_\_\_\_

DATE: \_\_\_\_\_

**TO:**

[Customer Name]

[Street Address]

[City, ST ZIP Code]

**FOR:**

[Project or service description]

Contract No.

Date	DESCRIPTION	Employee & Title	HOURS	RATE	AMOUNT
1/1/15	Site visit/investigation 123 Main St, Napa. Conf w/Owner AutoCad, Bldg X, 3 <sup>rd</sup> Floor	Smith, Engineer	1.5	\$165.00	247.50
1/1/15		Smith, Engineer	1	\$165.00	165.00
1/1/15		Smith, Engineer	4	\$165.00	660.00
		Smith, Engineer			
1/2/15	Rev plans, phone conf w/Owner	Jones, PE	1.75	\$195.00	341.25
1/2/15	AutoCad Bldg X, 3 <sup>rd</sup> Floor Conf w/Owner re 2 <sup>nd</sup> Floor	Smith, Engineer	4	\$165.00	660.00
1/2/15		Smith, Engineer	.5	\$165.00	82.50
1/3/15	Mtg w/Jones re 2 <sup>nd</sup> Floor; conf w/Owner Mtg w/Smith; conf w/Owner re 2 <sup>nd</sup> Floor	Smith, Engineer	1.5	\$165.00	247.50
1/3/15		Jones, PE	1.5	\$195.00	292.50
TOTAL					







# Napa County

## Board Agenda Letter

1195 THIRD STREET  
SUITE 310  
NAPA, CA 94559  
www.countyofnapa.org  
Main: (707) 253-4580

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Flood Control and Water Conservation District **Agenda Date:** 7/16/2024

**File ID #:** 24-1093

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**TO:** Napa County Flood Control and Water Conservation District  
**FROM:** Richard Thomasser - District Manager  
**REPORT BY:** Jeremy Sarrow - Watershed & Flood Control Operations Manager  
**SUBJECT:** Amendment No. 1 to Agreement No. 230007B (FC) with Napa County Resource Conservation District

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### **RECOMMENDATION**

Approve and authorize Amendment No. 1 to Agreement No. 230007B (FC) with the Napa County Resource Conservation District (RCD), to increase the maximum amount of compensation to \$206,350 per fiscal year and to extend the term from July 1, 2024 through June 30, 2025 for services and expenses pertaining to public education and outreach, coordinating volunteer river cleanups, and developing and maintaining hydrologic models of selected stream systems. (Fiscal Impact \$206,350 Expense, Watershed Projects Fund, Budgeted, Discretionary)

### **BACKGROUND**

Napa County Resource Conservation District (RCD) assists with the implementation of various aspects of the Maintenance and Watershed Programs and the Napa Countywide Stormwater Pollution Prevention Program (NCSPPP). The NCSPPP has been collaborating on National Pollution Discharge Elimination System (NPDES) permit compliance since 2003 with funding for the program provided by the permittees, which include Napa County and the cities of Napa, American Canyon, St. Helena, Calistoga and the Town of Yountville. Under the agreement, the RCD will coordinate river cleanups with volunteers, conduct watershed education with schools and the general public, and continue hydrologic modeling and monitoring of channels of interest to the District and other stakeholders.

To comply with the Municipal Separate Storm Sewer System (MS4) Phase II National Pollutant Discharge Elimination System (NPDES) Permit, the District, Cities, Town and County developed a Countywide Stormwater Program to reduce the discharge of pollutants to storm drains, ditches, creeks and other bodies of water. Through a Joint Powers Agreement with the Cities, Town, and County, the District is responsible for implementing aspects of the Countywide Stormwater Program that involve conducting public education and outreach, coordinating volunteers, developing standard operating procedures and policies related to business, development, and municipal activities, and providing training for Cities, Town, and County staff. Due to limited staffing levels at the District, the District wishes to continue to retain the services of the Napa County Resource Conservation District (RCD) to implement a portion of the public education and volunteer coordination activities described in the Countywide Stormwater Program. These activities include conducting stormwater quality presentations, coordinating creek cleanup events, developing outreach materials, performing outfall monitoring, and marking storm drains.

The District also wishes to continue to retain the services of the RCD to assist with implementing certain elements of the Maintenance and Watershed Programs. The services sought by the District from the RCD include maintenance and upgrades of the Napa Valley Regional Rainfall and Stream Monitoring System (ALERT System).

This contract will be considered for approval by the RCD board at their July 18th meeting.

### **FISCAL & STRATEGIC PLAN IMPACT**

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	Yes
Where is it budgeted?	Watershed Projects Fund 8000
Is it Mandatory or Discretionary?	Discretionary
Discretionary Justification:	The services to be performed by the RCD under this Agreement are programmed tasks included in the Project Report for Fiscal Year 2024-2025 for Joint Zone Project 96-1 (Maintenance and Watershed Programs) and the Countywide Stormwater Program.
Is the general fund affected?	No
Future fiscal impact:	None
Consequences if not approved:	Staff would need to obtain these services from another resource to meet the goals set forth in the Project Report for Fiscal Year 2024-2025 for Joint Zone Project 96-1 (Maintenance and Watershed Programs) and the Countywide Stormwater Program.

### **ENVIRONMENTAL IMPACT**

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

**AMENDMENT NO. 1 OF  
NAPA COUNTY FLOOD CONTROL AND  
WATER CONSERVATION DISTRICT AGREEMENT NO. 230007B (FC) AND  
NAPA COUNTY RESOURCE CONSERVATION  
DISTRICT AGREEMENT NO. 2022015**

**THIS AMENDMENT NO. 1** (“Amendment No. 1”) **OF NAPA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT AGREEMENT NO. 230007B (FC)** is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2024, by and between the NAPA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, a special district of the State of California, hereinafter referred to as “DISTRICT,” and NAPA COUNTY RESOURCE CONSERVATION DISTRICT, a special district of the State of California, whose mailing address is 1303 Jefferson Street, Suite 500B, Napa, CA 94559, hereinafter referred to as “RCD.”

**RECITALS**

**WHEREAS**, on June 21, 2022, DISTRICT and RCD entered into Agreement No. 230007B (FC) (“Agreement”) for RCD to assist DISTRICT with maintenance of the Napa Valley Regional Rainfall and Stream Monitoring System (“ALERT System”), to carry out stream gauging work at select ALERT sites, to provide monitoring and modeling services for the District’s Stream Maintenance Program (SMP) and other projects, and to support the Napa Countywide Stormwater Pollution Prevention Program (“NCSPPP”); and

**WHEREAS**, DISTRICT now wishes to continue to receive these services from RCD for fiscal year 2024-2025 and RCD is willing and able to supply such services; and

**WHEREAS**, DISTRICT and RCD desire to modify the provisions of the Agreement, to extend the term of the Agreement to June 30, 2025, with automatic renewal for four additional years, modify the scope of work and budget, and increase the maximum amount of compensation for fiscal year 2024-2025.

**TERMS**

**NOW, THEREFORE**, DISTRICT and RCD hereby agree to amend the Agreement as follows:

1. Paragraph 1 of the Agreement is hereby amended in full to read as follows:

**Term of the Agreement.** The term of this Agreement shall commence on June 21, 2022, and shall expire on June 30, 2025, unless terminated earlier in accordance with Paragraphs 9 (Termination for Cause), 10 (Other Termination), or 23(a) (Covenant of No Undisclosed Conflict); except that the obligations of the parties under Paragraphs 7 (Insurance) and 8 (Indemnification) shall continue in full force and effect after said expiration date or early termination in relation to

acts or omissions occurring prior to such dates during the term of the Agreement, and the obligations of RCD to DISTRICT shall also continue after said expiration date or early termination in relation to the obligations prescribed by Paragraphs 15 (Confidentiality), 20 (Taxes), and 21 (Access to Records/Retention). The term of this Agreement shall be automatically renewed for an additional year at the end of each fiscal year, under the terms and conditions then in effect, not to exceed four additional years, unless either party gives the other party written notice of intention not to renew no less than thirty (30) days prior to the expiration of the then current term. Such notice of nonrenewal may be given on behalf of DISTRICT Executive Officer or designee thereof. For purposes of this Agreement, "fiscal year" shall mean the period commencing on July 1 and ending on June 30.

2. Paragraph 2 of the Agreement is hereby amended in full to read as follows:

**Scope of Services.**

(a) RCD shall provide COUNTY those services set forth in Exhibit "A," attached hereto and incorporated by reference herein.

(b) Commencing July 16, 2024, RCD shall provide DISTRICT those services set forth in Exhibit "A-1," attached hereto and incorporated by reference herein.

3. Paragraph 3(c) of the Agreement is hereby amended to read as follows:

Maximum Amount. Notwithstanding subparagraphs (a) and (b), the maximum payments under this Agreement shall not exceed a total of TWO HUNDRED SIX THOUSAND AND THREE HUNDRED FIFTY DOLLARS (\$206,350) for professional services and expenses per fiscal year; provided, however, that such amounts shall not be construed as guaranteed sums, and compensation shall be based upon services actually rendered and expenses actually incurred.

*[REMAINDER OF PAGE LEFT BLANK INTENTIONALLY]*

**IN WITNESS WHEREOF**, this Agreement was executed by the parties hereto as of the date first above written.

NAPA RESOURCE CONSERVATION DISTRICT, a  
political subdivision of the State of California

By \_\_\_\_\_  
BRUCE BARGE, President of the Board of Directors

"RCD"

NAPA COUNTY FLOOD CONTROL AND WATER  
CONSERVATION DISTRICT, a political subdivision of  
the State of California

By \_\_\_\_\_  
SCOTT SEDGLEY, Chair of the Board of Directors

"DISTRICT"

APPROVED AS TO FORM RCD Legal Counsel  By: _____ Deputy County Counsel  Date: _____	ATTEST: TATIA WIELAND Secretary of the District Board  By: _____
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APPROVED AS TO FORM Office of District Counsel  By: <u>Shana A. Bagley</u> Deputy County Counsel  Date: <u>June 26, 2024</u>	APPROVED BY THE BOARD OF DIRECTORS OF THE NAPA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT  Date: _____  Processed by: _____ Deputy Secretary of the District Board	ATTEST: NEHA HOSKINS Secretary of the District Board  By: _____
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## **EXHIBIT “A-1”**

### **SCOPE OF WORK**

#### **I. DESCRIPTION OF SERVICES**

During the period July 1, 2022, through June 28, 2025, RCD shall provide DISTRICT with the following services related to supporting the DISTRICT’S ALERT System, Watershed Maintenance Program, River Restoration Project(s) Monitoring, and Assessment Surveys and Reporting, the Napa Countywide Stormwater Pollution Prevention Program and Grant Acquisition Support:

##### **TASK 1 – Watershed Maintenance Program Support**

RCD shall, as budget allows, assist the DISTRICT with maintenance and upgrades of the Napa Valley Regional Rainfall and Stream Monitoring System (“ALERT System”), perform stream gauging and assist DISTRICT staff as needed with other field work necessary for the maintenance of stream channels in Napa County.

##### **1.1 Support of the ALERT System.**

Facilitate operation and maintenance of the ALERT System, including (as budget allows and as needed):

- Managing and updating the settings and content of the ALERT System website;
- Provide coordination and support among partner agencies, as needed; and
- Provide support to DISTRICT, contractors, and/or partner agencies during system improvement, expansion, and upgrade to ALERT 2 and/or repair projects, as needed; and
- Conduct stage-discharge monitoring as needed in order to calibrate data including, but not limited to, the following: remote communications/data monitoring, site visits for staff gage reading, and discharge measurements, gage maintenance, and datum point of zero updates, stage sensor testing, and calibration, stage-discharge rating updates, download, and processing of stage data, and generation of discharge data.

