Napa County

Board of Supervisors Chambers
1195 Third Street, Third Floor
Napa, CA 94559

Agenda

***Consolidated**

Tuesday, April 19, 2022
9:00 AM

Board of Supervisors Chambers
1195 Third Street, Third Floor

Board of Supervisors

Brad Wagenknecht, District 1
Ryan Gregory, District 2
Diane Dillon, District 3
Alfredo Pedroza, District 4
Belia Ramos, District 5

Minh C. Tran, County Executive Officer
Thomas C. Zeleny, Interim County Counsel

GENERAL INFORMATION

*** This is a simultaneous meeting of the Board of Supervisors of Napa County, the Napa County Public Improvement Corporation, the Silverado Community Services District, the Monticello Public Cemetery District, the In-Home Support Services Public Authority of Napa County, the Lake Berryessa Resort Improvement District, the Napa Berryessa Resort Improvement District, the Napa County Housing Authority and the Napa County Groundwater Sustainability Agency. The five District Supervisors also serve as the Board of Directors for each of the aforementioned entities.**

The Board of Supervisors meets as specified in its adopted annual calendar on Tuesdays at 9:00 A.M. in regular session at 1195 Third Street, Suite 310, 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 typically include routine financial or administrative actions, as well as final adoption of ordinances that cannot be both introduced and adopted at the same meeting. Any item on the CONSENT CALENDAR will be discussed separately at the request of any person. CONSENT CALENDAR items are usually approved with a single motion.

SET MATTERS - PUBLIC HEARINGS - These items are noticed hearings, work sessions, and items with a previously set time.

ADMINISTRATIVE ITEMS - These items include significant policy and administrative actions and are classified by program areas. Immediately after approval of the CONSENT CALENDAR, if the time for hearing SET MATTERS has not arrived, ADMINISTRATIVE ITEMS will be considered.

All materials relating to an agenda item for an open session of a regular meeting of the Board of Supervisors which are provided to a majority or all of the members of the Board by Board members, 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 Clerk of the Board of Supervisors, 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 the California Government Code.

ANY MEMBER OF THE AUDIENCE DESIRING TO ADDRESS THE BOARD ON A MATTER ON THE AGENDA please proceed to the rostrum and, after receiving recognition from the Chair, 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 Chair or Board.

AGENDA AVAILABLE ONLINE AT www.countyofnapa.org

How to Watch or Listen to the Napa County Board of Supervisors Meetings

The Napa County Board of Supervisors will continue to meet pursuant to the annually adopted meeting calendar available at the following link:

https://www.countyofnapa.org/DocumentCenter/View/23544/2022-Board-of-Supervisors-Meeting-Calendar

The Board realizes that not all County residents have the same ways to stay engaged, so several alternatives are offered. Please watch or listen to the Board of Supervisors meeting in one of the following ways:

1. Watch on your TV - Napa Valley TV Channel 28 (programming subject to local pre-emption rules and schedules).

2. Listen on your cell phone via Zoom at 1-669-900-6833 then enter Meeting ID 842-343-169 once you have joined the meeting.

3. Watch via the Internet – view the Live Stream
   a. via Zoom at the following link: https://www.zoom.us/join then enter Meeting ID 842-343-169.
   b. via Granicus by clicking on the following link: http://napa.granicus.com/ViewPublisher.php?view_id=2

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 by emailing your comment to the following email address: publiccomment@countyofnapa.org. EMAILS WILL NOT BE READ ALOUD.

Via telephone: please call the Board of Supervisors Public Comment Line at (707) 299-1776.

Please mute all audio devices and do not use the speakerphone to prevent echoing.

Please provide your name and the agenda item on which you are commenting. Calls will be placed on hold and heard in the order received. The above-identified measures comply with all legal requirements for participation and public comment, including those imposed by the Ralph M. Brown Act and Executive Order, as amended by AB 361.

For more information, please call (707) 253-4421 or email publiccomment@countyofnapa.org.

1. CALL TO ORDER; ROLL CALL

2. PLEDGE OF ALLEGIANCE

3. APPROVAL OF MINUTES

A. Clerk of the Board requests approval of minutes from the following regular meeting: **22-751**

April 5, 2022.

Attachments: April 5, 2022

4. PRESENTATIONS AND COMMENDATIONS

A. Director of Human Resources to introduce new County employees. **22-733**

5. DEPARTMENT HEAD REPORTS AND ANNOUNCEMENTS

6. CONSENT ITEMS - SPECIAL DISTRICTS

Lake Berryessa Resort Improvement District

A. District Engineer requests approval of and authorization for the Chair to sign Amendment No. 2 to Agreement No. 190141B (LBRID) with Specialized Utility Services Program (SUSP) increasing the amount by $60,000 for a new maximum of $371,325 for Fiscal Year 2021-2022 to provide continued operations, management, and maintenance services for the District's water and wastewater facilities through June 30, 2022. **22-398**

Attachments: Agreement

Napa Berryessa Resort Improvement District

B. District Engineer requests approval of and authorization for the Chair to sign Amendment No. 2 to Agreement No. 190142B (NBRID) with Specialized Utility Services Program (SUSP) increasing the amount by $20,000 for a new maximum of $317,238 for Fiscal Year 2021-2022 to provide continued operations, management, and maintenance services for the District's water and wastewater facilities through June 30, 2022. **22-404**

Attachments: Agreement

7. CONSENT ITEMS

Child Support Services

A. Director of Child Support Services requests approval of and authorization for the Chair to sign Amendment No. 1 to Agreement No. 220218B with North Coast Regional Department of Child Support Services to amend the original agreement by increasing service hours from 40 to 80 hours a week and extending the terms of the agreement through June 30, 2023, to provide case management services. **22-749**

Attachments: Agreement

Corrections

B. Director of Corrections requests approval of the following actions related to the jail security system: **22-706**
1. A waiver of competitive bidding requirements and sole source award to Status Electrical corporation of Washington State for maintenance and support, pursuant to Napa County Code Section 2.36.090;
2. Approval of and authorization for the Chair to sign an agreement with Status Electrical Corporation for a maximum of $315,300 for the term April 19, 2022 through June 30, 2025; and
3. Approval of a Budget Transfer for the following (4/5 vote required):
a. Increase appropriations by $236,570 in CIP-Criminal Justice Facility Construction Fund 3000, org 3001500 to transfer to CIP Project 22037 Fund 3000, org 3000505 offset by use of its available fund balance; and
b. Creation of a new project, "Video Storage System Replacement" (Fund 3000, Org 3000505, Project 22037) and increase appropriations by $236,570 in Project 22037 budget with offsetting revenue from the transfer from the CIP-Criminal Justice Facility Construction Fund in order to fund this project.

Attachments: Agreement

County Counsel

C. Second reading and adoption of ordinance amending the Napa County Floodplain Management Ordinance, Chapter 16.04 of the County Code, to provide additional clarification and specificity to provisions of construction materials and methods, manufactured homes and residential construction in order to maintain compliance with the prerequisites of FEMA's Community Rating System (CRS) program. **22-731**

Attachments: Ordinance - Redlined
Ordinance - Clean

County Executive Office

D. Director of Emergency Services and Public Works Director request the following Budget Adjustments to purchase an HP L365 Printer and a Flatbed Applicant Table for a total cost of $35,505 partially offset by the 2019 Homeland Security Grant Program (4/5 vote required): **22-687**

1. Increasing capital assets appropriations in the Emergency Services Grants budget (Fund 1000, Org 1024005) with offsetting revenues from Roads Operations (Fund 2040, Org 2040000) by $5,525 and also by decreasing other objects within its own budget by $14,431 and establishment of capital asset in the amount of $19,956 in Org 1024005 for the purchase of an HP L365 Printer and associated items; and
2. Increasing capital assets appropriations in the Roads Operations budget by $15,549 with the use of its available fund balance and establishment of capital asset in the amount of $15,549 in Org 2040000 for the purchase of a CWT 1428 Flatbed application table and associated items.

E. County Executive Officer requests the reappointments of Larry Bettinelli, Christopher Hyde, and David Ilsley to the Napa County Winegrape Pest and Disease Control District Board of Directors representing Napa County Vineyards with the terms of office to commence immediately and expire March 26, 2025. **22-704**

Attachments: Bettinelli Application
Hyde Application
Ilsley Application

County Fire Department

F. County Fire Chief requests approval of a Budget Transfer increasing appropriations in the Capital Asset account by $3,390 with an offsetting decrease to Special Department, Household and Office Supply accounts within the Fire Budget for the purchase of Board approved rescue tools. (4/5 vote required) **22-756**

Housing and Homeless Services – Division of CEO's Office

G. Director of Housing and Homeless Services requests adoption of a Resolution rescinding and replacing Resolution 2020-159 authorizing application and execution of grant agreement documents for the Permanent Local Housing Allocation Program to update authorized signatories. **22-736**

Attachments: Resolution

H. Director of Housing and Homeless Services requests the following actions: **22-737**
1. Adoption of a Resolution rescinding and replacing Resolution 2020-86 authorizing participation in the allocation of one-time housing funds for Whole Person Care Pilot programs as authorized by AB 74, Budget Act of 2019 to extend the time of reservation by one year.
2. Approval of a Budget Transfer increasing appropriations by $1,000,000 in Affordable Housing Projects (Fund 2080, Subdivision 2080010) offset by increase in revenue from a transfer from Deferred Revenue-Unearned for the financing of the Heritage House and Valle Verde Project Loan. (4/5 vote required)

Attachments: Resolution

Human Resources – Division of CEO's Office

I. Director of Human Resources requests adoption of a Resolution establishing Juneteenth as an observed Napa County holiday effective June 19, 2022, and every June 19 thereafter, and amending all policy manuals and Memoranda of Understanding accordingly. **22-708**

Attachments: Resolution
Side Letter (Napa Association of Public Employees)
Side Letter (Deputy Sheriffs' Association)

J. Director of Human Resources and Director of Planning, Building, & Environmental Services request adoption of a Resolution amending the Departmental Allocation List for the Planning, Building, & Environmental Services Department, as follows, effective April 30, 2022, with no net increase in full-time equivalents, and a slight impact to the General Fund: **22-723**
1. Delete one 1.0 FTE Environmental Resource Specialist; and
2. Add one 1.0 FTE Planner II/III.

Attachments: Resolution

K. Director of Human Resources and Director of Health & Human Services request adoption of a Resolution amending the Table and Index of Classes and the Departmental Allocation List for multiple divisions of the Health & Human Services Agency, effective April 30, 2022, with no net increase in full-time equivalents, and no impact to the County General Fund: **22-728**

1. Amend the Table and Index of Classes by:
    a. Deleting HHS Utilization Review Coordinator (PSE); and
    b. Adding HHS Utilization Review Coordinator (SUP).

2. Amend the Departmental Allocation List for the Health & Human Services Agency by:
    a. Deleting two 1.0 FTE HHS Utilization Review Coordinator (PSE); and
    b. Adding two 1.0 HHS Utilization Review Coordinator (SUP).

Attachments: Resolution

L. Director of Human Resources and Director of Corrections request adoption of a Resolution amending the Departmental Allocation List for the Napa County Department of Corrections, by adding one 1.0 FTE Cook II - Limited Term, effective April 30, 2022, through June 30, 2024, with a temporary net increase of one full-time equivalent, and an increase to the County General Fund. **22-732**

Attachments: Resolution

Information Technology Services – Division of CEO's Office

M. County Executive Officer and Chief Information Officer request the following: **22-665**

1. Declare certain items of capital asset property as surplus and no longer required for public use;
2. Authorize removal of the capital assets from the Information Technology Services' capital asset inventory; and
3. Authorize e-waste disposal.

Attachments: Capital Asset Items

N. Chief Information Officer and Sheriff request the following actions regarding replacement of a network server: **22-743**
1. A waiver of competitive bidding requirements and sole source award to Dell Marketing LP of Pasadena, California for the purchase of a Dell PowerEdge R340 server in the amount of $6,980, pursuant to County Ordinance § 2.36.090;
2. Establishment of a capital asset in the amount of $6,980 for a Dell PowerEdge R340 server; and
3. Approval of a Budget Transfer increasing appropriations in the Information Technology Services budget in the amount of $6,980 with offsetting revenue from the Sheriff's Operations budget (4/5 vote required).

Library

O. Director of Library Services and Community Outreach requests the following: **22-644**
1. Board to accept and instruct the Clerk of the Board to file the quarterly report of donations in the amount of $2,000 or less gifted to Library from January 1, 2022 through March 31, 2022;
2. Authorization to accept a donation in the amount of $65,000 from the Napa County Library Foundation; and
3. Chair to sign a letter of appreciation in acceptance of the donation.