##### **1.2 Support Stream Maintenance Program (“SMP”).**

Provide on-request stream channel/streambed surveying support, or other stream monitoring support, as needed to assist with DISTRICT channel maintenance activities or assessments. Specific scope-of-work to be developed in coordination with DISTRICT and within the constraints of the budget.

## **TASK 2 – Rutherford, Oakville to Oak Knoll, and Bale Slough Projects Monitoring and Assessment Surveys.**

### **2.1. Annual Monitoring Report.**

RCD shall assist District staff with data analysis and preparation Monitoring Reports for the Rutherford Restoration Reach of the Napa River, as requested and as budget allows. The report is expected to be completed by the end of each calendar year.

### **2.2 Oakville to Oak Knoll As-Needed Monitoring Support.**

RCD shall assist District staff with monitoring surveys, data analysis, and preparation of annual Monitoring Reports for the Oakville to Oak Knoll Restoration Project as requested and as budget allows. Monitoring Tasks may include annual stream surveys, assessment of in-stream habitat structures, and channel thalweg and cross section profile surveys. The annual report is expected to be completed by the end of each calendar year.

### **2.3 Bear Creek - Bale Slough As-Needed Monitoring Support.**

RCD shall assist District staff with monitoring surveys, data analysis, and preparation of annual Monitoring Reports for the Bear Creek- Bale Slough Restoration Project as requested and as budget allows. Monitoring Tasks may include annual stream surveys, assessment of in-stream habitat structures, and channel thalweg and cross section profile surveys. The annual report is expected to be completed by the end of each calendar year.

**Deliverables: Tasks 2.1, 2.2 and 2.3:** Survey field notes, final data; and applicable text/tables/figures for inclusion in Annual Monitoring Reports. All deliverables will be provided in electronic format.

## **TASK 3 – Napa Countywide Stormwater Pollution Prevention Program**

DISTRICT is responsible for administering the Napa County-wide Stormwater Pollution Prevention Program (“NCSPPP”) on behalf of the Phase II stormwater municipalities and other public agencies within Napa County. The NCSPPP was developed by the Phase II agencies to achieve compliance with applicable stormwater regulations. A portion of the NCSPPP activities include implementation of a public education and outreach program and implementation of a public involvement and participation program.

The RCD has many years of experience educating landowners and students in Napa County regarding water quality issues, conducting water quality monitoring, and coordinating volunteer activities including creek cleanup events. Due to this experience, the DISTRICT has entered into this Agreement to fund implementation by RCD of some of the monitoring and public education and outreach tasks of the NCSPPP.

In coordination with the DISTRICT’S Stormwater Program Manager, and as budget allows, RCD shall perform the following tasks during the period July 1, 2022, through June 30, 2023.

RCD staff will work with DISTRICT Stormwater Program Manager to modify outreach programs to respond to shelter-in-place orders in effect as a result of the Covid-19 pandemic. This could include migrating existing programs to virtual platforms.

### 3.1 Youth Water Quality Education (E.7.a(ii)(j)<sup>1</sup>).

RCD shall coordinate and deliver a youth education program for school-aged children regarding water quality, stormwater runoff, and actions to protect water quality and habitat in Napa County's watersheds.<sup>2</sup> The program shall include opportunities for in-class presentations and place-based experiential participation. Kindergarten through Community College classes throughout Napa County may participate in the program, however the focus of the program will be elementary-aged students. It is anticipated that 30 to 48 groups of students will receive in-class instruction and that up to 10 of those will also take advantage of the opportunity for place-based experiential participation. Place-based experiences may include but are not limited to community/waterway clean-ups, on-campus trash inventories, low impact development design projects, storm drain stenciling, water quality monitoring activities, and habitat restoration to protect water quality (E.8.(ii)(c)).

On behalf of NCSPPP, RCD staff, in conjunction with other interested agencies may assist in coordination of a workshop to train teachers in Napa County to utilize the Project WET (Water Education for Teachers) curriculum<sup>3</sup>, or an agreed upon alternative. Teachers attending the workshop will be introduced to at least two (2) stormwater related modules during the training workshop. It is anticipated that approximately 15 teachers will attend the training.

RCD shall provide opportunity for DISTRICT Stormwater Program Manager to review and provide input to in-class instruction, lesson plans, and field experiences.

A concerted effort will be made to provide youth education in proportion to the combined percentage of population and Benefit Assessment Unit ("BAU") of the NCSPPP members according to the table below. As budget allows, additional classroom presentations may be provided to any NCSPPP participant upon request and with approval by the DISTRICT Stormwater Program Manager.

	Am. Can.	Napa	Yountville	St. Helena	Calistoga	County
In-class presentations	3 - 6	13 - 20	3 - 6	3 - 6	3 - 6	4*

<sup>1</sup> References to Section E relate to the Public Education and Outreach minimum control measures of the NPDES stormwater permit.

<sup>2</sup> Youth Water Quality Education will be offered as part of the RCDs LandSmart for Kids Clean Water Initiative [www.landsmart.org](http://www.landsmart.org).

<sup>3</sup> Project WET is an award-winning program that promotes awareness, appreciation, knowledge, and stewardship of water resources through the dissemination of classroom-ready teaching aids that are designed to enhance existing curriculum and are aligned to state content standards. This workshop and curriculum will "provide independent, parochial, and public schools with materials to effectively educate school-age children about storm water runoff and how they can help protect water quality habitat in their local watersheds." Project WET implements stormwater permit section E.7.a(ii)(j).



\*Yountville, St. Helena, and Calistoga's pro-rata share based on combined population and BAU is less than 1 each but have been rounded up to 1.

### 3.2. Clean-Up Events (E.8(ii)(c)).

In coordination with DISTRICT, RCD shall coordinate a minimum of two (2) volunteer creek clean-up events including an event to coincide with California Coastal Cleanup Day (at an estimated 10 sites) and a clean-up event to coincide with Earth Day (at an estimated 4 sites). In addition, RCD may assist jurisdictions in coordinating other types of town clean up events in jurisdictions with little to no publicly accessible creek property. A concerted effort will be made to provide clean-up events in proportion to combined percentage of population and BAU of the NCSPPP members according to the table below. As budget allows, additional clean up events may be provided to any NCSPPP participant upon request and with approval by the DISTRICT Stormwater Program Manager.

Coordination of these events includes but is not limited to community outreach for volunteer recruitment, recruitment and training of site-captains, management of supplies, coordination of waste disposal, and reporting of quantities and types of material removed from creeks, number of volunteer participants, and total volunteer hours.

	Am. Can.	Napa	Yountville	St. Helena	Calistoga	County
Clean-up Sites	1	6	1	1	1	4

### 3.3 Community Events Tabling.

RCD shall assist the DISTRICT Stormwater Program Manager with community outreach and events. RCD shall promote stormwater pollution prevention, make stormwater program information easily available to the public at the Earth Day event in the City of Napa, and at other local venues as appropriate, as requested by the DISTRICT Stormwater Program Manager, and as budget allows.

#### 3.3.a Spanish Language Outreach

RCD shall assist the DISTRICT Stormwater Program Manager in conducting Spanish language community outreach at events such as the Earth Day event in the City of Napa, and at other local venues as appropriate, as requested by the DISTRICT Stormwater Program Manager, and as budget allows.

### 3.4 Public Involvement and Participation.

RCD shall assist NCSPPP in involving the public in activities consistent with NCSPPP's education and outreach strategy and priority water quality concerns. RCD staff shall create opportunities for citizens to participate in the implementation of best management practices ("BMP") by coordinating stormwater pollution prevention activities and encouraging

volunteerism in the community (E.8.(i) and E.8.(ii)(c)). Activities will focus on water quality priorities including but not limited to:

- proper disposal of pet waste;
- practices to reduce discharges from organized car washes (E.7.a.(ii)(k) and (l));
- mobile cleaning and pressure washing operations (E.7.a.(ii)(k) and (m));
- benefits of water-efficient and storm water-friendly landscaping (E.7.a.(ii)(g));
- landscape irrigation (E.7.a.(ii)(g) and (k));
- proper application of pesticides, herbicides, and fertilizers (E.7.a.(ii)(i));
- practices to reduce illicit discharges and information about illicit discharge reporting (E.7.a (ii)(h));
- curriculum for school-age children regarding storm water runoff and protection of water quality (E.7.a.(ii)(j)); and
- pool and spa care.

Workshops, work days, training events, tours, educational presentations, BMP factsheets, and direct outreach to identified audiences are the types of activities that may be coordinated and implemented by the RCD to support public involvement and participation.

### 3.5 Trash Collection Coordination.

RCD shall assist NCSPPP by coordinating the activities of local citizen groups in collecting trash in and around the Napa River. Specifically, RCD will assume responsibility for the management, community outreach, and further branding of Waterways Keepers (“WWK”), a coalition of Napa Valley CanDo, Napa RCD, Friends of the Napa River, and the DISTRICT. WWK has helped to organize community cleanups throughout the City of Napa as well as supporting the annual Earth and Coastal Cleanup Days. RCD will: correspond with city staff for proper permits and access to monthly cleanups sites at proposed locations at Oxbow Commons and Kennedy Park, collaborate with/outreach to local businesses and community groups for participation, perform outreach for volunteer recruitment, and endeavor to host a WWK webpage on the Watershed Information & Conservation Council and/or Napa RCD website.

### 3.6 Outfall Assessment.

RCD shall conduct the tasks below in support of monitoring priority outfalls to be determined by the DISTRICT Stormwater Program Manager in cooperation with the regulated municipalities. RCD shall conduct these tasks consistent with the timeline, assumptions, and local/municipal stormwater responsibilities described below.

Obtain list of priority outfalls from DISTRICT Stormwater Program Manager and use the information to plan a detailed project schedule (to complete by July 30, 2022); obtain necessary permission to access outfalls if necessary (this will necessitate coordination with local stormwater program staff); photograph each outfall so that it can be used to track operation and maintenance needs over time; while conducting outfall monitoring, if dry weather flow or ponding is found during site visit, use field water quality testing equipment to analyze water

samples for indicator parameters<sup>4</sup>; if sampling results do not exceed the action level concentrations described in the permit, such results will be noted and no further action will be taken. If water quality results exceed the action level concentrations described in Table 2, p. 35 of the permit, NCRCD staff will immediately inform the municipality in question by contacting the contact person(s) named below:

- American Canyon: Erica Ahmann Smithies, Pam Phillips
- City of Napa: Stephanie Emmonds
- Napa County: Patrick Ryan, Jeff Skinner
- Yountville: Erica Rodgers, Larry Handcock
- St. Helena: Eric Janzen, Ian Dale
- Calistoga: Hamid Heidary, Derek Rayner

RCD will then attempt to trace and investigate the source of the illicit discharge for a period not to exceed 2 hours. RCD may seek the assistance of Napa County Planning/GIS to provide land use information and/ or mapping of the area from which the discharge originates. If, during the course of the 2-hour investigation, a source(s) of the illicit discharge is found, RCD will note source location (preferably by address, if available) and provide this information to the appropriate person(s) named above immediately upon concluding the investigation. Local municipal staff will then be responsible for follow-up investigation and corrective actions as required in permit section E.9.d (ii)(a-e) and described below under “Local Stormwater Program Tasks.” If no source of the illicit discharge is found, the site will be noted as “unidentified source,” and RCD will contact the appropriate person(s) named above, who will be responsible for further monitoring or action.

Provide all outfall photographs, outfall sampling data, equipment calibration records, and water quality information to local municipal stormwater staff to manage. Prepare one memo-style final report documenting the methods and results of the 2022 dry-weather storm drain outfall assessment for submittal to NCSPPP.

Purchase refills for NCSPPP-owned test kits, provide RCD-owned multi-parameter water quality meter, and calibrate and maintain all field sampling equipment, test kits, and supplies necessary to conduct all tasks. Meter calibration will be performed daily and recorded on the field data sheets.

RCD shall conduct Task 3.6 consistent with the timeline, assumptions, and local/municipal stormwater responsibilities described below.

### **Timeline and Assumptions**

RCD will complete most planning tasks by July 30, 2022, with some assistance from local stormwater staff.

RCD will complete the field tasks listed above using available, qualified staff.

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<sup>4</sup> Ammonia, color, conductivity, detergents/surfactants, hardness, pH, potassium, and turbidity.

Fieldwork will begin around August 2022 and is expected to be completed by October 31, 2022. Outfall inventory data, photo library, sample analysis results in tabular format, and final report will be delivered to the NCSPPP Manager for distribution by December 15, 2022.

#### Assumptions for fieldwork:

Total *estimated* number of municipally owned outfalls countywide that will be identified as a priority for monitoring: 162. If the number of outfall sites exceeds this estimate, then the budget may need to be adjusted accordingly. Approximately 10% to 20% of the outfalls will be flowing or will have ponded water during the dry weather outfall inventory (this includes natural groundwater, over-irrigation, swimming pool releases, and other non-stormwater sources). If more than 20% of the outfalls are flowing then the budget may need to be adjusted accordingly. Time needed to conduct a site visit, photo document, and verify coordinates for each outfall assumed not to have any dry weather flow or ponding is estimated at 0.5 hours. Time to complete all tasks at each of the outfalls expected to have dry weather flow or ponding that require field sampling is estimated at 2.6 hours. Sampling visit times are based on test equipment manufacturer's guidelines and additional time (up to 2 hours maximum) for source tracking.

#### Local/Municipal Stormwater Coordinator Tasks

**July 2022:** Provide information on priority outfall locations to RCD staff.

**July 2022:** If necessary, assist RCD staff with locating priority municipally owned and operated outfalls.

**July – October 2022:** If necessary, provide assistance to RCD staff in obtaining outfall access information and necessary access permissions.

**July – October 2022:** Conduct source Investigations and Corrective Actions as required in permit section E.9.d(ii)(a-e), below, upon notification by RCD staff.

#### *Implementation Level*

*At a minimum, the Permittee shall conduct an investigation(s) to identify and locate the source of any suspected illicit discharge within 72 hours of becoming aware of the suspected illicit discharge. For investigations that require more than 72 hours, the Permittee shall identify the actions being taken to identify and locate the source of the suspected illicit discharge.*

*Non-storm water discharges suspected of being sanitary sewage and/or significantly contaminated shall be investigated within 24 hours.*

*The Permittee shall prioritize investigations of suspected sanitary sewage and/or significantly contaminated discharges over investigations of non-storm water discharges suspected of being cooling water, wash water, or natural flows.*

*Report immediately the occurrence of any flows believed to be an immediate threat to human health or the environment to local Health Department.*

*Determine and document through its investigations the source of all non-storm water discharges. If the source of the non-storm water discharge is found to be a discharge authorized under this General Permit, or authorized under another NPDES permit, no further action is required.*

*Corrective Action to Eliminate Illicit Discharge – Once the source of the illicit discharge has been determined, the Permittee shall immediately notify the responsible party of the problem and require the responsible party to conduct all necessary corrective actions to eliminate the non-storm water discharge within 72 hours of notification. Upon being notified that the discharge has been eliminated, conduct a follow-up investigation and field screening to verify that the discharge has been eliminated using BMPs or some other corrective action. The Permittee shall document its follow-up investigation. The Permittee may seek recovery and remediation costs from responsible parties or require compensation for the cost of field screening and investigations. Resulting enforcement actions shall follow the program’s Enforcement Response Plan as specified in E.6.c.*

**Dates TBD:** Review photo documentation and data collected during dry weather flow monitoring.

**Deliverables Tasks 3.1 through 3.6:** Monthly invoices and reports summarizing activity by task including, where feasible information pertaining to jurisdiction(s) directly served, list of participating schools and classes, list of place-based experiences provided and schools participating, training workshop flyers and registration information, electronic versions of draft and final outreach materials (optional), summary statistics from clean-up events (e.g., site locations, number of volunteers, images, amount of trash collected, etc.), name of community events where RCD represents NCSPPP, outreach strategies for specific pollutants of concern, an updated storm drain outfall assessment geodatabase containing all outfall locations, assessment results, photographs, meter calibration records, and dry-weather storm drain outfall assessment annual report, monitoring report(s) associated with implementation of the Napa River Sediment TMDL Monitoring Program.

### 3.7 Design Support for Culvert Replacements.

RCD previously produced a report for Napa County in June 2014 entitled “Assessment of the Stream Crossings along County-Maintained Roads in the Napa River Watershed” in which a number of culverts and stream crossings were prioritized for future replacement. Napa County has embarked on a process to replace or repair those culverts and stream crossings that were prioritized as “high” and “high/medium culvert” in the report. In this task, RCD shall assist District staff with potentially reprioritizing some culvert replacements as well as assist with the design of certain culvert replacement projects. This task would be performed on an “as-needed basis” and only upon the explicit direction of District staff.

**II. COMPLIANCE WITH GOVERNMENT CODE SECTION 7550.** As required by Government Code section 7550, each document or report prepared by RCD for or under the direction of DISTRICT pursuant to this Agreement shall contain the numbers and dollar amounts of the Agreement and all subcontracts under the Agreement relating to the preparation of the document or written report. The Agreement and subcontract dollar amounts shall be contained

in a separate section of the document or written report. If multiple documents or written reports are the subject of the Agreement or subcontracts, the disclosure section may also contain a statement indicating that the total contract amount represents compensation for multiple documents or written reports.



**EXHIBIT "B-1"**

**BUDGET AND COMPENSATION**  
**BUDGET**

<b>Task Area</b>	<b>Labor</b>	<b>Expenses</b>	<b>Total</b>
<b>1. Watershed Maintenance Program Support</b>			
1.1 Support of the ALERT System	\$32,000	\$1,000	\$33,000
1.2 Support Stream Maintenance Program	\$10,500	\$150	\$10,650
<b>Subtotal Task 1:</b>	<b>\$42,500</b>	<b>\$1,150</b>	<b>\$43,650</b>
<b>2. Napa River Restoration Monitoring and Assessment Survey</b>			
2.1 Rutherford Reach Annual Monitoring Report	\$3,500	\$0	\$3,500
2.2 Oakville to Oak Knoll Monitoring Support	\$33,500	\$1,200	\$34,700
2.3 Bear Creek - Bale Slough	\$19,000	\$1,000	\$20,000
<b>Subtotal Task 2:</b>	<b>\$56,000</b>	<b>\$2,200</b>	<b>\$58,200</b>
<b>3. NCSPPP Support</b>			
3.1 Youth Water Quality Education	\$21,120	\$2,200	\$23,320
3.2 Clean-up Events	\$21,450	\$2,200	\$23,650
3.3 Community Event Tabling	\$5,830	\$770	\$6,600
3.3 a Spanish Language Outreach	\$2,000	\$200	\$2,200
3.4 Public Involvement & Participation	\$9,900	\$1,650	\$11,550
3.5 Trash Collection Coordination	\$6,325	\$0	\$6,325
3.6 Outfall Assessment & Monitoring			
a. American Canyon	\$2,637	\$245	\$2,882
b. City of Napa	\$10,518	\$977	\$11,495
c. Town of Yountville	\$2,435	\$227	\$2,662
d. St. Helena	\$2,435	\$227	\$2,662
e. Calistoga	\$2,738	\$254	\$2,992
f. County of Napa	\$2,435	\$227	\$2,662
3.7 Design Support for Culvert Replacements	\$5,500	\$0	\$5,500
<b>Subtotal Task 3:</b>	<b>\$95,324</b>	<b>\$9,176</b>	<b>\$104,500</b>
<b>GRAND TOTAL</b>	<b>\$193,824</b>	<b>\$12,526</b>	<b>\$206,350</b>

Notes:

1. Monitoring equipment will be billed at a per diem rate of \$50 for Task 3.6. All mileage reimbursement will be charged consistent with federally approved rates.
2. With the approval of DISTRICT'S Flood Control and Water Resources District Manager, the budget for sub-tasks of Tasks 1, 2, and 3 may be changed so long as the overall totals for each task do not increase.
3. Expenses may include mileage reimbursement, advertising, printing and binding, monitoring and other field supplies, and other project related expenses approved by the DISTRICT'S Flood Control and Water Resources District Manager.

### **HOURLY RATES FOR COMPENSATION**

RCD shall bill DISTRICT, and DISTRICT shall compensate RCD, in accordance with the following maximum hourly rates for the RCD employees and/or contractors whose positions are noted:

<b>Name</b>	<b>Title</b>	<b>Billable Rate</b>
Ashton, Danielle	Coordinator	\$82.47
Birmingham, Bill	Program Manager	\$135.20
Blank, Paul	Senior Environmental Scientist	\$133.60
Blodorn, Alison	Program Manager	\$118.89
Byro, Monique	Project Manager	\$88.92
Garcia, Miguel	Sustainable Agriculture Program Manager II	\$106.02
Knapczyk, Frances	Program Director	\$137.40
Kvitek, Ashley	Project Manager	\$101.22
McKee, Eric	Project Manager	\$105.01
Patzek, Lucas	Executive Director	\$139.01
Perales, Martin	Environmental Scientist II	\$104.51
Stahel, Ruby	Project Manager	\$105.27
Wieland, Tatia	Accounting and Administration Specialist	\$93.30
Wilbanks, Alex	Project Manager	\$99.19
Zamora Fuentes, Diana	Accounting and Administration Specialist	\$74.76

RCD billable rates include indirect and operations expenses. RCD adjusts its billable rates annually on July 1 and whenever there is a change in an employee's underlying direct pay rate. If there is any change to any of these rates or if additional personnel are added, RCD will notify DISTRICT immediately, and with the approval of DISTRICT's Watershed and Flood Control Manager, RCD may implement such adjusted rates. In any case, RCD must still adhere to the budget limitations under "BUDGET" above.