Attachments: Letter
Donation List

Planning, Building and Environmental Services (PBES)

P. Director of Planning, Building and Environmental Services (PBES) requests adoption and approval for an office closure on Thursday, May 5, 2022 from 12:00 pm to 5:00 pm for a department-wide team building workshop. **22-752**

Probation

Q. Chief Probation Officer requests approval of and authorization for the Chair to sign Amendment No. 2 to Agreement No. 200094B with Idemia Identity & Security USA, LLC for a maximum of $9,000 each fiscal year for the term March 1, 2022 through June 30, 2022, with an additional automatic one-year renewal. **22-703**

Attachments: Agreement

Public Works

R. Director of Public Works requests approval of plans and specifications for the "Sullivan Parking Lot Rehabilitation Project", PW 20-34, authorization to advertise for sealed bids, and opening of the bids at a time, date and location to be published by the Director of Public Works pursuant to Section 20150.8 of the Public Contract Code. **22-630**

Attachments: Project Budget

S. Director of Public Works requests the following actions related to the provision of unleaded and diesel fuel services: **22-659**

1. Approval of and authorization for the Chair to sign Amendment No. 3 to Agreement No. 180153B with Napa Valley Petroleum, Inc., increasing the maximum compensation by $150,000 for a new maximum of $575,000 and extending the term of the agreement from September 30, 2022, to June 30, 2023, with an automatic renewal for no more than two (2) additional years; and
2. Approval of and authorization for the Chair to sign Amendment No. 1 to Agreement No. 180152B with Hunt Allied Petroleum, LLC., increasing the maximum compensation by $150,000 for a new maximum of $450,000 and extending the term of the agreement from September 30, 2022, to June 30, 2023, with an automatic renewal for no more than two (2) additional years.

Attachments: Napa Valley Petroleum Agreement
Hunt Allied Agreement

T. Director of Public Works requests approval of plans and specifications for the "LNU Fire Complex Spanish Flat Equipment Yard Repair Project", RDS 20-53, authorization to advertise for sealed bids and opening of the bids at a time, date and location to be published by the Director of Public Works pursuant to Section 20150.8 of the Public Contract Code. **22-661**

U. Director of Public Works requests adoption of a Resolution temporarily closing a portion of Henry Road between the entrance to Artesa Winery at Mile Post Marker 1.42 and the end of Henry Road from 7:00 A.M. to 11:00 A.M. on Sunday, May 1, 2022, for the Carneros Run. **22-677**

Attachments: Resolution
Course Map 5k
Course Map 10k
Letter to Residents

V. Director of Public Works requests the following actions regarding a grant from the Napa Valley Community Foundation (NVCF) for the Napa County Animal Shelter (NCAS): **22-682**

1. Acceptance of a David and Jane Gotelli Family Fund grant in the amounts of $30,000 for general support and $10,000 for community spay/neuter program support; and
2. Authorization for the Chair to sign a letter of appreciation to the NVCF.

Attachments: Letter

W. Director of Public Works requests adoption of a Resolution certifying to the State Department of Transportation, the total mileage of Napa County maintained roads as of May 2022 in accordance with the provisions of Section 2121 of the California Streets and Highways Code. **22-707**

Attachments: Resolution

X. Director of Public Works requests approval of and authorization for the Chair to sign an agreement with Willdan Engineering for a maximum of $60,000 per fiscal year for the term of May 1, 2022 through June 30, 2025 to provide on-call traffic engineering support services, including performance of radar speed studies, engineering and traffic surveys, and review/evaluation of private development proposals. **22-717**

Attachments: Agreement

****CONTINUED TO NEXT PAGE****

Y. Director of Public Works requests approval of the following actions regarding the American Canyon Road Pavement Repair and Resurfacing Project, RDS 22-04: **22-719**

1. Approval of plans and specification and authorization to advertise for sealed bids and opening of the bids at a time, date, and location to be published by the Director of Public Works pursuant to section 20150.8 of the Public Contract Code; and
2. Approval of a Budget Transfer for the following (4/5 vote required):
   a. Increase appropriations by $122,750 in the Measure T Non-Operating Special Revenue Fund (Fund 2440, Org 1220053) offset by use of its available fund balance; and
   b. Creation of a new project for the American Canyon Road Pavement Repair and Resurfacing Project (Fund 2040, Org 2040500, Project 22026), and provide appropriations of $122,750 in Project 22026 budget with offsetting revenue from the transfer from the Measure T Non-Operating Special Revenue Fund to fund project through bidding.

Attachments: Budget Summary

****CONTINUED TO NEXT PAGE****

Z. Director of Public Works requests the following actions regarding 2021 Four Lagging Walls Construction Projects: **22-720**

1. Award of a contract to Piazza Construction of Penngrove, California for their low base bid of $2,282,930 and Additional Alternative No. 1 at Dry Creek Rd MPM 6.2, RDS 21-30 of $150,716 to construct an additional lagging wall #3, for a total of $2,433,646 and authorize the Chair to sign the construction contract for the following:
    a. Dry Creek Road MPM 6.2, RDS 21-30
    b. Dry Creek Road MPM 9.48, RDS 21-39
    c. Dry Creek Road MPM 9.75, RDS 21-06
    d. Diamond Mountain Road MPM 1.1, RDS 21-04
2. Approval of Budget Transfers increasing appropriations by $2,921,983 in Measure T non-operating special revenue fund (Fund 2440, Org 1220053) and increase appropriation by $370,921 in SB1 non-operating special revenue fund (Fund 2440, Org 1220052) offset by the use of its available fund balance to fund the following four Roads Capital Improvement Projects: (4/5 Vote Required)
    a. Increase appropriation by $1,188,210 in Dry Creek Road-MPM 6.2, RDS 21-30, project budget in the Roads CIP budget (Program 22010) offset by increase in revenue from the transfer from Measure T funds;
    b. Increase appropriation by $370,921 in Dry Creek Road-MPM 9.48, RDS 21-39, project budget in the Roads CIP budget (Program S9106) offset by increase in revenue from the transfer from the SB1 Budget;
    c. Increase appropriation by $968,016 in Dry Creek Road-MPM 9.75, RDS 21-06, project budget in the Roads CIP budget (Program S7312) offset by increase in revenue from the transfer from Measure T funds; and
    d. Increase appropriation by $765,757 in Diamond Mountain Road-MPM 1.1, RDS 21-04, project budget in the Roads CIP budget (Program S7127) offset by increase in revenue from the transfer from Measure T funds.

Attachments: Total Budget-Four Storms
Budget-Four Storms-Dry Creek Rd MPM 6.2
Budget-Four Storms-Dry Creek Rd MPM 9.48
Budget-Four Storms-Dry Creek Rd MPM 9.75
Budget-Four Storms-Diamond Mountain Rd MPM 1.1

AA. Director of Public Works requests approval of plans and specifications for the "Calistoga Area Paving Phase I Project", RDS 22-03, authorization to advertise for sealed bids, and opening of the bids at a time, date and location to be published by the Director of Public Works pursuant to Section 20150.8 of the Public Contract Code. **22-745**

Attachments: Calistoga Area Paving Phase I Budget

AB. Director of Public Works requests approval of plans and specifications for "East Central Paving Project, Phase Two," RDS 21-25B, authorization to advertise for sealed bids, and opening of the bids at a time, date and location to be published by the Director of Public Works pursuant to Section 20150.8 of the Public Contract Code. **22-746**

Attachments: Budget

Risk and Emergency Services (OES) – Division of CEO's Office

AC. County Executive Officer/Director of Emergency Services requests the following related to the County's grant application submittal to the Bay Area Air Quality Management District (BAAQMD) for a maximum amount of approximately $235,000: **22-794**

1. Authorization to submit a grant application to BAAQMD for the purpose of purchasing air filter machines and filters to deploy to locations around the community to create clean air facilities in the event of a wildfire and other smoke events;
2. Approval and authorization for the Chair to sign the Wildfire Preparedness Program Agreement; and
3. Approval and authorization for the County Executive Officer/Director of Emergency Services to sign the associated grant funding documents and serve as the authorized representative for signing invoices and other administrative documents.

Attachments: AB 836 Application
Agreement
Clean Air Facility Equipment Data

8. DISCUSSION OF ITEMS PULLED FROM CONSENT CALENDARS

9. PUBLIC COMMENT

10. ADMINISTRATIVE ITEMS - SPECIAL DISTRICTS

11. ADMINISTRATIVE ITEMS

County Fire Department

A. County Fire Chief requests discussion and direction regarding the Wildfire Early Detection System and direction regarding the current Request for Proposal (RFP) process. **22-854**

12. SET MATTERS OR PUBLIC HEARING - SPECIAL DISTRICTS

13. SET MATTERS OR PUBLIC HEARINGS

Sheriff

A. PUBLIC HEARING 9:00 AM **22-543**

Sheriff requests the following actions regarding California State Assembly Bill 481:
1. Introduction and intention to adopt an ordinance approving a military equipment use policy of the Sheriff's Office, as required by AB 481; and
2. Approval of and authorization for continued use of certain law enforcement equipment, acquired prior to January 1, 2022, which by definition of AB 481, now qualifies as military equipment.

Attachments: Ordinance
Military Equipment Policy 706
AB 481 Equipment Report

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Housing and Homeless Services – Division of CEO's Office

B. SET MATTER 10:30 AM **22-762**

Directors of Housing & Homeless Services (HHS) and Planning, Building, and Environmental Services (PBES) request discussion and direction regarding the following actions related to the U. S. American Rescue Plan Act (ARPA) standard allowance allocation of $7 million to Affordable Housing Programs which will lead to the construction of more affordable housing through expanded affordable home ownership and the creation of Accessory Dwelling Units (ADUs):

1. Adopt a Resolution updating the Proximity Workforce Housing Assistance Program Guidelines to increase the down payment assistance maximum, and consider increasing the overall program funding using approximately $1 million of ARPA funding and $2 million of Affordable Housing Fund available fund balance to meet the anticipated increased demand;
2. Directly invest in programs that support ADU market-rate development using approximately $1 million of ARPA funding;
3. Expand the existing County ADU loan programs to support affordable housing development through funding and expansion of program guidelines using approximately $5 million of ARPA funding; and
4. Streamline permitting processes and consideration of fee waivers under specific circumstances.

Attachments: Table
Accessory Dwelling Unit Housing Element Recommendations
Napa Sonoma ADU Workbook
Guidelines - Redlined
Guidelines - Clean
Resolution

Planning, Building and Environmental Services (PBES)

C. PUBLIC HEARING 1:30 P.M. - (Walt Ranch Appeal) **22-605**

Consideration and possible action regarding an appeal filed by Center for Biological Diversity (Appellant) to a decision by the Director of the Napa County Department of Planning, Building and Environmental Services on October 6, 2021, to approve a revision to Mitigation Measure 6-1 and to incorporate the revised mitigation measure into the Mitigation Monitoring and Reporting Plan applicable to the Walt Ranch Vineyards Agricultural Erosion Control Plan - File No. P11-00205-ECPA submitted by Hall Brambletree Associates, LP (Applicant) to allow earthmoving associated with the development of approximately 209 net acres of vineyard (±316 gross acres) (the Project) as further described in the Board Agenda Letter for this matter. The Project is located on the west side of Monticello Road, approximately one mile southwest of its intersection with Highway 128, and approximately one-half mile north of its intersection with Waters Road, approximately 6.25 miles east of the Town of Yountville in Napa County located within the Milliken Reservoir Watershed and Capell Creek-Upper Reach Drainage. (Assessor Parcel Numbers: 032-120-028, 032-480-007, -008, -011 through -024, -027, -028, 032-490-004, -005, -006, -008 through -020.)

Attachments:
Staff Response and Figures
Revised Mitigation Proposal
Amended Revised Mitigation Proposal
Appellant's Response to Revised Proposal
Revised Mitigation Measure 6-1
Memorandum from Ascent
Witness Lists
Applicant's Good Cause Request
Appellant's Good Cause Request
Chair's Good Cause Determination
Appeal Packet - Bracketed
Grounds of Appeal and Staff Responses
Ascent memorandum re. CBD appeal
Proposed Mitigation Measure 6-1
Notice of Decision
Revised Mitigation Measure 6-1
Walt Ranch Final EIR Addendum
Notice of Tentative Decision
Applicant's Proposal and Ascent Report
BOS Res 2020-98 Greenhouse Gas Emmission
Superior Court Judgment and Writ
Court of Appeal Decision

14. LEGISLATIVE ITEMS

A. County Executive Officer, on behalf of the Legislative Subcommittee, requests adoption of Amendment 1 to the 2022 State Legislative and Regulatory Platform (State Platform). UNANIMOUS VOTE REQUIRED **22-534**

Attachments: Housing Element Law Proposed Amendments

15. BOARD OF SUPERVISORS COMMITTEE REPORTS AND ANNOUNCEMENTS

16. BOARD OF SUPERVISORS FUTURE AGENDA ITEMS

17. COUNTY EXECUTIVE OFFICER REPORTS AND ANNOUNCEMENTS

18. CLOSED SESSION

A. CONFERENCE WITH LEGAL COUNSEL - POTENTIAL INITIATION OF LITIGATION **22-773**
Potential initiation of litigation pursuant to Government Code Section 54956.9(d)(4): (1 matter)

B. SET MATTER 11:00 AM - CONFERENCE WITH LABOR NEGOTIATORS **22-784**
(Government Code Section 54957.6)

Agency Designated Representatives:
Christine Briceño, Director of Human Resources
Employee Organization: SEIU Local 1021 - NAPE
(Public Services Employee Unit and Supervisory Unit of the County of Napa)

C. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION **22-865**
Significant exposure to litigation pursuant to Government Code Section 54956.9(d)(2). (1 Case)

19. ADJOURNMENT

ADJOURN TO THE BOARD OF SUPERVISORS SPECIAL MEETING, TUESDAY, MAY 3, 2022 AT 8:00 A.M.