# Napa County

## Board Agenda Letter

1195 THIRD STREET  
SUITE 310  
NAPA, CA 94559  
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Main: (707) 253-4580

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Flood Control and Water Conservation District **Agenda Date:** 7/16/2024

**File ID #:** 24-1180

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**TO:** Napa County Flood Control and Water Conservation District  
**FROM:** Richard Thomasser - District Manager  
**REPORT BY:** Christopher Silke - Engineering Manager, Water Resources  
**SUBJECT:** Amendment No. 4 with Somach Simmons & Dunn Agreement No. F-103 (FC)

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### **RECOMMENDATION**

Approve and authorize Amendment No. 4 to Agreement No. F-103 (FC) with Somach, Simmons & Dunn for Fiscal Year 2023-24, with an annual maximum cost of \$85,000 for specialized services necessary to advise, assist, and represent the District in its dispute over proper interpretation of the 2013 Area of Origin Settlement Agreement with the California Department of Water Resources (DWR). (Fiscal Impact: \$25,000 Expense; Flood District; Budgeted; Discretionary)

### **BACKGROUND**

Napa County Flood Control and Water Conservation District (Napa), Solano County Water Agency (Solano), and City of Yuba City (Yuba City) (collectively, "NOD 3 Contractors") are in dispute of the California Department of Water Resources' (DWR) Water Year 2020 accounting for the NOD 3 Contractors. Specifically, the NOD 3 Contractors disagree with DWR's interpretation of their respective 2013 Area of Origin (AOO) Settlement Agreements as implemented through the State Water Project (SWP) contract provisions that concern use and carryover of each contractor's unique Table A Allocation provided by their Settlement Agreement. For Water Year 2020, DWR's determinations are documented in its 2020 Finalization Report issued by DWR on January 15, 2021. On February 18, 2021, DWR issued a revised version of the 2020 Finalization Report to Yuba City correcting an accounting error for Yuba City's use of carryover. DWR's determinations resulted in a loss of water in carryover storage for each contractor as follows: Napa: 1,208 acre-feet (AF); Solano: 2,533 AF; and Yuba City: 960 AF; for a total loss of 4,701 AF.

NOD 3 Contractors attempted to resolve the dispute with DWR in 2021. Outside special water counsel, Somach, Simmons & Dunn (SSD), presented arguments to DWR that their interpretation of the AOO Settlement Agreement was flawed and requested 1,208 AF carryover storage be returned to the District as an available water supply class. DWR rejected the District's request. A subsequent rebuttal to DWR's decision was also denied.

On January 14, 2022, SSD filed a claim against DWR with State of California Department of General Services (DGS). The claim asserts DWR acted wrongfully by stripping the District of 1,208 AF in contractual water supply entitlements resulting in \$745,251 of financial harm. DGS did not respond within its 45-day statutory limit. Once the Government Claim requirement expired and was discharged by DGS, special water counsel proceeded with submitting formal complaint, Napa County Flood Control & Water Conservation District vs

State of California Department of Water Resource with Sacramento County Superior Court. A case management conference is set for Tuesday, January 21, 2025.

Approval of Amendment No. 4 to Agreement No. F-103 with Somach, Simmons & Dunn appropriates an additional \$25,000 for Fiscal Year 2023-24 to provide legal assistance in conjunction with an Area of Origin dispute where DWR stripped carryover water entitlements in storage from the District.

### **FISCAL & STRATEGIC PLAN IMPACT**

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	Yes
Where is it budgeted?	Fund 8000, State Water Contracts Subdivision 8001500
Is it Mandatory or Discretionary?	Discretionary
Discretionary Justification:	Legal analysis for negotiations is needed
Is the general fund affected?	No
Future fiscal impact:	No direct impacts in future fiscal years will result from this particular action.
Consequences if not approved:	Staff will not have the benefit of expert legal services to support dispute with DWR

### **ENVIRONMENTAL IMPACT**

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

**NAPA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT  
AMENDMENT NO. 4 TO AGREEMENT NO. F-103 (FC)**

**PROFESSIONAL SERVICES AGREEMENT**

This AMENDMENT NO. 4 ("Amendment No. 4") TO NAPA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT AGREEMENT NO. F-103 (FC) (the "Agreement") is made and entered into effective as of July 9, 2024, by and between the Napa County Flood Control and Water Conservation District, a special district of the State of California ("DISTRICT"), and Somach Simmons & Dunn, a Professional Corporation, whose business address is 500 Capitol Mall, Suite 1000, Sacramento, California 95814 ("CONTRACTOR"). DISTRICT and CONTRACTOR may be referred to below individually as "Party" and collectively as "Parties."

**RECITALS**

**WHEREAS**, CONTRACTOR previously represented DISTRICT and other public agencies in litigation against the California Department of Water Resources (DWR) involving disputes over rights to water from the State Water Project, on record in Sacramento Superior Court as Case No. 34-2008-00016338-CU BC GDS; and

**WHEREAS**, the litigation was resolved through various settlement agreements among the parties, collectively filed with the Sacramento Superior Court on January 30, 2014; and

**WHEREAS**, a dispute arose between DISTRICT and DWR over the interpretation of their settlement agreement; and

**WHEREAS**, on November 16, 2020, the Parties entered into Agreement F-103 (FC), as authorized by Government Code section 31000, in order to advise, assist, and represent the DISTRICT in its dispute over the proper interpretation of the settlement agreement with DWR; and

**WHEREAS**, on June 15, 2021, the Parties entered into Amendment No. 1 of Agreement F-103 (FC) continuing the services of CONTRACTOR regarding ongoing discussions of the proper interpretation of the settlement agreement; and

**WHEREAS**, on December 7, 2021, DISTRICT Board of Directors authorized the DISTRICT to proceed with litigation to enforce the DISTRICT's settlement agreement and execute a Memorandum of Understanding (MOU) to allocate costs to DISTRICT and other parties; and

**WHEREAS**, on October 4, 2022, the Parties entered into Amendment No. 2 of Agreement F-103 (FC) continuing the services of CONTRACTOR regarding ongoing discussions of the proper interpretation of the settlement agreement; and

**WHEREAS**, on February 20, 2024, the Parties entered into Amendment No. 3 of Agreement F-103 (FC) continuing the services of CONTRACTOR regarding ongoing discussions of the proper interpretation of the settlement agreement; and

**WHEREAS**, DISTRICT wishes to continue receiving specialized services from CONTRACTOR, as authorized by Government Code section 31000, necessary to advise, assist, and represent the DISTRICT in its dispute over the proper interpretation of the settlement agreement with DWR; and

**WHEREAS**, CONTRACTOR is willing to continue providing such specialized services to DISTRICT under the terms and conditions set forth herein; and

**WHEREAS**, DISTRICT and CONTRACTOR desire to increase the maximum amount of compensation from to SIXTY THOUSAND DOLLARS to EIGHTY FIVE THOUSAND DOLLARS for Fiscal Year 23/24.

### **TERMS**

**NOW, THEREFORE**, DISTRICT and CONTRACTOR hereby agree to amend the Agreement as follows:

1. Paragraph 3, subd. (c), of the Agreement is hereby amended in full to read as follows:

Maximum Amount. Notwithstanding subparagraphs (a) or (b), the maximum payments under this Agreement shall not exceed EIGHT-FIVE THOUSAND DOLLARS (\$85,000) for Fiscal Year 23/24 and SIXTY THOUSAND DOLLARS per fiscal year thereafter; provided, however, that such amounts shall not be construed as guaranteed sums, and compensation shall be based upon services actually rendered.

2. This Amendment No. 4 represents all the changes to the Agreement agreed to by DISTRICT and CONTRACTOR. No enforceable oral representations or other agreements have been made by the Parties except as specifically stated herein. All other provisions of the Agreement not addressed in this Amendment shall remain in full force and effect.

3. This Amendment No. 4 may be executed in counterparts, which when taken together, shall constitute a single signed original as though all Parties had executed the same page.

*[REMAINDER OF PAGE LEFT BLANK INTENTIONALLY]*



**IN WITNESS WHEREOF**, this Amendment No. 4 is executed by DISTRICT and by CONTRACTOR through its duly authorized officer.

SOMACH SIMMONS AND DUNN

By   
ANDREW HITCHINGS, Shareholder  
pk

"CONTRACTOR"

NAPA COUNTY FLOOD CONTROL AND  
WATER CONSERVATION DISTRICT, a  
special district of the State of California

By: \_\_\_\_\_  
SCOTT SEDGLEY,  
Chair of the Board of Directors

"DISTRICT"

<p>APPROVED AS TO FORM Office of District Counsel</p> <p>By: <u>Shana A. Bagley</u> District Counsel</p> <p>Date: <u>July 2, 2024</u></p>	<p>APPROVED BY THE BOARD OF DIRECTORS OF THE NAPA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT</p> <p>Date: _____ Processed By: _____ Deputy Secretary of the District Board</p>	<p>ATTEST: Secretary of the District Board</p> <p>By: _____</p>
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# Napa County

## Board Agenda Letter

1195 THIRD STREET  
SUITE 310  
NAPA, CA 94559  
www.countyofnapa.org  
Main: (707) 253-4580

---

Flood Control and Water Conservation District **Agenda Date:** 7/16/2024

**File ID #:** 24-1208

---

**TO:** Napa County Flood Control and Water Conservation District  
**FROM:** Richard Thomasser - District Manager  
**REPORT BY:** Richard Thomasser - District Manager  
**SUBJECT:** Certification Regarding Lobbying

---

### **RECOMMENDATION**

Approve and authorize a lobbying certificate in conjunction with entering into the Project Cooperation Agreement for the Napa River/Napa Creek Flood Protection Project. (No Fiscal Impact; Mandatory)

### **BACKGROUND**

Federal law prohibits the use of federal funds to pay for lobbying efforts associated with award of federal contracts. The Army Corps of Engineers (Corps) has drafted a Project Cooperation Agreement (PCA) to authorize the reimbursement of the District's expenditures associated with the federal design and construction costs for the remaining two federally justified increments of the Project. As part of the internal review process for the PCA, the Corps has requested the attached lobbying certification be signed by the Chairperson of the Board. The PCA will be provided for District execution at a later date.

The District does not use federal funds for lobbying efforts. Any such efforts are funded using local funding.

### **FISCAL & STRATEGIC PLAN IMPACT**

Is there a Fiscal Impact?	No
Is it Mandatory or Discretionary?	Mandatory

### **ENVIRONMENTAL IMPACT**

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.



# Napa County Flood Control and Water Conservation District

**SCOTT SEDGLEY**  
**CHAIRPERSON**  
**BOARD OF DIRECTORS**

## CERTIFICATION REGARDING LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

**IN WITNESS WHEREOF**, I have made and executed this certification this \_\_\_\_\_ day of July 2024.

**SCOTT SEDGLEY**  
**CHAIRPERSON OF THE BOARD OF DIRECTORS**

APPROVED AS TO FORM Office of County Counsel
By: <u>Shana A. Bagley</u> County Counsel
Date: <u>July 9, 2024</u>
PL No: 116738



# Napa County

## Board Agenda Letter

1195 THIRD STREET  
SUITE 310  
NAPA, CA 94559  
www.countyofnapa.org  
Main: (707) 253-4580

---

Flood Control and Water Conservation District **Agenda Date:** 7/16/2024

**File ID #:** 24-1185

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**TO:** Napa County Flood Control and Water Conservation District  
**FROM:** Richard Thomasser - District Manager  
**REPORT BY:** Andrew Butler - District Engineer  
**SUBJECT:** Napa River/ Napa Creek Flood Protection Project Update

---

### **RECOMMENDATION**

Update on the progress of the Napa River/Napa Creek Flood Protection Project. (No Fiscal Impact; Discretionary)

### **BACKGROUND**

District staff are currently engaged in completion of the last two increments of the Napa River/Napa Creek Flood Protection Project (Project) that the U.S. Army Corps of Engineers (USACE) has determined to be in the federal interest to pursue. These increments are the Floodwalls North of the Bypass Project and the Imola to Hatt Floodwalls Project. At the current time, staff are progressing the design of the Floodwalls North of the Bypass Project towards a projected construction start in late 2025. Staff are also working with the USACE to outline their role in approval/acceptance of the NCFCWCD's design and construction efforts on these projects. Staff will present an update on the activities in which staff are currently engaged in pursuit of these goals.

### **FISCAL & STRATEGIC PLAN IMPACT**

Is there a Fiscal Impact? No

### **ENVIRONMENTAL IMPACT**

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.