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, APRIL 15, 2022 BY 5:00 P.M. A HARDCOPY SIGNED VERSION OF THE CERTIFICATE IS ON FILE WITH THE CLERK OF THE BOARD OF SUPERVISORS AND AVAILABLE FOR PUBLIC INSPECTION.

Neha Hoskins (By e-signature)

NEHA HOSKINS, Clerk of the Board

Napa County

Board Agenda Letter

Board of Supervisors	**Agenda Date:** 4/19/2022	**File ID #:** 22-751

TO: Board of Supervisors

FROM: Minh C. Tran - County Executive Officer

REPORT BY: Neha Hoskins - Clerk of the Board

SUBJECT: Approval of Minutes

RECOMMENDATION

Clerk of the Board requests approval of minutes from the following regular meeting:

April 5, 2022.

EXECUTIVE SUMMARY

Clerk of the Board requests approval of minutes.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact? No
County Strategic Plan pillar addressed: Collaborative and Engaged Community

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.

BACKGROUND AND DISCUSSION

Clerk of the Board requests approval of minutes from the following regular meeting:

April 5, 2022.

Meeting Minutes

Napa County Board of Supervisors

Brad Wagenknecht, District 1
Ryan Gregory, District 2
Diane Dillon, District 3
Alfredo Pedroza, District 4
Belia Ramos, District 5

Minh C. Tran, County Executive Officer
Thomas C. Zeleny, Interim County Counsel

Tuesday, April 5, 2022 **9:00 AM** **Board of Supervisors Chambers**
1195 Third Street, Third Floor

Final - Supplemental
8:00 AM SPECIAL MEETING
***Consolidated**

1. CALL TO ORDER; ROLL CALL

   Present: Chair Ryan Gregory, Supervisors Diane Dillon, Alfredo Pedroza and Vice Chair Brad Wagenknecht. Supervisor Belia Ramos attending via teleconference. The meeting was called to order by Chair Ryan Gregory.

2. PLEDGE OF ALLEGIANCE

   Chair Ryan Gregory led the assembly in the Pledge of Allegiance.

3. APPROVAL OF MINUTES

   A. Clerk of the Board requests approval of minutes from the following regular meeting: **22-683**

   March 22, 2022.

Motion Text:	**Approve Minutes.**
Voting Yes:	**Pedroza, Wagenknecht, Dillon, Ramos, and Gregory**
Recusals:	**None**
Result:	**Passed**

4. PRESENTATIONS AND COMMENDATIONS

A. Presentation of a proclamation to Michele Grupe, Executive Director of Cope Family Center and Co-Chair of the Napa County Child Abuse Prevention Council (CAPC), and Veronica Piper-Jefferson, HHSA Deputy Director of Child Welfare Services, declaring April 2022 as Child Abuse Prevention Month in Napa County. **22-648**

Executive Director of Cope Family Center and Co-Chair of the Napa County Child Abuse Prevention Council (CAPC) Michele Grupe and Health and Human Services Agency Deputy Director of Child Welfare Services Veronica Piper-Jefferson made presentation.

Chair Ryan Gregory presented proclamation.

5. DEPARTMENT HEAD REPORTS AND ANNOUNCEMENTS

Director of Planning, Building, and Environmental Services David Morrison made presentation regarding water use regulations within Napa County.

Discussion held.

Directory of Library Services and Community Outreach Anthony Halstead made presentation regarding the Napa County Annual Report as well as National Library Week.

6. CONSENT ITEMS - SPECIAL DISTRICTS

Motion Text:	**Approve Special District Consent Calendar.**
Voting Yes:	**Pedroza, Wagenknecht, Dillon, Ramos, and Gregory**
Recusals:	**None**
Result:	**Passed**

Napa County Housing Authority

A. Auditor-Controller requests the acceptance of the internal audit quarterly monitoring report to the Napa County Housing Authority for the quarter ended December 31, 2021. **22-694**

7. CONSENT ITEMS

Motion Text:	**Approve Consent Calendar as amended.**
Voting Yes:	**Wagenknecht, Pedroza, Dillon, Ramos, and Gregory**
Recusals:	**None**
Result:	**Passed**

Auditor-Controller

A. Auditor-Controller requests authorization to deny four State assessed unitary property tax refund claims for return of 2017-18 taxes paid on Assessor Parcel Numbers 799-000-162, 799-000-181, 799-000-218, and 799-000-222 (four Telecom properties), pursuant to Revenue and Taxation Code Section 100 and Section 5096. **22-548**

B. Auditor-Controller requests authorization to process an Assessor Division reduction in assessed value in excess of the $10,000,000 limit set forth in Resolution No. 2013-137 pursuant to Revenue and Taxation Code Section 4831 et seq. for APN 810-012-477 for fiscal years 2020-21 and 2021-22 in the amount of $18,302,580 and $17,127,800 for Personal Property. **22-660**

County Counsel

C. Second reading and adoption of an ordinance amending Section 18.10.020 of Chapter 18.10 (Zoning Administrator); Section 18.124.130 of Chapter 18.124 (Use Permits); and adding a new Section 18.08.377 to Chapter 18.08 (Definitions) of Title 18 (Zoning) of the Napa County Code regarding issuance of micro-winery use permits and modifications to use permits. **22-670**

Item pulled for discussion. See Item 8.

Enactment No: O-1474

County Executive Office

D. County Executive Officer requests the Board receive a report on lost revenues due to cancelation of certain criminal justice fines and fees and authorize submittal of the report to the Director of Finance, the Legislative Analyst's Office, and the Joint Legislative Budget Committee. **22-495**

E. County Executive Officer requests adoption of a Resolution making findings in accordance with Assembly Bill (AB) 361 and Government Code Section 54953, for Board of Supervisors and County boards and commissions (including committees) to hold remote teleconference meetings due to the threat of COVID-19. **22-497**

Enactment No: R-2022-35

F. County Executive Officer requests the appointment of Orion Taraban to represent Family Member of a Consumer to the Napa County Mental Health Board (MHB) with the term to commence immediately and expire January 1, 2025. **22-653**

G. County Executive Officer requests the appointment of the John Pearson to the Napa Solano Area Agency on Aging Oversight Board representing At-Large Member with the term to commence immediately and expire December 31, 2024. **22-658**

H. County Executive Officer and Aging and Disability Program Manager request the appointment of Kimberly Richard to the Napa County In-Home Supportive Services (IHSS) Advisory Committee representing Provider of IHSS to Family or Non-Family Member with the term to commence immediately and expire September 1, 2022. **22-669**

I. County Executive Officer requests the reappointment of Kimberly Richard to the Napa County Dangerous Animal Hearing Panel representing Regular Member with the term to commence immediately and expire January 31, 2025. **22-671**

J. County Executive Officer and Purchasing Manager request the following: **22-672**

1. Declare certain non-capital asset personal property from the airport restaurant, the library, and various other county locations as surplus and no longer required for public use; and
2. Authorize the sale of surplus personal property at public auction (4/5 vote required).

County Fire Department

K. County Fire Chief requests adoption of a Resolution to apply for and participate in the 2022 California Climate Investments Fire Prevention Grant for a maximum of $938,285 for the term of March 15, 2022, through March 15, 2025 to provide funding for the Napa County Fuels Reduction Chipping Program. **22-631**

Correction Memorandum provided.

Enactment No: **R-2022-36**

L. County Fire Chief requests approval of and authorization for the Chair to sign an agreement with AP Triton for a maximum of $64,760 for the term April 1, 2022 through December 31, 2022 with an automatic renewal provision to conduct a Long-Range Master Plan study of the Napa County Fire Department. **22-680**

Enactment No: **A-220290B**

Health and Human Services Agency

M. Director of Health and Human Services requests approval of and authorization for the Chair to sign the renewal of the following agreements for the term July 1, 2021 through June 30, 2022 to provide outreach for and linkage to the Medi-Cal program and services as well as facilitate the Medi-Cal application process: **22-608**

1. Agreement No. 220280B with Cope Family Center, Inc., for a maximum of $57,174;
2. Agreement No. 220277B with Spirit of Unity in Napa, Inc., dba Puertas Abiertas, for a maximum of $24,914;
3. Agreement No. 220281B with Community Health Initiative Napa County, Inc., for a maximum of $73,527;
4. Agreement No. 220279B with Parents Child Advocacy Network for a maximum of $23,417; and
5. Agreement No. 220278B with Up Valley Family Centers of Napa Valley, Inc., for a maximum of $13,214.

N. Director of Health and Human Services requests approval of and authorization for the Chair to sign Amendment No. 4 to Agreement No. 200292B with Sarhaddi Pharmaceutical, Inc. doing business as Gateway Pharmacy for an annual maximum of $90,000 for the term July 1, 2021 through June 30, 2022, and each automatic renewal thereof, amending the Scope of Work and Compensation and Financial Reporting exhibits to allow for the provision of a licensed pharmacist to administer injectable medications. **22-610**

Enactment No: **A-200292B Amend. 4**

O. Director of Health and Human Services requests approval of an authorization for the Chair to sign Amendment No. 4 to Agreement 190134B with Shaunna Edwards, LCSW, increasing the amount by $36,400 for a new annual maximum of $75,400 for the term April 5, 2022 through June 30, 2022, and each automatic renewal thereof, and amending the Scope of Work and Compensation exhibits, accordingly. **22-611**

Enactment No: **A-190134B Amend. 4**

P. Director of Health and Human Services requests approval of and authorization for the Chair to sign Amendment No.1 to Revenue Agreement No. 180368B with the Department of Health Care Services (DHCS) for a zero dollar revenue maximum for the term July 1, 2017 through June 30, 2022. **22-614**

Enactment No: **A-180368B Amend. 1**

Q. Director of Health and Human Services requests approval of and authorization for the Chair to sign the Acceptance of an Additional Food, Shelter, Incentives and Enablers Allotment from the California Department of Public Health Tuberculosis Control Branch in the amount of $5,803 for a new maximum of $38,303 for the term July 1, 2021 through June 30, 2022 to fund tuberculosis prevention and control activities. **22-615**

R. Director of Health and Human Services requests approval of and authorization for the Chair to sign Amendment No. 1 to Agreement 180221B with JUMP Technology Services, LLC, increasing the amount by $3,550.72 for a new annual maximum of $17,854.72 for the term July 1, 2021 through June 30, 2022, and each automatic renewal thereof, and replacing the Budget Exhibits to allow for additional services. **22-655**

Enactment No: A-180221 Amend. 1

S. Director of Health and Human Services requests approval and authorization for the Chair to sign a Memorandum of Understanding (MOU 102) with California Highway Patrol (CHP) for the term December 1, 2021 through November 30, 2022 in order to provide Advanced Life Support (ALS) Rescue Aircraft Services. **22-666**

T. Director of Health and Human Services requests approval of a Budget Adjustment appropriating $1,257,724 in the Sales Tax Realign - CalWORKs Special Revenue Fund in Social Services, with offsetting revenues from CalWORKs MOE Realignment. (4/5 vote required) **22-710**

Correction Memorandum provided.

Housing and Homeless Services – Division of CEO's Office

U. County Executive Officer requests adoption of a Resolution to apply for and accept the 2022 Pet Assistance and Support (PAS) program competitive allocation in an amount not to exceed $600,000. **22-668**

Enactment No: R-2022-37

Human Resources – Division of CEO's Office

V. Director of Human Resources requests adoption of a Resolution rescinding and replacing Resolution No. 2021-134, adopted November 16, 2021, correcting an administrative oversight in Exhibit "A," which listed an incorrect classification, and replacing it with Exhibit "A-1" to correct the classification. **22-557**

Enactment No: R-2022-38

W. Director of Human Resources and Director of Planning, Building, & Environmental Services request the adoption of a Resolution amending the Departmental Allocation List for the Planning, Building, & Environmental Services Department, as follows, effective April 16, 2022, with no net increase in full-time equivalents, and a slight increase to the General Fund: **22-562**

1. Delete two 1.0 FTE Principal Planners; and
2. Add two 1.0 FTE Supervising Planners.

Enactment No: R-2022-39

X. Director of Human Resources requests adoption of a Resolution approving equity adjustments for certain classifications in the SEIU Napa Association of Public Employees Public Service Employeeand Public Service Supervisory units effective April 16, 2022. **22-645**

Enactment No: R-2022-40

Y. Director of Human Resources requests approval of and authorization for the Chair to sign an agreement with AppleOne Employment Services, Bolt Staffing Service, Inc., HB Staffing, and Gary D. NelsonAssociates, Inc., each with a maximum amount of $100,000 for the term of April 5, 2022, through June 30, 2022, with an option to extend for two additional years, to provide temporary staffing services for various County departments. **22-664**

Enactment No: A-220292B; A-220293B; A-220294B; A-220295B

Z. Director of Human Resources requests approval of and authorization for the Chair to sign Amendment 1 to Agreement 190090B with The Language People for a maximum amount of $20,000 for the term effective July 1, 2021, through June 30, 2022, with an option to extend for two additional years, to provide language proficiency testing and face-to-face interpretation services. **22-693**

Enactment No: A-190090B Amend. 1

Information Technology Services – Division of CEO's Office

AA. Chief Information Officer requests approval of and authorization for the Chair to sign an agreement with DLT Solutions, LLC, for a maximum of $36,529 for licensing and software support for the term of March 31, 2022 through March 31, 2025. **22-623**

Enactment No: A-220284B

Library

AB. Director of Library Services and Community Outreach requests the following actions regarding Fiscal Year 2022 California Library Literacy Services (CLLS) English as a Second Language Grant: **22-353**
1. Acceptance of funding in the amount of $25,620 for the English as a Second Language (ESL) Program; and
2. Approval of a Budget Adjustment increasing appropriations in the Napa County Library Literacy budget with offsetting revenues from grant funding. (4/5 vote required)

Planning, Building and Environmental Services (PBES)

AC. Director of Planning, Building and Environmental Services requests approval of and authorization for the Chair to sign Amendment No. 1 to Agreement No. 170591B with West Coast Code Consultants to extend the term of the agreement to June 30, 2023, with an automatic renewal for no more than two (2) additional years and no increase to the maximum compensation, to assist with review of building plans for code compliance. **22-667**

Item removed from the agenda.

Probation

AD. Chief Probation Officer requests approval of a Budget Adjustment to: **22-519**
1. Increase appropriations by $6,442 in Subdivision 14210-53 using Fund Balance as an offset, and
2. Return funds in Subdivision 14210-53 to Kiwanis Club of Napa and dissolve this Trust Fund. (4/5 vote required)

Public Works

AE. Director of Public Works requests adoption of a Resolution summarily vacating an easement for slope maintenance and construction purposes lying southerly of the southern right of way line of Steele Canyon Road just east of Nile Court. **22-364**

Enactment No: **R-2022-41**

AF. Director of Public Works requests adoption of a Resolution summarily vacating an easement for drainage purposes lying across the westerly portion of Lot 172 in the Circle Oaks Unit No. 1 subdivision. **22-450**

Enactment No: **R-2022-42**

AG. Director of Public Works requests approval of the following actions regarding the "Sheriff Office Condensers Repair Project", PW 22-08 for a total of $294,493: **22-488**
1. Approval of plans and specification and authorization to advertise for sealed bids and opening of the bids at a time, date, and location to be published by the Director of Public Works pursuant to section 20150.8 of the Public Contract Code; and
2. Approval of Budget Transfer for the following (4/5 vote required):
a. Increase appropriations by $294,493 in the Property Management-Maintenance Budget (Fund 4300, Org 4300000) offset by use of its available fund balance to transfer to Project 22033; and
b. Creation of a new project, "Sheriff Office Condensers Repair" (Fund 3000, Org 3000501, Project 22033), and increase appropriations by $294,493 in Project 22033 budget with offsetting revenue from the transfer from the Property Management-Maintenance Budget to fund the project.

AH. Director of Public Works requests adoption of Resolutions authorizing the Director of Public Works or designee to sign California Department of Transportation (Caltrans) Program Supplement Agreements F058, F059, and F060 to administering Agency-State Agreement No. 04-5921F15 for the following projects: **22-564**
1. Deer Park Road PM 0.69 to PM 0.71 retaining wall restoration;
2. Berryessa-Knoxville Road, Pope Canyon Road, and Butts Canyon Road LNU Fire guardrail restoration; and
3. Silverado Trail, Sanitarium Road, and Deer Park Road Glass Fire guardrail restoration.

Correction Memorandum provided.
Enactment No: R-2022-43; R-2022-44

AI. Director of Public Works requests approval of and authorization for the Chair to sign an agreement with ADKO Engineering Inc. (ADKO), for an annual maximum of $35,000 for the term February 21, 2022 through June 30, 2024 for on call engineering, environmental, and archaeological services. **22-586**

AJ. Director of Public Works requests following actions regarding the construction of the St. Helena to Calistoga section of the Vine Trail in the amount of $2,000,000: **22-617**

1. Approval of and authorization for the Chair to sign Amendment No. 6 to Agreement No.190311B with Napa Valley Transportation Authority (NVTA) to provide funding in the amount of $2,000,000, in exchange for NVTA support of $2,000,000 in future State Transportation Improvement Program funding;
2. Approval of Budget Transfer for the following (4/5 vote required):

a. Increase appropriation by $2,000,000 in Accumulated Capital Outlay (ACO) budget (Fund 3000, Org 3000000) offset by use of its available fund balance; and

b. Increase appropriation by $2,000,000 in Roads Operations budget (Fund 2040, Org 2040000) offset by increase in revenue by the same amount from the transfer from the ACO.

Enactment No: A-190311B

AK. Director of Public Works requests approval of and authorization for the Chair to sign a Space License Agreement with Sharpsteen Museum Association for temporary space located at 1311 Washington St., in the City of Calistoga for no fee for the term April 4, 2022 through June 30, 2023 with four (4) additional one-year annual renewal options for the Napa County Library to operate a reading program. **22-646**

Enactment No: A-220286B

AL. Director of Public Works requests approval of and authorization for the Chair to sign Agreement No. 230000B with BrightView Landscaping Services, Inc. for an annual maximum compensation of $162,784 for the term July 1, 2022 through June 30, 2025 with two (2) additional one-year annual renewal options, to provide landscape maintenance services at various County owned or operated properties. **22-678**

Enactment No: A-230000B

8. DISCUSSION OF ITEMS PULLED FROM CONSENT CALENDARS

- 7C

Supervisor Diane Dillon made presentation.

Director of Planning, Building, and Environmental Services David Morrison made presentation.

Discussion held.

Ten (10) people spoke during public comment.

Direction provided to staff.

Motion Text:	**Approve requested actions as amended.**
Voting Yes:	**Pedroza, Wagenknecht, Dillon, Ramos, and Gregory**
Recusals:	**None**
Result:	**Passed**

9. PUBLIC COMMENT

One (1) person spoke during public comment.

10. ADMINISTRATIVE ITEMS - SPECIAL DISTRICTS

Lake Berryessa Resort Improvement District

A. District Engineer to present status report on Lake Berryessa Resort Improvement District water and sewer utilities. **22-567**

District Engineer for Lake Berryessa Resort Improvement District Chris Silke made presentation.

Discussion held.

One (1) person spoke during public comment.

11. ADMINISTRATIVE ITEMS

County Executive Office

A. County Executive Officer requests the following actions regarding the 2012 Certificates of Participation: **22-525**

1. Adoption of a Resolution authorizing payment of $5,157,695.78 towards the 2012 Refunding Certificates of Participation on June 1, 2022, consisting of the lease payment of $2,227,700.00 due on June 1, 2022, and the prepayment of $2,929,995.78 to pay off the remaining balance;
2. Authorization for the County Executive to execute the Prepayment Instructions and Termination Agreement to extinguish the associated liens; and
3. Approval of a Budget Adjustment increasing appropriations by $8,500 in the 2012 Refunding COPS Administrative Fees (3500002-54320) with an offsetting transfer from General Fund Contingency (1059000-58100) for professional services incurred (4/5 vote required).

Assistant County Executive Officer Rebecca Craig made presentation.

Discussion held.

Motion Text:	**Approve requested actions.**
Voting Yes:	**Wagenknecht, Pedroza, Dillon, Ramos, and Gregory**
Recusals:	**None**
Result:	**Passed**
Enactment No:	**R-2021-45**

B. County Executive Officer requests the appointment of one of the following applicants to represent Interested Citizen Representing Victims on the Napa County Community Corrections Partnership (CCP) with the term to commence immediately and expire June 30, 2023: **22-650**

Alejandra Mendieta-Bedolla* or Thomas Kearns

*Recommended by the Community Corrections Partnership Executive Committee (see attached recommendation letter)

Assistant County Executive Officer Rebecca Craig made presentation.

Motion Text:	**Appoint Alejandra Medieta-Bedolla to represent Interested Citizen Representing Victims on the Napa County Community Correction as Partnership.**
Voting Yes:	**Wagenknecht, Pedroza, Dillon, Ramos, and Gregory**
Recusals:	**None**
Result:	**Passed**

C. County Executive Officer requests reappointment of Supervisor Dillon to serve on the Local Agency Formation Commission (LAFCO) as a regular member for a four-year term of office to commence May 2, 2022 and expire May 4, 2026. **22-657**

Assistant County Executive Officer Rebecca Craig made presentation.

Motion Text: Reappoint Supervisor Diane Dillon to serve on the Local Agency Formation Commission as a regular member for a four-year term of office.

Voting Yes: **Wagenknecht, Pedroza, Dillon, Ramos, and Gregory**

Recusals: **None**

Result: **Passed**

Planning, Building and Environmental Services (PBES)

D. Director of Planning, Building and Environmental Services requests the following actions regarding the Napa County Drought and Water Shortage Task Force (DWSTF):
1. Adoption of a Resolution to approve Bylaws for the Napa County Drought and Water Shortage Task Force (DWSTF); and
2. Appoint three (3) applicants to represent Public-At-Large on the DWSTF from the seven (7) applications received with terms to commence immediately and remain for the duration of the Committee's work, or until January 31, 2025, whichever occurs first. **22-698**

Correction Memorandum provided.

Assistant County Executive Officer Rebecca Craig made presentation.

Planning, Building and Environmental Services Natural Resources Conservation Manager Jamison Crosby made presentation.

Motion Text: **Adopt Resolution.**
Voting Yes: **Wagenknecht, Pedroza, Dillon, Ramos, and Gregory**

Recusals: **None**

Result: **Passed**

Motion Text: **Appoint Hiers, Perkins, Viader to represent Public-At-Large on the Napa County Drought and Water Shortage task Force.**

Voting Yes: **Wagenknecht, Dillon, Pedroza, Ramos, and Gregory**

Recusals: **None**

Result: **Passed**

Enactment No: **R-2021-46**

12. SET MATTERS OR PUBLIC HEARING - SPECIAL DISTRICTS

None

13. SET MATTERS OR PUBLIC HEARINGS

Health and Human Services Agency

A. SET MATTER 9:05 AM **22-712**

Napa County Child Abuse Prevention Council (CAPC) to present their annual report for 2021 on the status of children and families in the community.

Executive Director of Cope Family Center and Co-Chair of the Napa County Child Abuse Prevention Council (CAPC) Michele Grupe made presentation.

Discussion held.

County Executive Office

B. SET MATTER 9:30 AM **22-553**

County Executive Officer requests the Board receive a presentation on the County Medical Services Program.

Executive Director of County Medical Services Program Governing Board Kari Brownstein made presentation.

Program Director of County Medical Services Program Governing Board Alison Kellen made presentation.

Discussion held.

Planning, Building and Environmental Services (PBES)

C. SET MATTER 2:00 PM **22-483**

Introduction and intention to adopt an Ordinance amending the Napa County Floodplain Management Ordinance, Chapter 16.04 of the County Code, to provide additional clarification and specificity to provision of construction materials and methods, manufactured homes and residential construction in order to maintain compliance with the prerequisites of FEMA's Community Rating System (CRS) program.

Correction Memorandum provided.

Deputy Director of Planning, Building and Environmental Services Patrick Ryan made presentation.

Motion Text:	**Approve requested actions as amended.**
Voting Yes:	**Dillon, Wagenknecht, Pedroza, Ramos, and Gregory**
Recusals:	**None**
Result:	**Passed**

14. LEGISLATIVE ITEMS

None

15. BOARD OF SUPERVISORS COMMITTEE REPORTS AND ANNOUNCEMENTS

None

16. BOARD OF SUPERVISORS FUTURE AGENDA ITEMS

None

17. COUNTY EXECUTIVE OFFICER REPORTS AND ANNOUNCEMENTS

None

18. CLOSED SESSION

A. 8:00 AM CLOSED SESSION **22-589**

PUBLIC EMPLOYEE PERFORMANCE EVALUATION (Government Code Section 54957)
Title: Napa County Fire Chief

No reportable action.

B. SUPPLEMENTAL ITEM - SET TIME 11:30 AM **22-730**

CONFERENCE WITH REAL PROPERTY NEGOTIATOR (Government Code Section 54956.8)

Property: Napa County Fairgrounds, Calistoga, California (APNs 011-140-006, 011-140-007, 011-140-056, 011-140-009, and 011-140-055)
Agency Negotiator: Minh C. Tran, County Executive Officer
Negotiating Parties: Napa County and City of Calistoga
Under Negotiation: [X] Price [X] Terms of Payment

No reportable action.