# Napa County

## Board Agenda Letter

1195 THIRD STREET  
SUITE 310  
NAPA, CA 94559  
www.countyofnapa.org  
Main: (707) 253-4580

---

Flood Control and Water Conservation District **Agenda Date:** 7/16/2024

**File ID #:** 24-1144

---

**TO:** Napa County Flood Control and Water Conservation District  
**FROM:** Richard Thomasser - District Manager  
**REPORT BY:** Andrew Butler - District Engineer  
**SUBJECT:** Hearing to Consider Adoption of a Resolution of Necessity to Authorize the Initiation of Eminent Domain Proceedings to Acquire Portions of Certain Property owned by Jose Cruz Calderon and Maximino Ballines

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### **RECOMMENDATION**

PUBLIC HEARING - Napa River/Napa Creek Flood Control Project, Flood Walls North of the Bypass

Open Public Hearing and adopt a Resolution of Necessity with respect to portions of certain property owned by Jose Cruz Calderon and Maximino Ballines (No Fiscal Impact; Discretionary)

### **BACKGROUND**

#### THE PROJECT:

The Napa River/Napa Creek Flood Control Project (Project) covers approximately 6.9 miles of Napa River and approximately one mile of Napa Creek. Components of the Project include widening the channel, creation of both marsh plain and floodplain terraces adjacent to the Napa River, replacing a series of bridges, and creation of a bypass channel through downtown Napa. The Floodwalls North of the Bypass contract, a component of the Project, includes the construction of a setback floodwall from River Terrace Inn to the Elks Grove Townhomes, the closure of the openings in the Bypass, the relocation of a water main in the Lake Park reach, Lincoln Ave Bridge scour protection, construction of a new trail south of Lincoln Ave on the water side of the wall, and a trail crossing at Lincoln Ave. to connect the new trail south to the existing trail north.

#### THE PROPERTY:

The property proposed for acquisition, portions of APNs 044-230-002 and 044-230-003, is located at 1114 Jordan Lane in Napa. The property is a 93,924 square feet (sf) site with approximately 18,448 sf below top of bank. The property owner is also the fee owner to the centerline of the Napa River. The property is currently undeveloped, vacant land. The project requires the following property interests:

Estate: 004-230-002  
Fee: 14,298 sf

Flood Protection Levee Easement: 1,222 sf  
Temporary Construction Easement: 816 sf

Estate: 044-230-003  
Fee: 14,841 sf  
Flood Protection Levee Easement: 1,627 sf  
Temporary Construction Easement: 1,137 sf

Improvements in the usable area proposed for acquisition include fencing. These items will be removed as part of the Project.

#### THE PROJECT SCHEDULE:

Timely acquisition of properties necessary for the Floodwalls North of the Bypass Project, part of the larger Napa River/Napa Creek Flood Protection Project, is crucial as the District is currently scheduled to award a construction contract for the Floodwalls North of the Bypass Project in August of 2025. In January of 2021, the US Army Corps of Engineers was allocated approximately \$48.3 Million for the construction of the Floodwalls North of the Bypass and the Hatt to Imola Floodwalls Projects. The District is designing and constructing the project under the Section 204 process. The District will be responsible for all costs typically attributed to the federal share of the Project for these two contracts above and beyond the \$48.3 Million. In order to award the Floodwalls North of the Bypass contract, the District must be able to certify that it has possession of the property interests.

#### STATUS OF NEGOTIATIONS:

To take legal possession of the property in a timely manner, the District must consider initiating eminent domain proceedings. At this juncture, negotiations are at an impasse since the parties have been unable to reach an agreement; therefore, staff recommends proceeding with the hearing, adopting a Resolution of Necessity, and authorizing commencement of the eminent domain proceedings.

A licensed and certified appraiser has completed the appraisal for the fee simple interest, the permanent easements and the temporary easements proposed for acquisition. On November 03, 2023, the value of the property rights for acquisition, as determined through the appraisal process and approved by the District, was offered to the owner(s) of record and/or their representative(s). Since then, the District and its representatives have negotiated with the owner(s) in good faith in an attempt to reach an equitable settlement.

The owner(s) of record have been notified by first class mail, as required by Code of Civil Procedures section 1245.235, that they have the right to address the Board at this hearing. The Hearing for Resolution of Necessity is not related to just compensation (i.e. the amount offered for the required property rights). The issue of just compensation will be addressed through negotiations or litigation. Neither adopting this Resolution nor filing the eminent domain action precludes continuing negotiations with the owner(s). If the District and the owner(s) agree on a purchase price during these proceedings, the sale can be completed through a conventional real estate closing or by means of a stipulated judgement without further litigation. Without an agreement, the amount of just compensation will be determined in Superior Court.

After the Public Hearing, the District Board is to consider adoption of a Resolution of Necessity. In this Resolution, the District Board must make four findings:



1. The Public interest and necessity require the proposed project.
2. The proposed project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.
3. The property rights described in the Resolution are necessary for the proposed project.
4. The offer required by section 7267.2 of the Government Code has been made to the owner of record.

#### PROCEDURAL REQUIREMENTS:

1. Staff reports
2. Open Public Hearing
3. Call interested parties
4. Close Public Hearing
5. Make any findings
6. Adopt Resolution of Necessity if the four findings are met

#### DISCUSSION AND FINDINGS:

##### A. The Public Interest and Necessity Require the Proposed Project.

The goal of the Napa River/Napa Creek Flood Protection Project is to provide 100-year flood protection to most of the City of Napa. The Project is designed to provide an economically feasible and environmentally sensitive method of flood protection. Records of damaging floods in Napa date back to 1862. The Environmental Impact Statement/Report documented 27 significant floods with a major flood in 1955 and the most extensive recorded flood in 1986 when three people died, 7,000 were evacuated, and 245 homes and 120 businesses were damaged. Estimates of property damage were over \$100 million. More recent flooding occurred in December 2002 and December 2005. The community found the Project to be necessary by a 68% vote to impose a sales tax in order to move forward with the Project.

##### B. The Proposed Project is Planned or Located in the Manner that will be Most Compatible with the Greatest Public Good and the Least Private Injury.

The Project has extensive community involvement in the planning. Since the federal government's first involvement with the Napa River in 1938, numerous flood control designs have been proposed and discarded. The area needed for conveyance of floodwaters was originally modeled by the Corps on the 100-year flood, but the required work on the channel would have resulted in adverse impacts to wetlands and fish and wildlife habitat. Environmental laws require replacement of lost wetlands and other habitat beyond a 1:1 ratio. The specific ratio varies according to agency and species or wetland replacement. The formation of a community-wide coalition, with an unprecedented number of people and interest groups participating, resulted in the current design and the success of a ballot measure to approve this Project. The Coalition's stated purpose was to maximize flood protection, minimize taking of property, and achieve a healthy river that would provide habitat for fish and wildlife and recreational amenities for the people of Napa. The District staff has shared the details of the major design items at public meetings throughout the design process, including requests for public comments and feedback.

##### C. The Property Rights Described in this Resolution are Necessary for the Proposed Project.

The Floodwalls North of the Bypass Project requires the construction of a setback concrete floodwall from the River Terrace Inn on the south end to the Elks Grove Townhomes on the north. The proposed land areas

described in this Resolution of Necessity are required for the construction of the floodwall south of Lincoln Ave in accordance with the current plans and specifications for the Floodwalls North of the Bypass contract. The floodwall alignment and public trail will be constructed within the fee area, and excavation and construction will affect as few riparian trees as possible. The permanent easement will extend 15' on the land side of the floodwall. The Temporary Construction Easement will be used for construction of the floodwall for a 12-month period with the option to extend another 12 months. The District will occupy this temporary easement only as long as necessary to complete the project improvements, after which the encumbrance will be removed.

D. The Offer of Just Compensation has been Made to the Owner of Record.

A licensed and certified appraiser has completed an appraisal for the fee simple interest, the permanent easements, and the temporary easements proposed for acquisition. The owner has been offered the amount found through the District-approved appraisal to be just compensation. This initial offer was made on November 3, 2023. The District will continue to negotiate with the affected property owner toward a mutually acceptable settlement for the property concurrent with any eminent domain action.

### **FISCAL & STRATEGIC PLAN IMPACT**

Is there a Fiscal Impact?	Yes
Is it Mandatory or Discretionary?	Discretionary
Is the general fund affected?	No
Future fiscal impact:	All property acquisitions are part of the Napa River/Napa Creek Flood Protection Project's annual budget.
Consequences if not approved:	The District must have possession of this property in order to award the contract in August 2025. Failure to acquire possession would jeopardize the award of the Floodwalls North of the Bypass contract and risk losing the funding allocated by the federal government.

### **ENVIRONMENTAL IMPACT**

ENVIRONMENTAL DETERMINATION: The Floodwalls North of the Bypass contract of the Napa River/Napa Creek Flood Protection Project was included in the final Environmental Impact Report (FEIR) for the Project that was certified by the District on May 4, 1999, for which a Notice of Determination was filed on May 7, 1999. The Final Supplemental Impact Statement (FEIS) for the Project was certified by the Corps in its Record of Decision filed on June 9, 1999.

**RESOLUTION NO. 24-\_\_ (FC)**

**RESOLUTION OF THE NAPA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT BOARD OF DIRECTORS, STATE OF CALIFORNIA, DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY REQUIRE THE ACQUISITION OF PORTIONS OF CERTAIN LAND AND DIRECTING THE FILING OF EMINENT DOMAIN PROCEEDINGS (Property owner JOSE CRUZ CALDERON, A MARRIED MAN, AS HIS SOLE AND SEPARATE PROPERTY, AS TO AN UNDIVIDED 50% INTEREST AND MAXIMINO BALLINES, AN UNMARRIED MAN, AS TO AN UNDIVIDED 50% INTEREST, AS TENANTS IN COMMON, Portions of APNs 044-230-002 & 044-230-003).**

**WHEREAS**, City of Napa (City) residents and businesses have long suffered devastating loss of life and property due to flooding from the Napa River; and

**WHEREAS**, the Napa County Flood Control and Water Conservation District (“District”) is undertaking the construction of the Napa River/Napa Creek Flood Protection Project (“Project”), which is seeking to provide flood protection to most of the City by reconnecting the Napa River to its flood plain, creating wetlands throughout the area, and maintaining fish and wildlife habitats while retaining the natural characteristics of the river; and

**WHEREAS**, as part of the next phase of the Project, the Floodwalls North of the Bypass, approximately one mile of setback floodwall will be constructed along the west bank of the Napa River from River Terrace Inn to the Elks Grove Townhomes (Floodwalls North of the Bypass, Contract 3 North); and

**WHEREAS**, the District and the United States Army Corps of Engineers have prepared and circulated an Environmental Impact Statement/Environmental Impact Report; and

**WHEREAS**, the Environmental Impact Statement/Environmental Impact Report was certified by the United States Corps of Engineers and Board of Directors of the District as having been completed in compliance with the National Environmental Policy Act/California Environmental Quality Act and related implementing regulations; and

**WHEREAS**, on behalf of the Project, the District desires to acquire for public use, by exercise of its power of eminent domain, property interests, to wit, two (2) fee simple interests, two (2) flood protection levee easements and two (2) temporary construction easements to certain real property reportedly owned in fee simple by JOSE CRUZ CALDERON, A MARRIED MAN, AS HIS SOLE AND SEPARATE PROPERTY, AS TO AN UNDIVIDED 50% INTEREST AND MAXIMINO BALLINES, AN UNMARRIED MAN, AS TO AN UNDIVIDED 50% INTEREST, AS TENANTS IN COMMON, as the interests appear on the record, which real property interest is located at 1114 Jordan Lane in the City of Napa, California, with APNs 044-230-002 & 044-230-003, as is more particularly described and shown on Exhibits A through F, respectively, attached hereto and incorporated herein by this reference (“Subject Property”); and

**WHEREAS**, the Board of Directors has found that the acquisition of the aforementioned real property, or interests in property, for said public use is required by the public interest and necessity; and

**WHEREAS**, sections 5 and 6 of the Napa County Flood Control and Water Conservation District Act authorize the District to acquire property by eminent domain; and

**WHEREAS**, this Board of Directors constitutes the governing body of the District; and

**WHEREAS**, the District has tendered a formal offer to the owner of record to purchase the aforementioned real property or interests in real property; and

**WHEREAS**, the District has calendared this Resolution of Necessity on the July 16, 2024, meeting Agenda for the District Board of Directors and properly notified the property owner(s) of their right to appear and be heard before the Board prior to the adoption of this Resolution.