C. CONFERENCE WITH REALPROPERTY NEGOTIATOR (Government Code Section 54956.8) **22-692**

Property: Lake Berryessa - Berryessa Point
Agency Negotiator: Minh C. Tran, County Executive Officer
Negotiating Parties: Napa County, Ragatz Realty and firm to be selected through RFP CEO112103
Under Negotiation: [X] Price [X] Terms of Payment

No reportable action.

D. CONFERENCE WITH LABOR NEGOTIATORS **22-722**
(Government Code Section 54957.6)

Agency Designated Representatives:
Christine Briceño, Director of Human Resources
Employee Organization: Napa County Deputy Sheriffs' Association
(Employee Unit and Supervisory Unit of the County of Napa)

No reportable action.

19. ADJOURNMENT

ADJOURN TO THE BOARD OF SUPERVISORS REGULAR MEETING, TUESDAY, APRIL 19, 2022 AT 9:00 A.M.

Neha Hoskins (By e-signature)

NEHA HOSKINS, Clerk of the Board

Napa County

Board Agenda Letter

Board of Supervisors | **Agenda Date:** 4/19/2022 | **File ID #:** 22-733

TO: Board of Supervisors

FROM: Christine Briceño - Director of Human Resources

REPORT BY: Jeanette Perry - Human Resources Service Specialist

SUBJECT: Introduction of New Employees

RECOMMENDATION

Director of Human Resources to introduce new County employees.

EXECUTIVE SUMMARY

Offered once a month, this presentation includes an introduction of the previous month's newly hired employees to the Board.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact? No

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: N/A

BACKGROUND AND DISCUSSION

New Napa County employees participate in New Hire Enrollment with Human Resources staff on their first day. The new employees complete required paperwork, fingerprinting, safety training, and technology training. Today's introduction to the Board of Supervisors typically occurs in the second month of employment, and offers new employees the opportunity to meet the Board in-person.

Napa County

Board Agenda Letter

Board of Supervisors	**Agenda Date:** 4/19/2022	**File ID #:** 22-398

TO: Members of the Governing Board of the Lake Berryessa Resort Improvement District

FROM: Christopher Silke - District Engineer

REPORT BY: Annamaria Martinez - Assistant Engineer

SUBJECT: Amendment No. 2 to Agreement No. 190141B (LBRID) with SUSP for O&M Services

RECOMMENDATION

District Engineer requests approval of and authorization for the Chair to sign Amendment No. 2 to Agreement No. 190141B (LBRID) with Specialized Utility Services Program (SUSP) increasing the amount by $60,000 for a new maximum of $371,325 for Fiscal Year 2021-2022 to provide continued operations, management, and maintenance services for the District's water and wastewater facilities through June 30, 2022.

EXECUTIVE SUMMARY

Board approval of Amendment No.2 to Agreement No. 190141B (LBRID) will increase the SUSP, contract amount by $60,000 to cover unanticipated non-scheduled work for a new maximum of $371,325 for Fiscal Year 2021-2022, and will allow SUSP to continue operating the District's water and wastewater facilities through June 30, 2022. Amendment No. 2 only modifies total compensation of the contract for Fiscal Year 2021-2022.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	Yes
Where is it budgeted?	Lake Berryessa Resort Improvement District Operations Budget Fund: 5220, Organization: 5220000
Is it Mandatory or Discretionary?	Discretionary

Discretionary Justification:	Due to extensive operator overtime and repair supplies needed in response to the 2021 drought, as well as additional oversight needed for unanticipated afterhours call-outs unrelated to the drought, the non-scheduled work allowance for the year has been exhausted, and the remaining contract balance is insufficient to compensate SUSP for the remainder of the Fiscal Year.
Is the general fund affected?	No
Future fiscal impact:	The recommended increase in compensation is for the current fiscal year only.
Consequences if not approved:	Without the approval of the Amendment, LBRID will be unable to pay SUSP for O&M services throughout the term of the contract.
County Strategic Plan pillar addressed:	Effective and Open Government
Additional Information	Click or tap here to enter text.

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.

BACKGROUND AND DISCUSSION

The District is a special district of the State of California organized under the Resort Improvement District Law (Public Resources Code Section 13000 et seq.) for the provision of water and sewer service in an unincorporated portion of the County of Napa, which includes Unit 2 of the Berryessa Estates.

Specialized Utilities Services Program (SUSP) has provided Operation, Management and Maintenance (OM&M) services for the District's water and wastewater facilities since October 2018, after their proposal to provide OM&M services was selected as the most responsive to a published RFP/Q in July 2018. Two Contractors submitted proposals and SUSP were determined to be the more qualified firm, and on October 1, 2018 the Board executed an agreement with SUSP for a base annual amount of $280,492.56 to provide the requested OM&M services of the District's water and wastewater facilities, plus an allowance of $12,000 for non-scheduled work. The term of the agreement allows for automatic annual renewal for five years, adjusted each fiscal year then beginning (July 1 through the next June 30) in an amount equal to the change in the San Francisco Bay Area-All Urban Consumers Price Index for the preceding year. The contract amount for Fiscal Year 2021-22, including the non-scheduled work allowance, is $311,325.

The 2021 Drought severely impacted the District’s water supply, requiring extensive operator overtime and contractor supplies purchased in response to the drought, as well as additional oversight needed for unanticipated afterhours call-outs unrelated to the drought between July 2021 and December 2021, the non-scheduled work allowance for the year has been exceeded, and the remaining contract balance is insufficient to compensate SUSP for the remainder of the Fiscal Year.

After reviewing the remaining Agreement balance, District staff prepared Amendment No. 2 to increase compensation for the current fiscal year in order to cover costs associated with operating and maintaining the District's facilities. The Amendment includes funds to cover the non-scheduled work between July 2021 and December 2021 and funds to cover the monthly OM&M charge and potential non-scheduled work for the remaining months in the fiscal year - $60,000. Total expenditure of the requested Amendment amount is not guaranteed, but will be based on actual work performed for the remainder of the year.

Board approval of Amendment No. 2 to Agreement No. 190141B (LBRID) will increase the contract amount by $60,000 to cover unanticipated non-scheduled work for a new maximum of $371,325 for Fiscal Year 2021-2022 and will allow SUSP to continue operating the District's facilities through June 30, 2022. The schedule of values will revert to the methodology approved with Agreement No. 190141B (LBRID) for future fiscal years, starting July 1, 2022.

SUSP is not a local vendor.

AMENDMENT NO. 2 TO LAKE BERRYESSA RESORT IMPROVEMENT DISTRICT AGREEMENT NO. 190141B (LBRID)

PROFESSIONAL SERVICES AGREEMENT

THIS AMENDMENT NO. 2 TO LAKE BERRYESSA RESORT IMPROVEMENT DISTRICT AGREEMENT NO. 190141B (LBRID) is made and entered into effective as of the 19th day of April, 2022, by and between the LAKE BERRYESSA RESORT IMPROVEMENT DISTRICT, a special district of the State of California, hereinafter referred to as "DISTRICT", and SPECIALIZED UTILITY SERVICES PROGRAM (SUSP), a California corporation, whose business address is 1234 N. Market Boulevard, Sacramento, CA 95834, hereinafter referred to as "CONTRACTOR." DISTRICT and CONTRACTOR may be referred to below individually as "Party" and together as "Parties."

RECITALS

WHEREAS, on October 1, 2018, DISTRICT and CONTRACTOR entered into Agreement 190141B (Agreement) for operations, management and maintenance (OM&M) services of the DISTRICT's water and wastewater facilities; and

WHEREAS, on Mary 18, 2021, the Governing Board of the DISTRICT approved Amendment No. 1, increasing the amount of the Agreement by $40,000 for fiscal year 2020-21, to compensate CONTRACTOR for additional non-scheduled oversight of the water and wastewater systems after the 2020 LNU Lightning Complex Wildfires burned around the DISTRICT in August 2020, damaging water and sewer infrastructure managed by the CONTRACTOR; and

WHEREAS, due to the severe drought currently impacting the DISTRICT's water supply, CONTRACTOR was and is required to increase operational oversight and procure necessary materials and services to maintain operations of the water and wastewater facilities as required by the Agreement; and

WHEREAS, additional non-drought related overtime work, above and beyond the hours allocated in the Agreement, was also necessary to maintain operations of the water and wastewater facilities; and

WHEREAS, the additional oversight required as part of drought response and recovery, in addition to other overtime support for non-drought related service will exceed the maximum amount allowed under the Agreement by the end of Fiscal Year 2021-2022; and

WHEREAS, the Parties now wish to amend the Agreement to increase the maximum compensation payable under the Agreement for Fiscal year 2021-2022 by $60,000 to pay CONTRACTOR for the additional OM&M costs incurred;

NOW, THEREFORE, for good and valuable consideration, the sufficiency of which is hereby acknowledged, the Parties hereby amend LBRID Agreement No. 190141B as follows:

TERMS

1. Paragraph 3 of the Agreement is amended to read in full as follows:

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, subject to the provision below regarding annual review for possible adjustment based on and equal to the change in the San Francisco Bay Area-All Urban Consumers Price Index for the preceding year.

(b) Expenses. No travel or other expenses will be reimbursed by DISTRICT, except for non-scheduled work as set forth in Exhibit "B."

(c) Maximum Amount. The maximum payments under this Agreement shall not exceed a monthly maximum base amount of Twenty-Three Thousand Three Hundred Seventy-Four Dollars and Thirty-Eight Cents ($23,374.38), subject to annual adjustments pursuant to subsection (d) below; provided, however, such amount shall not be construed as a guaranteed sum, and payments shall be based upon services actually rendered and expenses actually incurred. For the remainder of Fiscal Year 2018-2019 starting on October 1, 2018, this equals Two Hundred Ten Thousand Three Hundred Sixty-Nine Dollars and Forty-Two Cents ($210,369.42), and Two Hundred Eighty Thousand Four Hundred Nine-Two Dollars and Fifty-Six Cents ($280,492.56) for each subsequent fiscal year as adjusted pursuant to subsection (d). Notwithstanding the foregoing, any non-scheduled work or additional services approved by DISTRICT are not subject to these not-to-exceed amounts, and due to such services provided in Fiscal Years 2020-2021 and 2021-2022, the maximum payment in Fiscal Year 2020-2021 shall not exceed Three Hundred Forty-Five Thousand Nine Hundred Ninety-Four Dollars ($345,994.00), and the maximum payment in Fiscal Year 2021-2022 shall not exceed Three Hundred Seventy-One Thousand Three Hundred Twenty-Five Dollars ($371,325.00).

(d) Annual Adjustment based on Consumer Price Index. On July 1 of each year, beginning on July 1, 2019, the Maximum Amount of compensation described above shall be adjusted for that fiscal year then beginning (July 1 through the next June 30) in an amount equal to the change in the San Francisco Bay Area-All Urban Consumers Price Index for the preceding year, exclusive of the Forty Thousand Dollars ($40,000) added to the maximum compensation in Fiscal Year 2020-2021 in Amendment No. 1, and exclusive of the Sixty Thousand Dollars ($60,000) added to the maximum compensation in Fiscal Year 2021-2022 in this Amendment No. 2.

2. This Amendment No. 2 represents all the changes to the Agreement agreed to by the Parties. 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 No. 2 shall remain in full force and effect.

3. This Amendment No. 2 may be executed in counterparts, which when taken together, shall constitute a single signed original as though all parties had executed the same page.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment No. 2 to LBRID Agreement No. A-190141B (LBRID) as of the date written on the first page of this Amendment.

SPECIALIZED UTILITY SERVICES PROGRAM,
a California Corporation

By _____
Dan DeMoss, Chief Executive Officer

By _____
Dustin Hardwick, Secretary

LAKE BERRYESSA RESORT IMPROVEMENT DISTRICT,
a special district of the State of California,

By _____
RYAN GREGORY,
Chair of the Governing Board

APPROVED AS TO FORM Office of County Counsel / District Legal Counsel By: *Thomas C. Zeleny* Interim County Counsel Date: March 25, 2022 PL Doc. No. 70799	APPROVED BY BOARD OF SUPERVISORS, AS THE GOVERNING BOARD OF THE NAPA BERRYESSA RESORT IMPROVEMENT DISTRICT Date: _____ Processed By: _____ Deputy Clerk of the Board	ATTEST: NEHA HOSKINS Clerk of the Board of Supervisors / Secretary of the District By: _____

Napa County

Board Agenda Letter

Board of Supervisors	**Agenda Date:** 4/19/2022	**File ID #:** 22-404

TO: Governing Board of the Napa Berryessa Resort Improvement District

FROM: Christopher Silke, District Engineer

REPORT BY: Annamaria Martinez, Assistant Engineer

SUBJECT: Amendment No. 2 to Agreement No. 190142B (NBRID) with SUSP for O&M Services

RECOMMENDATION

District Engineer requests approval of and authorization for the Chair to sign Amendment No. 2 to Agreement No. 190142B (NBRID) with Specialized Utility Services Program (SUSP) increasing the amount by $20,000 for a new maximum of $317,238 for Fiscal Year 2021-2022 to provide continued operations, management, and maintenance services for the District's water and wastewater facilities through June 30, 2022.