**NOW, THEREFORE, BE IT RESOLVED**, by the Napa County Flood Control and Water Conservation District, by a vote of two-thirds or more of its members, that:

1. The District finds that the public interest and necessity require the proposed project; and
2. The District finds that the proposed project is planned and located in a manner that will be most compatible with the greatest public good and least private injury; and
3. The Subject Property described herein is necessary for the proposed project; and
4. The offer required by Government Code section 7267.2 has been made to the owner of record.

**BE IT FURTHER RESOLVED**, that:

District Counsel is hereby **AUTHORIZED AND EMPOWERED**:

1. To acquire in the Napa County Flood Control and Water Conservation District's name, by condemnation, the said property in accordance with the provisions of the eminent domain law, the Code of Civil Procedure, and the Constitution of California; and
2. To prepare and prosecute in the Napa County Flood Control District and Water Conservation District's name such proceedings in the proper court as are necessary for such acquisition; and

3. To deposit the probable amount of compensation, based on appraisal, and to apply to said court for an order permitting the District to take immediate possession and use said real property for said public uses and purposes.

**THE FOREGOING RESOLUTION WAS DULY AND REGULARLY ADOPTED** by the Board of the Napa County Flood Control and Water Conservation District at a regular meeting of the Board held on the 16th day of July, 2024, by the following vote:

AYES: DIRECTORS \_\_\_\_\_  
\_\_\_\_\_  
NOES: DIRECTORS \_\_\_\_\_  
ABSTAIN: DIRECTORS \_\_\_\_\_  
ABSENT: DIRECTORS \_\_\_\_\_

NAPA COUNTY FLOOD CONTROL AND  
WATER CONSERVATION DISTRICT,  
a special district of the State of California

By: \_\_\_\_\_  
SCOTT SEDGLEY, Chairperson of the  
Board of Directors

<p>APPROVED AS TO FORM Office of District Counsel</p> <p>By: <u>Shana A. Bagley</u> District Counsel</p> <p>Date: <u>July 2, 2024</u></p>	<p>APPROVED BY THE BOARD OF DIRECTORS OF THE NAPA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT</p> <p>Date: _____ Processed By: _____ _____ Deputy Secretary of the District Board</p>	<p>ATTEST: NEHA HOSKINS Secretary of the District Board</p> <p>By: _____</p>
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JORDAN LANE

MOLLOY & BALDOCCHI  
APN: 044-230-001CALDERON & BALLINES  
APN: 044-230-002  
DN 2015-0012293S89°51'19"E  
426.86'CALDERON & BALLINES  
APN: 044-230-003

S89°51'19"E  
194.34'  
AREA  
14,298 SF  
0.33 AC  
S27°46'48"W  
248.66'  
186.94'  
P.O.B.

NAPA

RIVER

1"=80'



FEE AREA	SF	AC
ABOVE TOB	5,510	0.13
BELOW TOB	8,788	0.20
TOTAL AREA	14,298	0.33

LEGEND	
———	PROPERTY LINE
-----	EASEMENT LINE
———	ADJACENT
———	PROPERTY LINE
-----	TOP OF BANK (TOB)

FEE

THIS EXHIBIT IS FOR GRAPHIC  
PURPOSES ONLY. ANY ERRORS OR  
OMISSIONS ON THIS EXHIBIT SHALL  
NOT AFFECT THE DEED DESCRIPTION

BASIS OF BEARING

THE BEARING BETWEEN MONUMENTS #B-9 AND #B-10 ON LINCOLN AVENUE SHOWN  
ON THE MAP RECORD OF SURVEY MAP NO. 3052, FILED JUNE 26, 1978 IN BOOK  
20 OF RECORD OF SURVEYS AT PAGE 64-72, NAPA COUNTY RECORDS, AS  
NORTH 89° 43' 00" WEST AND MEASURED AS NORTH 89° 43' 09" WEST.



07-20-2023  
044-230-002 B-2

1 OF 107



5406  
044-230-002-B-1  
07-20-2023

### FEE AREA

A portion of Parcel One of the Lands of Jose Cruz Calderon, a married man, as his sole and separate property, as to an undivided 50% interest and Maximino Ballines, an unmarried man, as to an undivided 50% interest, as Tenants in common, as described in the Grant Deed recorded May 15, 2015 as Series Number 2015-0012293, Napa County Records, State of California, said portion described as follows:

**Beginning** at the point on the south line of Parcel One of said Lands of Calderon & Ballines, that bears South 89° 51' 19" East 426.86 feet from the southwest corner of said Lands of Calderon & Ballines; thence leaving said south line North 23° 10' 10" East 81.49 feet to the north line of Parcel One said Lands of Calderon & Ballines; thence along said north line South 89° 51' 19" East 194.34 feet, more or less, to the center of Napa River and being the east line of said Lands of Calderon & Ballines; thence down the center of said river South 27° 46' 48" West 84.66 feet, more or less to a point lying South 89° 51' 19" East 613.80 feet from said southwest corner and being the southerly line of said Lands of Calderon & Ballines; thence along said southerly line North 89° 51' 19" West 186.94 feet, more or less, to the **Point of Beginning**.

Basis of Bearing being the bearing between Monuments #B-9 and #B-10 on Lincoln Avenue shown on the map Record of Survey Map No. 3052, filed June 26, 1978 in Book 20 of Record of Surveys at Page 64-72, Napa County Records, as North 89° 43' 00" West and measured as North 89° 43' 09" West.

### End Description

Area: 14,298 Sq. Ft.  
0.33 Acres



5406  
044-230-002 B-1 Clos  
07-20-2023

North: 1874009.3851' East: 6481958.4633'

Segment #1 : Line

Course: N23°10'10"E Length: 81.49'

North: 1874084.3026' East: 6481990.5256'

Segment #2 : Line

Course: S89°51'19"E Length: 194.34'

North: 1874083.8117' East: 6482184.8650'

Segment #3 : Line

Course: S27°46'48"W Length: 84.66'

North: 1874008.9093' East: 6482145.4069'

Segment #4 : Line

Course: N89°51'19"W Length: 186.94'

North: 1874009.3815' East: 6481958.4675'

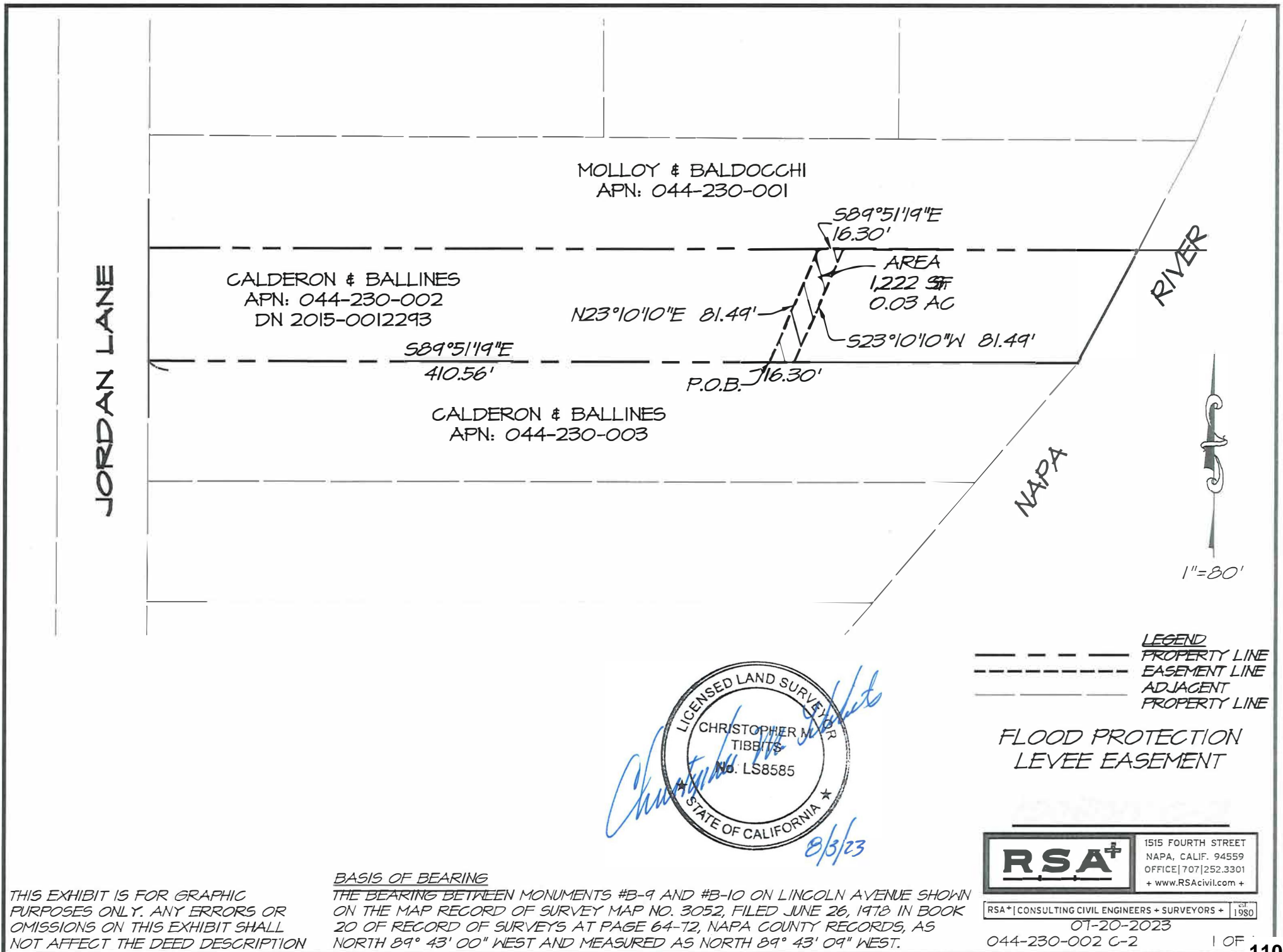
Perimeter: 547.43' Area: 14298.09 Sq. Ft.