EXECUTIVE SUMMARY

Board approval of Amendment No.2 to Agreement No. 190142B (NBRID) will increase the SUSP, contract amount by $20,000 to cover unanticipated non-scheduled work for a new maximum of $317,238 for Fiscal Year 2021-2022, and will allow SUSP to continue operating the District's water and wastewater facilities through June 30, 2022. Amendment No. 2 only modifies total compensation of the contract for Fiscal Year 2021-2022.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	Yes
Where is it budgeted?	Napa Berryessa Resort Improvement District Admin Budget Fund: 5240, Organization: 5240000
Is it Mandatory or Discretionary?	Discretionary

Discretionary Justification:	Due to extensive operator overtime and repair supplies needed in response to the 2021 Drought, as well as additional oversight needed for afterhours call-outs unrelated to the drought, the non-scheduled work allowance for the year has been exceeded, and the remaining contract balance is insufficient to compensate SUSP for the remainder of the Fiscal Year.
Is the general fund affected?	No
Future fiscal impact:	The recommended increase in compensation is for the current fiscal year only.
Consequences if not approved:	Without the approval of the Amendment, NBRID will be unable to pay SUSP for O&M services throughout the term of the contract.
County Strategic Plan pillar addressed:	Effective and Open Government
Additional Information	Click or tap here to enter text.

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.

BACKGROUND AND DISCUSSION

NBRID is a special district of the State of California organized under the Resort Improvement District Law (Public Resources Code Section 13000 et seq.) for the provision of water and sewer service in an unincorporated portion of the County of Napa, which includes Unit 1 and 2 of the Berryessa Highlands and the Oakridge Estates.

Specialized Utilities Services Program (SUSP) has provided Operation, Management and Maintenance (OM&M) services for the District's water and wastewater facilities since October 2018 when their proposal to provide OM&M services was selected as the most responsive to an RFP/Q published in July 2018. Two Contractors submitted proposals and SUSP were determined to be the more qualified firm, and on October 1, 2018 the Board executed an agreement with SUSP for a base annual amount of $267,292.50 to provide the requested OM&M services of the District's water and wastewater facilities, plus an allowance of $12,000 for non-scheduled work. The term of the agreement allows for automatic annual renewal for five years, adjusted each fiscal year then beginning (July 1 through the next June 30) in an amount equal to the change in the San Francisco Bay Area-All Urban Consumers Price Index for the preceding year. The contract amount for Fiscal Year 2020-2021, including the non-scheduled work allowance, is $297,238.

Amendment No. 1, approved on May 18, 2021, increased the amount of the contract by $40,000 for fiscal year 2020-21, to compensate SUSP for additional non-scheduled oversight of the water and wastewater systems after the August 2020 LNU Lightning Complex Wildfires burned through the community, destroying over 100 homes and damaging water and sewer infrastructure owned by the District.

For the current fiscal year, multiple process and control issues at both the water and wastewater plants occurred between July 2021 and December 2021, and after reviewing the remaining Agreement balance, District staff prepared Amendment No. 2 to increase compensation for the current fiscal year in order to cover costs associated with operating and maintaining the District's facilities through the end of the fiscal year. Amendment No. 2 includes funds to cover the non-scheduled work between July 2020 and December 2021 and funds to cover the monthly OM&M charge and potential non-scheduled work for the remaining months in the fiscal year, or approximately $20,000. Total expenditure of the requested Amendment amount is not guaranteed, but will be based on actual work performed for the remainder of the year.

Board approval of Amendment No. 2 to Agreement No. 190142B (NBRID) will increase the contract amount by $20,000 to cover unanticipated non-scheduled work for a new maximum of $317,238 for Fiscal Year 2021-2022 and will allow SUSP to continue operating the District's facilities through June 30, 2022. The schedule of values will revert to the methodology approved with Agreement No. 190142B (NBRID) for future fiscal years, starting July 1, 2022.

SUSP is not a local vendor.

AMENDMENT NO. 2 TO NAPA BERRYESSA RESORT IMPROVEMENT DISTRICT AGREEMENT NO. 190142B (NBRID)

PROFESSIONAL SERVICES AGREEMENT

THIS AMENDMENT NO. 2 TO NAPA BERRYESSA RESORT IMPROVEMENT DISTRICT AGREEMENT NO. 190142B (NBRID) is made and entered into effective as of the 19th day of April, 2022, by and between the NAPA BERRYESSA RESORT IMPROVEMENT DISTRICT, a special district of the State of California, hereinafter referred to as "DISTRICT", and SPECIALIZED UTILITY SERVICES PROGRAM (SUSP), a California corporation, whose business address is 1234 N. Market Boulevard, Sacramento, CA 95834, hereinafter referred to as "CONTRACTOR." DISTRICT and CONTRACTOR may be referred to below individually as "Party" and together as "Parties."

RECITALS

WHEREAS, on October 1, 2018, DISTRICT and CONTRACTOR entered into Agreement 190142B (Agreement) for operations, management and maintenance (OM&M) services of the DISTRICT's water and wastewater facilities; and

WHEREAS, on May 18, 2021, the Governing Board of the DISTRICT approved Amendment No. 1, increasing the amount of the Agreement by $40,000 for fiscal year 2020-21, to compensate CONTRACTOR for additional non-scheduled oversight of the water and wastewater systems after the 2020 LNU Lightning Complex Wildfires burned through the Berryessa Highlands community destroying over 100 homes and damaging water and sewer infrastructure managed by the CONTRACTOR; and

WHEREAS, due to multiple unexpected process and control issues at the water and wastewater facilities during the first half of Fiscal Year 2021-22, CONTRACTOR was and is required to increase operational oversight and procure necessary materials and services to maintain operations of the water and wastewater facilities as required by the Agreement; and

WHEREAS, the additional oversight required as part of the additional required operations oversight will exceed the maximum amount allowed under the Agreement by the end of Fiscal Year 2021-2022; and

WHEREAS, the Parties now wish to amend the Agreement to increase the maximum compensation payable under the Agreement for Fiscal Year 2021-2022 by $20,000 to pay CONTRACTOR for the additional OM&M costs incurred;

NOW, THEREFORE, for good and valuable consideration, the sufficiency of which is hereby acknowledged, the Parties hereby amend NBRID Agreement No. 190142B as follows:

TERMS

1. Paragraph 3 of the Agreement is amended to read in full as follows:

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, subject to the provision below regarding annual review for possible adjustment based on and equal to the change in the San Francisco Bay Area-All Urban Consumers Price Index for the preceding year.

(b) Expenses. No travel or other expenses will be reimbursed by DISTRICT, except for non-scheduled work as set forth in Exhibit "B."

(c) Maximum Amount. The maximum payments under this Agreement shall not exceed a monthly maximum base amount of Twenty-Two Thousand Two Hundred Seventy Four Dollars and Thirty-Eight Cents ($22,274.38), subject to annual adjustments pursuant to subsection (d) below; provided, however, such amount shall not be construed as a guaranteed sum, and payments shall be based upon services actually rendered and expenses actually incurred. For the remainder of Fiscal Year 2018-2019 starting on October 1, 2018, this equals Two Hundred Thousand Four Hundred Sixty-Nine Dollars and Thirty-Eight Cents ($200,469.38), and Two Hundred Sixty-Seven Thousand Two Hundred Nine-Two Dollars and Fifty-Six Cents ($267,292.56) for each subsequent fiscal year as adjusted pursuant to subsection (d). Notwithstanding the foregoing, any non-scheduled work or additional services approved by DISTRICT are not subject to these not-to-exceed amounts, and due to such services provided in Fiscal Years 2020-2021 and 2021-2022, the maximum payment in Fiscal Year 2020-2021 shall not exceed Three Hundred Thirty-Two Thousand One Hundred Fifty-Nine Dollars ($332,159.00), and the maximum payment in Fiscal Year 2021-2022 shall not exceed Three Hundred Seventeen Thousand Two Hundred Thirty-Eight Dollars ($317,238.00).

(d) Annual Adjustment based on Consumer Price Index. On July 1 of each year, beginning on July 1, 2019, the Maximum Amount of compensation described above shall be adjusted for that fiscal year then beginning (July 1 through the next June 30) in an amount equal to the change in the San Francisco Bay Area-All Urban Consumers Price Index for the preceding year, exclusive of the Forty Thousand Dollars ($40,000) added to the maximum compensation in Fiscal Year 2020-2021 in Amendment No. 1 and the Twenty Thousand Dollars ($20,000) added to the maximum compensation in Fiscal Year 2021-2022 in this Amendment No. 2.

2. This Amendment No. 2 represents all the changes to the Agreement agreed to by the Parties. 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 No. 2 shall remain in full force and effect.

3. This Amendment No. 2 may be executed in counterparts, which when taken together, shall constitute a single signed original as though all parties had executed the same page.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment No. 2 to NBRID Agreement No. 190142B (NBRID) as of the date written on the first page of this Amendment.

SPECIALIZED UTILITY SERVICES PROGRAM,
a California Corporation

By: _____
Dan DeMoss, Chief Executive Officer

By: _____
Dustin Hardwick, Secretary

NAPA BERRYESSA RESORT IMPROVEMENT DISTRICT,
a special district of the State of California,

By: _____
RYAN GREGORY,
Chair of the Governing Board

APPROVED AS TO FORM Office of County Counsel / District Legal Counsel By: *Thomas C. Zeleny* Interim County Counsel Date: March 25, 2022 PL Doc. No. 70766	APPROVED BY BOARD OF SUPERVISORS, AS THE GOVERNING BOARD OF THE NAPA BERRYESSA RESORT IMPROVEMENT DISTRICT Date: _____ Processed By: _____ Deputy Clerk of the Board	ATTEST: NEHA HOSKINS Clerk of the Board of Supervisors / Secretary of the District By: _____

Napa County

Board Agenda Letter

Board of Supervisors	**Agenda Date:** 4/19/2022	**File ID #:** 22-749

TO: Board of Supervisors

FROM: Janet Nottley, Director of Child Support Services

REPORT BY: Karina Castañeda, Staff Services Manager

SUBJECT: Amendment No. 1 to Agreement No. 220218B

RECOMMENDATION

Director of Child Support Services requests approval of and authorization for the Chair to sign Amendment No. 1 to Agreement No. 220218B with North Coast Regional Department of Child Support Services to amend the original agreement by increasing service hours from 40 to 80 hours a week and extending the terms of the agreement through June 30, 2023, to provide case management services.

EXECUTIVE SUMMARY

On November 1, 2021, the County entered into Agreement No. 220218B, a one-year contract with North Coast Regional Department of Child Support Services (North Coast) to provide case management services. The purpose of today's request is to amend the current agreement to increase the total number of case management services hours from 40 hours a week to 80 hours a week, therefore increasing the total number of full-time employees on loan to North Coast from one Child Support Specialist to two Child Support Specialists and increasing the cost reimbursement monies received by the County. It also extends the remaining terms of contract through June 30, 2023.

There are no other changes in services provided from the originally approved Agreement.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	Yes
Where is it budgeted?	Child Support Services
Is it Mandatory or Discretionary?	Discretionary

Discretionary Justification:	This is a discretionary activity in that there is no mandate to enter into a shared services agreement with other Local Child Support Agencies. However, employees loaned under this agreement will provide significant cost savings due to the State reimbursement for salary and benefit costs. The additional revenue is necessary to offset an allocation funding shortfall.
Is the general fund affected?	No
Future fiscal impact:	The agreement is set to expire 6/30/2023. The reimbursement for services rendered will not exceed $381,301.
Consequences if not approved:	Napa County Child Support Services would not be able to take advantage of this opportunity to receive additional revenue to help offset the significant decline in base allocation funding.
County Strategic Plan pillar addressed:	Effective and Open Government
Additional Information	Click or tap here to enter text.

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: Click or tap here to enter text.

BACKGROUND AND DISCUSSION

In November 2021, the County entered into a shared services agreement between Napa County Department of Child Support Services (NCDCSS) and North Coast. The agreement outlined the details by which NCDCSS provides case management services to North Coast.

Today's action will approve Amendment No. 1 to Agreement No. 220218B with North Coast to extend the term through June 30, 2023, increasing the loaned staff number from one to two full-time Napa County Child Support Specialists, and increasing the contracted amount of $110,000 to $138,301 in FY 2021-2022 and $243,000 in FY 2022-2023.

The proposed amendment allows NCDCSS to retain experienced employees while waiting for the expected attrition of a large percentage of senior staff during FY 2022-23. Based on current caseload size and revised funding, NCDCSS would be unable to maintain these employees without the proposed amendment. The proposed amendment also provides North Coast with a more reasonable timeline to hire and train new staff.