Error Closure: 0.0056 Course: S49°03'50"E

Error North: -0.00365 East: 0.00420

Precision 1: 97755.36





5406  
044-230-002-C-1  
07-20-2023

### FLOOD PROTECTION LEVEE EASEMENT

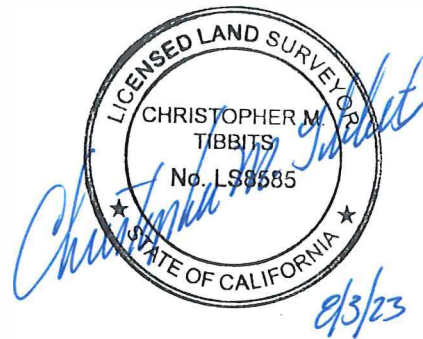
A portion of Parcel One of the Lands of Jose Cruz Calderon, a married man, as his sole and separate property, as to an undivided 50% interest and Maximino Ballines, an unmarried man, as to an undivided 50% interest, as Tenants in common, as described in the Grant Deed recorded May 15, 2015 as Series Number 2015-0012293, Napa County Records, State of California, said portion described as follows:

**Beginning** at the point on the south line of Parcel One of said Lands of Calderon & Ballines, that bears South 89° 51' 19" East 410.56 feet from the southwest corner of said Lands of Calderon & Ballines; thence leaving said south line North 23° 10' 10" East 81.49 feet to the north line of Parcel One said Lands of Calderon & Ballines; thence along said north line South 89° 51' 19" East 16.30 feet; thence leaving said north line South 23° 10' 10" West 81.49 feet to the south line of said Parcel One; thence along said southerly line North 89° 51' 19" West 16.30 feet to the **Point of Beginning**.

Basis of Bearing being the bearing between Monuments #B-9 and #B-10 on Lincoln Avenue shown on the map Record of Survey Map No. 3052, filed June 26, 1978 in Book 20 of Record of Surveys at Page 64-72, Napa County Records, as North 89° 43' 00" West and measured as North 89° 43' 09" West.

### End Description

Area: 1,222 Sq. Ft.  
0.03 Acres



5406  
044-230-002 C-1 Clos  
07-20-2023

North: 1873987.4184' East: 6481695.9370'

Segment #1 : Line

Course: N23°10'10"E Length: 81.49'

North: 1874062.3359' East: 6481727.9994'

Segment #2 : Line

Course: S89°51'19"E Length: 16.30'

North: 1874062.2947' East: 6481744.2993'

Segment #3 : Line

Course: S23°10'10"W Length: 81.49'

North: 1873987.3772' East: 6481712.2369'

Segment #4 : Line

Course: N89°51'19"W Length: 16.30'

North: 1873987.4184' East: 6481695.9370'

Perimeter: 195.58' Area: 1222.38 Sq. Ft.

Error Closure: 0.0000 Course: N0°00'00"E

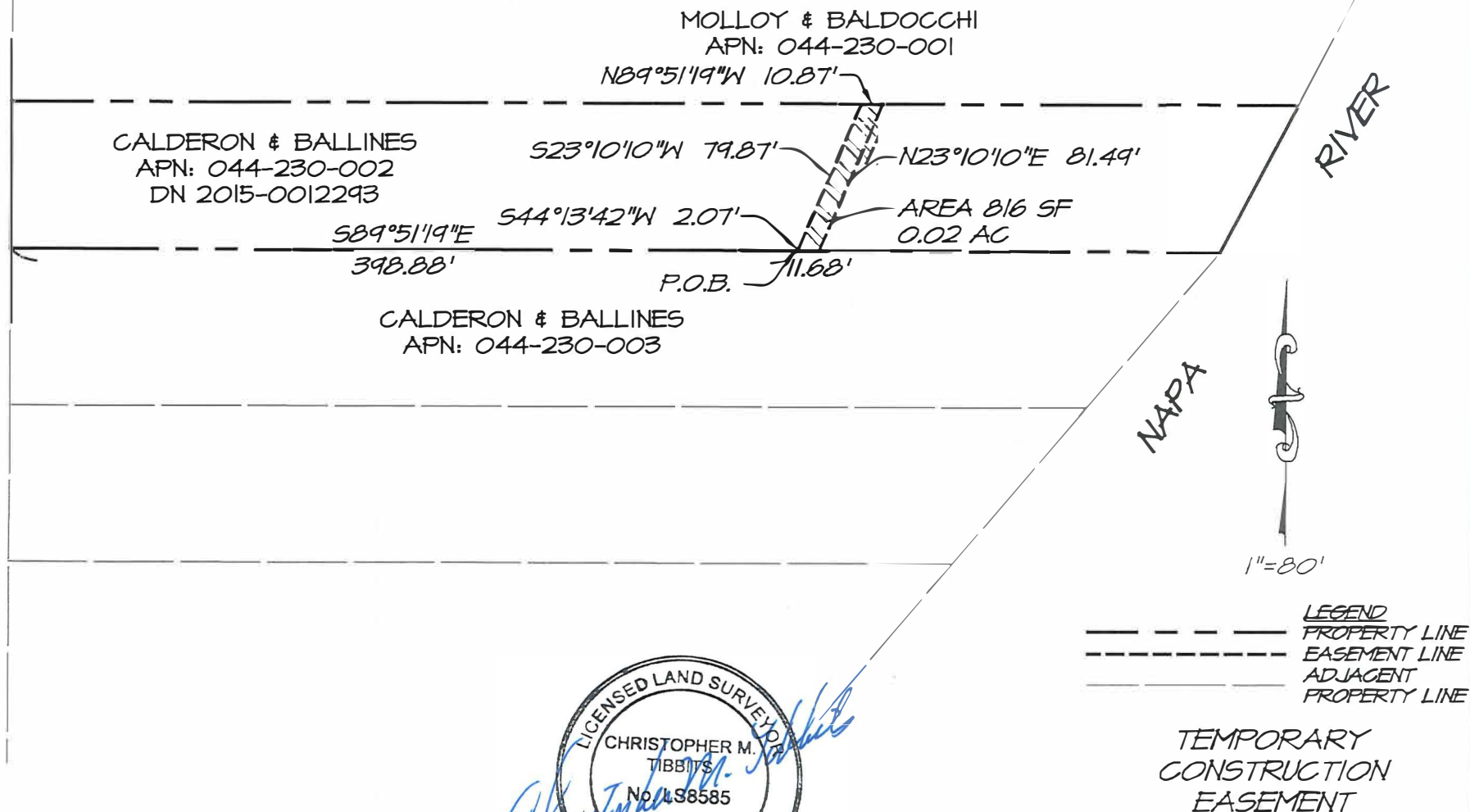
Error North: 0.00000 East: 0.00000

Precision 1: 195580000.00





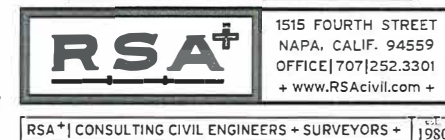
JORDAN LANE



THIS EXHIBIT IS FOR GRAPHIC PURPOSES ONLY. ANY ERRORS OR OMISSIONS ON THIS EXHIBIT SHALL NOT AFFECT THE DEED DESCRIPTION

BASIS OF BEARING

THE BEARING BETWEEN MONUMENTS #B-9 AND #B-10 ON LINCOLN AVENUE SHOWN ON THE MAP RECORD OF SURVEY MAP NO. 3052, FILED JUNE 26, 1978 IN BOOK 20 OF RECORD OF SURVEYS AT PAGE 64-72, NAPA COUNTY RECORDS, AS NORTH 89° 43' 00" WEST AND MEASURED AS NORTH 89° 43' 09" WEST.



07-20-2023  
044-230-002 D-2

1 OF 1

5406  
044-230-002-D-1  
07-20-2023

### TEMPORARY CONSTRUCTION EASEMENT

A portion of Parcel One of the Lands of Jose Cruz Calderon, a married man, as his sole and separate property, as to an undivided 50% interest and Maximino Ballines, an unmarried man, as to an undivided 50% interest, as Tenants in common, as described in the Grant Deed recorded May 15, 2015 as Series Number 2015-0012293, Napa County Records, State of California, said portion described as follows:

**Beginning** at the point on the south line of Parcel One of said Lands of Calderon & Ballines, that bears South 89° 51' 19" East 398.88 feet from the southwest corner of said Lands of Calderon & Ballines; thence continuing along said south line South 89° 51' 19" East 11.68 feet; thence leaving said south line North 23° 10' 10" East 81.49 feet to the north line of Parcel One said Lands of Calderon & Ballines; thence along said north line North 89° 51' 19" West 10.87 feet; thence leaving said north line South 23° 10' 10" West 79.87 feet; thence South 44° 13' 42" West 2.07 feet to the **Point of Beginning**.

Basis of Bearing being the bearing between Monuments #B-9 and #B-10 on Lincoln Avenue shown on the map Record of Survey Map No. 3052, filed June 26, 1978 in Book 20 of Record of Surveys at Page 64-72, Napa County Records, as North 89° 43' 00" West and measured as North 89° 43' 09" West.

### End Description

Area: 816 Sq. Ft.  
0.02 Acres





5406  
044-230-002 D-1 Clos  
07-20-2023

North: 1874003.9883' East: 6481669.1314'

Segment #1 : Line

Course: S89°51'19"E Length: 11.68'

North: 1874003.9588' East: 6481680.8114'

Segment #2 : Line

Course: N23°10'10"E Length: 81.49'

North: 1874078.8762' East: 6481712.8738'

Segment #3 : Line

Course: N89°51'19"W Length: 10.87'

North: 1874078.9037' East: 6481702.0038'

Segment #4 : Line

Course: S23°10'10"W Length: 79.87'

North: 1874005.4756' East: 6481670.5788'

Segment #5 : Line

Course: S44°13'42"W Length: 2.07'

North: 1874003.9923' East: 6481669.1349'

Perimeter: 185.98' Area: 815.52 Sq. Ft.

Error Closure: 0.0053 Course: N41°21'41"E

Error North: 0.00400 East: 0.00352

Precision 1: 35090.57



JORDAN LANE

CALDERON & BALLINES  
APN: 044-230-002

CALDERON & BALLINES  
APN: 044-230-003  
DN 2015-0012293

S89°51'19"E  
356.72'

N23°10'10"E  
13.97'

N44°04'14"E  
93.22'

S89°51'19"E  
186.94'

AREA  
14,841 SF  
0.34 AC

P.O.B.

189.88'

LARRY ELLIS INC.  
APN: 044-230-004

RIVER

104.48'  
S40°10'30"W  
NAPA

1"=80'



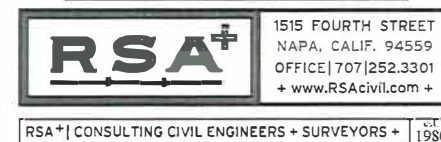
FEE AREA	SF	AC
ABOVE TOB	5,180	0.12
BELOW TOB	9,660	0.22
TOTAL AREA	14,841	0.34

LEGEND	
———	PROPERTY LINE
- - - - -	EASEMENT LINE
———	ADJACENT
———	PROPERTY LINE
- - - - -	TOP OF BANK (TOB)
FEE	

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## BASIS OF BEARING

THE BEARING BETWEEN MONUMENTS #B-9 AND #B-10 ON LINCOLN AVENUE SHOWN ON THE MAP RECORD OF SURVEY MAP NO. 3052, FILED JUNE 26, 1978 IN BOOK 20 OF RECORD OF SURVEYS AT PAGE 64-72, NAPA COUNTY RECORDS, AS NORTH 89° 43' 00" WEST AND MEASURED AS NORTH 89° 43' 09" WEST.