The loaned employees will telecommute and will continue to retain their incumbency in their current positions as well as their other benefits of employment.

Section 1 Purpose

NAPA COUNTY DEPARTMENT OF CHILD SUPPORT SERVICES AND NORTH COAST REGIONAL DEPARTMENT OF CHILD SUPPORT SERVICES FIRST AMENDMENT TO MEMORANDUM OF UNDERSTANDING FOR CASE MANAGER SERVICES November 1, 2021 THROUGH 6/30/2022

This First Amendment to Memorandum of Understanding for Case Manager Services is entered into between the Napa County Department of Child Support Services, hereinafter called NAPA, and the North Coast Regional Department of Child Support Services, hereinafter called NORTH COAST. The effective date of this agreement is the date on which it is signed by all parties.

WHEREAS, NCRDCSS desires to obtain certain services of a Child Support Specialist (CSS) familiar with the Child Support Enforcement Program, in addition to the CSS obtained pursuant to the underlying agreement (hereinafter "Agreement"), in order to work directed reports and activities while NORTH COAST is hiring and training new employees; and

WHEREAS, NAPA desires to offer the services of a total of two CSSs to assist NORTH COAST; and

WHEREAS, NAPA and NORTH COAST desire for the underlying agreement and this amendment to be extended for an additional fiscal year; and

WHEREAS, the Child Support Enforcement Program is funded by the state and Local Child Support Agencies such as NAPA and NORTH COAST are encouraged to share services; and

WHEREAS, NAPA and NORTH COAST now wish to add this First Amendment, amending sections 1, 3, and 26 of the Agreement; and

NOW, THEREFORE, the parties agree as follows:

1. Section 1 is hereby amended to read as follows:

    1. NAPA will provide the services of two CSSs to NORTH COAST equal to 80 hours each week or alternative schedules as agreed upon by both Directors.

        The CSSs provided by NAPA to NORTH COAST pursuant to this agreement shall be familiar with child support establishment and enforcement, including relevant laws, policy and procedures.

        Both NAPA and NORTH COAST shall be responsible for supervising the CSS provided by NAPA for quality assurance, meetings, tracking, compliance issues or other duties as needed.

        All terms of the Agreement relating to or referencing the CSS will be understood to apply to both CSSs to be provided by NAPA pursuant to the Agreement and this Amendment.

2. Section 3 is hereby amended to read as follows:

    3. NORTH COAST will be responsible for the salary and benefits of two Child Support Specialist IIs FFY 2021-2022 and 2022-2023.

NAPA will provide actual hours worked on behalf of NORTH COAST to NORTH COAST and California Department of Child Support Services on a monthly basis.

There will be no billing or reimbursement between NAPA and NORTH COAST. DCSS shall allocate the costs of work performed by the Napa employees on behalf of NORTH COAST to NAPA.

The total value of services rendered by NAPA under this contract shall not exceed $138,301 through 6/30/2022 and $243,000 for July 1, 2022 through June 30, 2023.

3. Section 26 is hereby amended to read as follows:

26. This agreement shall be in effect from the date of execution by all parties to June 30, 2023, unless written notice to terminate is given by either party to the other at least thirty (30) days prior to the date of termination. Either party may terminate this agreement without cause upon thirty (30) days advance written notice which states the effective date of the termination.

Signatures

IN WITNESS WHEREOF, the parties hereto by their duly authorized representatives have affixed their hands on the day and year first above written.

Janet Nottley
Janet Nottley, Director
Napa County Department of Child Support Services
4/4/22
Date

Bennett Hoffmann
Bennett Hoffmann, Director
North Coast Regional Department of Child Support Services
4.4.2022
Date

Emily Jernigan
Emily Jernigan, Regional Administrator
California State Department of Child Support Services
4.4.2022
Date

Signatures County of Napa (continued)
Approved as to form:

Rachel L. Ross (e-signature)
Rachel Ross, County Counsel
County of Napa
March 17, 2022
Date

Ryan Gregory, Chair Board of Supervisor
Date

Signature: Bennett Hoffmann
Email: bhoffmann@co.humboldt.ca.us

Signature: Emily Jernigan
Emily Jernigan (Apr 4, 2022 09:57 PDT)
Email: emily.jernigan@dcss.ca.gov

Signature: Janet Nottley
Janet Nottley (Apr 4, 2022 10:00 PDT)
Email: janet.nottley@countyofnapa.org

Napa County

Board Agenda Letter

Board of Supervisors	**Agenda Date:** 4/19/2022	**File ID #:** 22-706

TO: Board of Supervisors

FROM: Dina Jose, Director of Corrections

REPORT BY: Sue Kuss, Staff Services Manager

SUBJECT: Agreement with Status Electrical Corp. for Jail Security Video System Replacement, Maintenance and Support

RECOMMENDATION

Director of Corrections requests approval of the following actions related to the jail security system:

1. A waiver of competitive bidding requirements and sole source award to Status Electrical corporation of Washington State for maintenance and support, pursuant to Napa County Code Section 2.36.090;

2. Approval of and authorization for the Chair to sign an agreement with Status Electrical Corporation for a maximum of $315,300 for the term April 19, 2022 through June 30, 2025; and

3. Approval of a Budget Transfer for the following (4/5 vote required):

a. Increase appropriations by $236,570 in CIP-Criminal Justice Facility Construction Fund 3000, org 3001500 to transfer to CIP Project 22037 Fund 3000, org 3000505 offset by use of its available fund balance; and

b. Creation of a new project, “Video Storage System Replacement” (Fund 3000, Org 3000505, Project 22037) and increase appropriations by $236,570 in Project 22037 budget with offsetting revenue from the transfer from the CIP-Criminal Justice Facility Construction Fund in order to fund this project.

EXECUTIVE SUMMARY

Through a prequalification and competitive bid process in 2016, Status Electrical Corporation (Status) installed a jail security system consisting of video cameras, intercoms, control room equipment, and cell door controllers. A contract for maintenance and support of the system comprised of system analysis and monitoring, system backups with off-site storage, multiple software platform support and upgrades, extended warranties and on-call technical support services was approved by the Board on November 19, 2019 and expires June 30, 2022. The jail security system has reached its useful life and requires replacement of hardware

and software to continue to function.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	No
Where is it budgeted?	The Board is asked to approve a budget transfer to provide funding for the project from the CIP-Criminal Justice Facility Construction fund. Costs for ongoing support of the system will be paid from the Department's budget.
Is it Mandatory or Discretionary?	Discretionary
Discretionary Justification:	Status is the jail's security system expert because the company installed and configured the system to work in conjunction with previously installed components. Without the contractor's expertise, it would be difficult for county staff to find another vendor capable of upgrading and maintaining the video platform and security electronics platform.
Is the general fund affected?	No
Future fiscal impact:	The Department will budget the cost of ongoing support in subsequent years' budgets.
Consequences if not approved:	The Corrections Department would fail to comply with Government Code 34090.6(c).
County Strategic Plan pillar addressed:	Effective and Open Government
Additional Information	Neither Corrections nor ITS staff have the technical expertise to upgrade, maintain, and repair the system.

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.

BACKGROUND AND DISCUSSION

On March 8, 2016, the Board approved a construction contract award to Status for jail security system maintenance and upgrades. The project involved installation and/or replacement of video cameras and associated intercoms, the installation of control room equipment and replacement of programmable logic controllers for cell door controls. On November 19, 2019, the Board approved an agreement with Status for maintenance and support of that system. The video system has reached its useful life. It cannot be upgraded or expanded. Hardware and software support for the system will end June 30, 2022. Replacement of hardware and software is needed for the system to continue operating.

Replacement of the servers and storage appliances, configuration, integration, and installation will cost $236,570. Continued hardware and software support for three years including replacement of two computers

located in central control that regulate door access will cost an additional $78,700 for a total contract maximum cost of $315,300. Much of the installation of new components can be accomplished remotely and supported remotely. If support is needed on existing hardware or software components that are not slated for replacement, $6,450 is included in the cost of maintenance and support to purchase forty hours of an on-site technician and related travel expenses.

This equipment will continue to be needed after the replacement jail becomes operational in order to support video equipment and security features when transporting of inmates to court.

With the Board's approval, the CIP-Criminal Justice Facilities Construction Fund will provide funding for the project. The Fund may only be used for improvement of criminal justice automated information systems, and for the construction, reconstruction, expansion, improvement, operation or maintenance of jails, women's centers, detention facilities, juvenile halls and courtrooms. Napa County Policy Manual Section I, Section 18 requires that the County solicit input and recommendations from the County Criminal Justice System including the Presiding Judge of the Superior Court, the Sheriff, Public Defender, Probation Officer and Director of Corrections. On April 12, 2022, the criminal justice group recommended this project be funded by the aforementioned source. The current available fund balance in the CIP-Criminal Justice Facilities Construction Fund is $581,006.

NAPA COUNTY AGREEMENT NO. 200191B
AMENDMENT NO. 1

PROFESSIONAL SERVICES AGREEMENT

THIS AMENDMENT NO. 1 TO NAPA COUNTY AGREEMENT NO. 200191B is effective as of this 21st day of April, 2022, by and between NAPA COUNTY, a political subdivision of the State of California, hereinafter referred to as "COUNTY", and whose mailing address is 1125 Third Street, Napa, CA 94559_and STATUS ELECTRICAL CORPORATION, a company incorporated in the State of Washington, whose mailing address is 2669 Deacon Street, Abbotsford BC V2T 6L4, hereinafter referred to as "CONTRACTOR". COUNTY and CONTRACTOR may be referred to below collectively as "Parties" and individually as "Party."

RECITALS

WHEREAS, on or about November 19, 2019, COUNTY and CONTRACTOR entered into Napa County Agreement No. 200191B (hereinafter referred to as the "Agreement") for CONTRACTOR to provide COUNTY with maintenance and support of the Napa County Department of Corrections' downtown jail security system; and

WHEREAS, COUNTY and CONTRACTOR now wish to amend the Agreement to replace the original security software and hardware described in the original Agreement No. 200191B with the Milestone X Protect Professional 2017 R17 DVMS hardware and software system, to extend the term of the agreement from June 30, 2022 to June 30, 2025, to increase the contract maximum from two hundred fifty thousand dollars ($250,000) to three hundred fifteen thousand two hundred seventy thousand dollars ($315,270), to remove the automatic renewal clause, and to provide additional maintenance and support of the downtown jail security system.

TERMS

NOW, THEREFORE, for good and valuable consideration, the adequacy and receipt of which are hereby acknowledged, the Parties amend the Agreement as follows:

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

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 COUNTY 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).

2. Exhibit A is hereby replaced with Exhibit A-1, attached hereto and incorporated by reference as set forth herein and all references in the Agreement to Exhibit "A" shall be deemed to refer to "Exhibit A-1," commencing April 21, 2022 and for three additional renewal terms expiring on June 30, 2025.

3. Exhibit B is hereby replaced with Exhibit B-1 attached hereto and incorporated by this reference as set forth herein and all references in the Agreement to Exhibit "B" shall be deemed to refer to "Exhibit B-1," commencing April 21, 2022 and for three additional renewal terms expiring on June 30, 2025.

4. Paragraph 3 Compensation is amended to read in full as follows:

Compensation.

(a) Rates. In consideration of CONTRACTOR's fulfillment of the promised work COUNTY shall pay CONTRACTOR at the fixed prices set forth in Exhibit "B-1," attached hereto and incorporated by reference herein.

(b) Expenses. Travel and other expenses will be reimbursed by COUNTY upon submission of an invoice in accordance with Paragraph 4 at the rates and/or in accordance with the provisions set forth in Exhibit "B-1."

(c) Maximum Amount. Notwithstanding subparagraphs (a) and (b), the maximum payment under this Agreement shall be a total of THREE HUNDRED FIFTEEN THOUSAND TWO HUNDRED SEVENTY DOLLARS ($315,270.00) for professional services; provided, however, that such amounts shall not be construed as guaranteed sums and compensation shall be based upon services actually rendered and reimbursable expenses actually incurred.

4. Except as provided above, the terms and conditions of this Agreement shall remain in full force and effect as originally approved.

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment No. 1 to Agreement No. 200191B as of the date first above written.