07-20-2023  
044-230-003 B-2

1 OF 1

5406  
044-230-003-B-1  
07-20-2023

### FEE AREA

A portion of Parcel Two of the Lands of Jose Cruz Calderon, a married man, as his sole and separate property, as to an undivided 50% interest and Maximino Ballines, an unmarried man, as to an undivided 50% interest, as Tenants in common, as described in the Grant Deed recorded May 15, 2015 as Series Number 2015-0012293, Napa County Records, State of California, said portion described as follows:

**Beginning** at the point on the south line of Parcel Two of said Lands of Calderon & Ballines, that bears South 89° 51' 19" East 356.72 feet from the southwest corner of said Lands of Calderon & Ballines; thence leaving said south line North 44° 04' 14" East 93.22 feet; thence North 23° 10' 10" East 13.97 feet to the north line of Parcel Two of said Lands of Calderon & Ballines; thence along said north line South 89° 51' 19" East 186.94 feet, more or less, to the center of Napa River and being the east line of said Lands of Calderon & Ballines; thence down the center of said river South 40° 10' 30" West 104.48 feet, more or less to a point lying South 89° 51' 19" East 546.60 feet from the southwest corner of said Lands of Calderon & Ballines and being the southerly line of said Parcel Two of said Lands of Calderon & Ballines; thence along said southerly line North 89° 51' 19" West 189.88 feet, more or less to the **Point of Beginning**.

Basis of Bearing being the bearing between Monuments #B-9 and #B-10 on Lincoln Avenue shown on the map Record of Survey Map No. 3052, filed June 26, 1978 in Book 20 of Record of Surveys at Page 64-72, Napa County Records, as North 89° 43' 00" West and measured as North 89° 43' 09" West.

### End Description

Area: 14,841 Sq. Ft.  
0.34 Acres



5406  
044-230-003 B-1 Clos  
07-20-2023

North: 1873801.3338' East: 6481656.3697'

Segment #1 : Line

Course: N44°04'14"E Length: 93.22'

North: 1873868.3109' East: 6481721.2083'

Segment #2 : Line

Course: N23°10'10"E Length: 13.97'

North: 1873881.1541' East: 6481726.7048'

Segment #3 : Line

Course: S89°51'19"E Length: 186.94'

North: 1873880.6820' East: 6481913.6442'

Segment #4 : Line

Course: S40°10'30"W Length: 104.48'

North: 1873800.8511' East: 6481846.2417'

Segment #5 : Line

Course: N89°51'19"W Length: 189.88'

North: 1873801.3307' East: 6481656.3623'

Perimeter: 588.50' Area: 14840.61 Sq. Ft.

Error Closure: 0.0081 Course: S67°36'20"W

Error North: -0.00308 East: -0.00748

Precision 1: 72653.09



JORDAN LANE

CALDERON & BALLINES  
APN: 044-230-002

CALDERON & BALLINES  
APN: 044-230-003  
DN 2015-0012293

AREA  
1,627 SF  
0.04 AC

N23°10'10"E 4.83'  
S89°51'19"E 16.30'  
S23°10'10"W 13.97'  
N44°04'14"E 104.90'  
S44°04'14"W 93.22'  
P.O.B. 120.83'

LARRY ELLIS INC.  
APN: 044-230-004

RIVER

NAPA

1"=80'

LEGEND  
--- PROPERTY LINE  
--- EASEMENT LINE  
--- ADJACENT  
--- PROPERTY LINE

FLOOD PROTECTION  
LEVEE EASEMENT



BASIS OF BEARING

THIS EXHIBIT IS FOR GRAPHIC  
PURPOSES ONLY. ANY ERRORS OR  
OMISSIONS ON THIS EXHIBIT SHALL  
NOT AFFECT THE DEED DESCRIPTION

THE BEARING BETWEEN MONUMENTS #B-9 AND #B-10 ON LINCOLN AVENUE SHOWN  
ON THE MAP RECORD OF SURVEY MAP NO. 3052, FILED JUNE 26, 1978 IN BOOK  
20 OF RECORD OF SURVEYS AT PAGE 64-72, NAPA COUNTY RECORDS, AS  
NORTH 89° 43' 00" WEST AND MEASURED AS NORTH 89° 43' 09" WEST.



07-20-2023  
044-230-003 C-2 1 OF 119



5406  
044-230-003-C-1  
07-20-2023

## FLOOD PROTECTION LEVEE EASEMENT

A portion of Parcel Two of the Lands of Jose Cruz Calderon, a married man, as his sole and separate property, as to an undivided 50% interest and Maximino Ballines, an unmarried man, as to an undivided 50% interest, as Tenants in common, as described in the Grant Deed recorded May 15, 2015 as Series Number 2015-0012293, Napa County Records, State of California, said portion described as follows:

**Beginning** at the point on the south line of Parcel Two of said Lands of Calderon & Ballines, that bears South 89° 51' 19" East 335.89 feet from the southwest corner of said Lands of Calderon & Ballines; thence leaving said south line North 44° 04' 14" East 104.90 feet; thence North 23° 10' 10" East 4.83 feet to the north line of Parcel One of said Lands of Calderon & Ballines; thence along said north line South 89° 51' 19" East 16.30 feet; thence leaving said north line South 23° 10' 10" West 13.97 feet; thence South 44° 04' 14" West 93.22 feet to the south line of Parcel Two of said Lands of Calderon & Ballines; thence along said southerly line North 89° 51' 19" West 20.83 feet, more or less to the **Point of Beginning**.

Basis of Bearing being the bearing between Monuments #B-9 and #B-10 on Lincoln Avenue shown on the map Record of Survey Map No. 3052, filed June 26, 1978 in Book 20 of Record of Surveys at Page 64-72, Napa County Records, as North 89° 43' 00" West and measured as North 89° 43' 09" West.

### End Description

Area: 1,627 Sq. Ft.  
0.04 Acres



5406  
044-230-003 C-1 Clos  
07-20-2023

North: 1873915.6997' East: 6481551.4196'

Segment #1 : Line

Course: N44°04'14"E Length: 104.90'

North: 1873991.0686' East: 6481624.3821'

Segment #2 : Line

Course: N23°10'10"E Length: 4.83'

North: 1873995.5091' East: 6481626.2825'

Segment #3 : Line

Course: S89°51'19"E Length: 16.30'

North: 1873995.4679' East: 6481642.5824'

Segment #4 : Line

Course: S23°10'10"W Length: 13.97'

North: 1873982.6246' East: 6481637.0859'

Segment #5 : Line

Course: S44°04'14"W Length: 93.22'

North: 1873915.6476' East: 6481572.2473'

Segment #6 : Line

Course: N89°51'19"W Length: 20.83'

North: 1873915.7002' East: 6481551.4174'

Perimeter: 254.05' Area: 1626.94 Sq. Ft.

Error Closure: 0.0022 Course: N76°40'20"W

Error North: 0.00052 East: -0.00218

Precision 1: 115477.27





JORDAN LANE

CALDERON & BALLINES  
APN: 044-230-002CALDERON & BALLINES  
APN: 044-230-003  
DN 2015-0012293LARRY ELLIS INC.  
APN: 044-230-004AREA 1,137 SF  
0.03 ACS44°13'42"W  
111.37'

P.O.B.

N89°51'19"W 11.68'

N23°10'10"E  
4.83'N44°04'14"E  
104.90'

S89°51'19"E 321.40'

14.49'

RIVER

NAPA

1"=80'

## LEGEND

——— PROPERTY LINE  
 - - - EASEMENT LINE  
 - - - ADJACENT  
 - - - PROPERTY LINE

TEMPORARY  
CONSTRUCTION  
EASEMENT

## BASIS OF BEARING

THE BEARING BETWEEN MONUMENTS #B-9 AND #B-10 ON LINCOLN AVENUE SHOWN ON THE MAP RECORD OF SURVEY MAP NO. 3052, FILED JUNE 26, 1978 IN BOOK 20 OF RECORD OF SURVEYS AT PAGE 64-72, NAPA COUNTY RECORDS, AS NORTH 89° 43' 00" WEST AND MEASURED AS NORTH 89° 43' 09" WEST.

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07-20-2023  
 044-230-003 D-2

1 OF 1

5406  
044-230-003-D-1  
07-20-2023

### TEMPORARY CONSTRUCTION EASEMENT

A portion of Parcel Two of the Lands of Jose Cruz Calderon, a married man, as his sole and separate property, as to an undivided 50% interest and Maximino Ballines, an unmarried man, as to an undivided 50% interest, as Tenants in common, as described in the Grant Deed recorded May 15, 2015 as Series Number 2015-0012293, Napa County Records, State of California, said portion described as follows:

**Beginning** at the point on the south line of Parcel Two of said Lands of Calderon & Ballines, that bears South 89° 51' 19" East 321.40 feet from the southwest corner of said Lands of Calderon & Ballines; thence continuing along said south line South 89° 51' 19" East 14.49 feet; thence leaving said south line North 44° 04' 14" East 104.90 feet; thence North 23° 10' 10" East 4.83 feet to the north line of Parcel One said Lands of Calderon & Ballines; thence along said north line North 89° 51' 19" West 11.68 feet; thence leaving said north line South 44° 13' 42" West 111.37 feet to the **Point of Beginning**.

Basis of Bearing being the bearing between Monuments #B-9 and #B-10 on Lincoln Avenue shown on the map Record of Survey Map No. 3052, filed June 26, 1978 in Book 20 of Record of Surveys at Page 64-72, Napa County Records, as North 89° 43' 00" West and measured as North 89° 43' 09" West.

### End Description

Area: 1,137 Sq. Ft.  
0.03 Acres



5406  
044-230-003 D-1 Clos  
07-20-2023

North: 1873895.8816' East: 6481631.5049'

Segment #1 : Line

Course: S89°51'19"E Length: 14.49'

North: 1873895.8450' East: 6481645.9949'

Segment #2 : Line

Course: N44°04'14"E Length: 104.90'

North: 1873971.2139' East: 6481718.9574'

Segment #3 : Line

Course: N23°10'10"E Length: 4.83'

North: 1873975.6544' East: 6481720.8578'

Segment #4 : Line

Course: N89°51'19"W Length: 11.68'

North: 1873975.6839' East: 6481709.1778'

Segment #5 : Line

Course: S44°13'42"W Length: 111.37'

North: 1873895.8799' East: 6481631.4950'

Perimeter: 247.27' Area: 1137.11 Sq. Ft.

Error Closure: 0.0100 Course: S80°35'01"W

Error North: -0.00163 East: -0.00986

Precision 1: 24727.00





# Napa County

## Board Agenda Letter

1195 THIRD STREET  
SUITE 310  
NAPA, CA 94559  
www.countyofnapa.org  
Main: (707) 253-4580

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Flood Control and Water Conservation District **Agenda Date:** 7/16/2024

**File ID #:** 24-1170

---

**TO:** Napa County Flood Control and Water Conservation District  
**FROM:** Richard Thomasser - District Manager  
**REPORT BY:** Richard Thomasser - District Manager  
**SUBJECT:** Closed Session

---

### **RECOMMENDATION**

#### CONFERENCE WITH REAL PROPERTY NEGOTIATOR

(Government Code Section 54956.8)

Properties: APN 044-314-005

Negotiating Party: Richard Thomasser, Flood District Manager, William and Cathi Bickford

Under Negotiation: Price/Terms/Conditions of Payment

### **BACKGROUND**

N/A

### **FISCAL & STRATEGIC PLAN IMPACT**

Is there a Fiscal Impact? No

### **ENVIRONMENTAL IMPACT**

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by California Code of Regulations, title 14, section 15378 (State CEQA Guidelines) and, therefore, CEQA is not applicable.