STATUS ELECTRICAL AUTOMATION SYSTEMS

By_____
KEITH FALARDEAU, President

By_____
RITA NIEHAUS, Chief Financial Officer

"CONTRACTOR"

NAPA COUNTY, a political subdivision of the State of California

By_____
RYAN GREGORY, Chair
Board of Supervisors

"COUNTY"

APPROVED AS TO FORM Office of County Counsel By: _*Corey S. Utsurogi* County Counsel Date:_4/7/2022_____	APPROVED BY THE NAPA COUNTY BOARD OF SUPERVISORS Date: _____ Processed By: _____ Deputy Clerk of the Board	ATTEST: NEHA HOSKINS Clerk of the Board of Supervisors By: _____

EXHIBIT "A-1"

SCOPE OF WORK

CONTRACTOR shall provide COUNTY with the following services:

- Supply and install new servers and storage appliances
- Install Milestone X-Protect Corporate DVMS on all servers
- Configure servers and storage
- Modify and test Indusoft API to function with X-Protect Corporate (for touchscreen integration)
- Install new Milestone viewer client on each of the existing viewer stations
- Import and configure existing cameras & setting from the existing Milestone system
- Set-up views on all client workstations.
- Final test & clean-up

CONTRACTOR shall provide COUNTY with the following products and support:
Milestone X-Protect Corporate which ~~c/w~~ comes with

- 219 camera connection licenses
- 3 year Milestone Care Plus

Arxys Storage

- Two nodes consisting of:
    - One server
    - One 60 Bay JBOD using 14TD drives providing 595 TB usable per node

Support

- 5 years advanced parts replacement and/or return to factory for repairs.
- Support is remote/on-line. 4 hours/month non-accumulating. Customer to provide the labor to assist in diagnosis, ship or install replacement parts

I. DESCRIPTION OF SERVICES

The Security Electronics (SE) components as described following are configured and programmed to provide for a total "Integrated" solution – managing the security at the COUNTY's downtown jail.

CONTRACTOR's personnel shall be factory trained to install and service the components of the SE system.

CONTRACTOR shall be responsible for installing and managing the Milestone X-Protect Professional 2017 R17 DVMS, which is comprised of the following hardware/software components:

- Security Electronics
    - Server/Workstations

- PLC System
  - Schneider M580 Redundant PLC
    - Remote IO Rm 002, Remote IO Rm 028, Remote IO Rm 102
    - Remote IO Rm 119, Remote IO Rm 151, Remote IO Rm 252
    - Remote IO Rm 268, Remote IO Rm 345, Remote IO Rm 354
    - Remote IO Rm 3N
- Intercom System
  - Harding DXL Intercom system
    - DCC Rm 028, DCC Rm 102, DCC Rm 119
    - DCC Rm 151, DCC Rm 252, DCC Rm 268
    - DCC Rm 245' DCC Rm 354
- Indusoft - Web Studio HMI
    - Primary Console
    - Secondary Console
- DVMS (CCTV System)
    - Milestone X-protect Corporate covered under proposal for system upgrade

- Network
  - Cisco 3850

Support Scope

Bi-Annual Online System Analysis

- CONTRACTOR shall provide online system analysis with ability to monitor or check issues over COUNTY WAN Maintenance line.
- CONTRACTOR shall manage a Current Mirror HMI Server System at CONTRACTOR's office to provide technical support
- CONTRACTOR shall collect and store system backups (off site) for additional system recovery.
- CONTRACTOR shall provide analysis and support and shall report and advise COUNTY with respect to the following items:

1) HMI System
   - Windows / Application software:
     - CONTRACTOR shall perform system diagnostic checks on the operating system and application software.
     - CONTRACTOR shall backup software.
2) PLC Hardware / Firmware:
   - CONTRACTOR shall perform system diagnostic checks of the CPU and IO fault tables
3) DVMS System
   - Windows / Application software:
     - CONTRACTOR shall perform system diagnostic checks on the operating system and application software.
     - CONTRACTOR shall backup software.
   - NAS array:
     - CONTRACTOR shall perform system diagnostic checks on the operating system and application software
4) Aveva (Indusoft)

- Extend SMA 3 years

5) Intercom System
   - Hardware / Software:
     - CONTRACTOR shall check diagnostic logs

On Call Emergency Technical support

Telephone / Email / WAN support
- CONTRACTOR shall provide 24/7 emergency technical support (hot line)
- CONTRACTOR shall with best efforts provide the following response times:
  - Initial contact - under 4 hours
  - WAN or phone tech support for action – under 6 hours
- 8 hours of emergency technical support per month, non-accumulating month to month, is included under the terms of this Agreement,
  - Minimum 2 hour increments are assessed per occurrence to the maximum 8 hour limit

Additional emergency technical support shall be provided by CONTRACTOR for $130.00, with a minimum 4 hour charge per occurrence.

Extended Hardware / Software support

Milestone Care plus service maintenance agreement through June 30, 2025
- Covered under system upgrade project
- Covers post June 2022 upgraded Milestone software and hardware only

Archiver and Storage Gold support / extended warranty (DVMS NAS and Servers)
- CONTRACTOR shall provide online manufacturers support ~~5x9~~ 5 days a week, 8 hours/day
- Covers post June 2022 upgraded Milestone software and hardware only

Support (Pre July 2022 equipment/software)

All requested support of original Milestone servers prior to July, 2022 will be billed hourly on time and material basis. 5 days a week, 8 hours/day only, $130.00 per hour, with a minimum 4 hour charge per occurrence.

Central Control Hardware Refresh

CONTRACTOR shall provide a replacement for the two computers that control door access in COUNTY's downtown jail's central control. CONTRACTOR shall also upgrade the downtown jail's security software to the current version of Indusoft, now called Aveva Wonderware.

On Site Tech Support

CONTRACTOR shall provide on-site technical support upon request by COUNTY.

EXHIBIT "B-1"

COMPENSATION

Service Description	**Amount**
Bi-annual On Line System Analysis, through June 30, 2025	$ 11,750.00
On Call Technical support, through June 30, 2025 Additional support $130/hour - 2 hour minimum	$ 48,500.00
Central Control Hardware Refresh	$ 12,000.00
Total Cost Security Electronics System Support	$ 72,250.00
Replacement of the Milestone X-Protect Professional 2017 R17 DVMS software and hardware and 1 year storage	**$ 236,570.00**

Milestone X-Protect Professional 2017 R17 DVMS Breakdown:

Qty		Description	Each	Total	
-219	Each	X-protect Professional	$ 104.30	$ (22,841.70)	Credit for existing connection licenses provided by Milestone due to upgrade
-1	Each	X-protect Professional BL	$ 349.30	$ (349.30)	Credit for existing base license provided by Milestone due to upgrade
-219	Each	X-protect professional 1 yr Care Plus	$ 18.90	$ (4,139.10)	Credit for existing Care Plus support provided by Milestone due to upgrade
-1095	Each	X Protect professional 1 month	$ 1.61	$ (1,762.95)	Credit for existing 5 months Care Plus support provided by Milestone due to upgrade
1	Each	X-Protect Corporate BL	$ 2,228.10	$ 2,228.10	Cost of new base license
219	Each	X-Protect Corporate DL	$ 230.30	$ 50,435.70	Cost of new connection licenses
1	Each	X-Protect 3yr Care Plus BL	$ 871.50	$ 871.50	Cost of 3 yr Care Plus on the system
219	Each	X-Protect 3yr Care Plus DL	$ 91.00	$ 19,929.00	Cost of 3 yr Care Plus on each connection
2	Each	Milestone Training	$ 3,000.00	$ 6,000.00	Cost to Milestone to re-certify 2 Status Techs
		Milestone Total		**$ 50,371.25**	
1	Each	Mark-up	15%	$ 7,555.69	
		Milestone Total		**$ 57,926.94**	
1	Each	Arxys Total	$ 97,471.50	$ 97,471.50	Arxys quote for 2 new servers, 2 new JBODs & 5 years support
1	Each	Shipping	$ 3,000.00	$ 3,000.00	Shipping allowance. These items are large and heavy
1	Each	Mark-up	15%	$ 15,070.73	
		Arxys Total		**$ 115,542.23**	
		Material Total		**$ 173,469.16**	
80	Hrs	Labor Field Install Equipment	$ 120.00	$ 9,600.00	Labor for Status Technician to install equipment on site
1	Each	Labor Field Electrical modifications	$ 1,500.00	$ 1,500.00	Labor & material allowance to provide additional power to racks from Emergency panel.
1	Each	Misc wiring materials	$ 250.00	$ 250.00	
10	Days	Labor Field Expenses	$ 150.00	$ 1,500.00	Daily travel expense allowance for Status tech to and from Sacramento
5	Each	LOA	$ 250.00	$ 1,250.00	Allowance for Status PM to assist on site for cutover
2	Each	Travel	$ 750.00	$ 1,500.00	
40	Hrs	Milestone Software conversion	$ 120.00	$ 4,800.00	Programming time to import old configuration into new Milestone Corporate
16	Hrs	Install Milestone viewer client (10)	$ 120.00	$ 1,920.00	Installation time to install new viewer client on each of the jail computers
120	Hrs	Indusoft/Milestone API	$ 120.00	$ 14,400.00	Programming and testing time to configure new Milestone API to operate with

		conversion			existing door control computers
40	Hrs	Project Management	$ 120.00	$ 4,800.00	Project management time including purchasing, coordination, testing and documentation
36	Hrs	Support	$ 600.00	$ 21,600.00	Status remote tech support allowance during cut-over & start-up.
		Labor Total		**$ 63,120.00**	
		Proposal Price		**$ 236,570.00**	

Additional on-site technical support work and travel $130/hr
Travel expenses from Seattle or Vancouver, plus 10%, per diem and vehicle rental $250/day. CONTRACTOR shall provide detailed invoices and attach all detailed receipts for reimbursement for any travel expenses. COUNTY may withhold any compensation due to CONTRACTOR's failure to provide detailed documentation of travel expenses. Per Diem reimbursed at actual location based rates.

Contract Maximum Not To Exceed **$315,270.00**

Pricing firm for acceptance for 30 days
Pricing for extended warranty subject to change and confirmation Net 30 days payable at commencement of coverage.
Taxes additional where applicable

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		Smith,			
1/1/15	Site visit/investigation 123 Main St, Napa.	Engineer	1.5	$165.00	247.50
1/1/15	Conf w/Owner	Smith, Engineer	1	$165.00	165.00
	AutoCad, Bldg X, 3rd Floor	Smith, Engineer	4	$165,00	660.00
1/2/15	Rev plans, phone conf w/Owner	Jones, PE	1.75	$195.00	341.25
1/2/15		Smith,			
1/2/15	AutoCad Bldg X, 3rd Floor	Engineer	4	$165.00	660.00
	Conf w/Owner re 2nd Floor	Smith, Engineer	.5	$165.00	82.50
1/3/15	Mtg w/Jones re 2nd Floor; conf	Smith,			
1/3/15	w/Owner	Engineer	1.5	$165.00	247.50
	Mtg w/Smith; conf w/Owner re 2nd Floor	Jones, PE	1.5	$195.00	292.50
				TOTAL	

Napa County

Board Agenda Letter

Board of Supervisors | **Agenda Date:** 4/19/2022 | **File ID #:** 22-731

TO: Board of Supervisors

FROM: Thomas Zeleny - Interim County Counsel

REPORT BY: Laura Anderson - Deputy County Counsel

SUBJECT: Second Reading of an Amendment to the Floodplain Management Ordinance, 2022

RECOMMENDATION

Second reading and adoption of ordinance amending the Napa County Floodplain Management Ordinance, Chapter 16.04 of the County Code, to provide additional clarification and specificity to provisions of construction materials and methods, manufactured homes and residential construction in order to maintain compliance with the prerequisites of FEMA's Community Rating System (CRS) program.

EXECUTIVE SUMMARY

On April 5, 2022, the Board of Supervisors conducted a first reading of an ordinance amending the Napa County Floodplain Management Ordinance, Chapter 16.04 of the County Code, to provide additional clarification and specificity to provisions of construction materials and methods, manufactured homes and residential construction in order to maintain compliance with the prerequisites of FEMA's Community Rating System (CRS) program. At the conclusion of public comment, the Board unanimously passed a motion of intent to adopt the proposed ordinance. This consent calendar item requests that the Board conduct its second reading and take final action adopting the ordinance. The final ordinance is attached herein. The ordinance will become effective 30 days following adoption.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact?	No
Is it currently budgeted?	No
Where is it budgeted?	N/A
Is it Mandatory or Discretionary?	Discretionary

Discretionary Justification:	Updating the ordinance to meet the new Class 8 prerequisites, as well as maintaining existing credit points, allows Napa County to maintain a CRS class rating of 7, providing residents purchasing or renewing their flood insurance policies for properties in a Special Flood Hazard Area (SFHA) within unincorporated Napa County a 15% discount on their flood insurance premium
Is the general fund affected?	No
Future fiscal impact:	N/A
Consequences if not approved:	Failure to update the Ordinance will result in Napa County losing its CRS class rating of 7, which will be reduce to a class rating 9, resulting in a reduced flood insurance premium discount from 15% to 5%.
County Strategic Plan pillar addressed:	Effective and Open Government
Additional Information:	Click or tap here to enter text.

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: General Rule. It can be seen with certainty that there is no possibility the proposed action may have a significant effect on the environment and therefore CEQA is not applicable. [See Guidelines for the Implementation of California Environmental Quality Act, 14 CCR 15061(b)(3)].

BACKGROUND AND DISCUSSION

The Board of Supervisors (Board) adopted the original Floodplain Management Ordinance (Chapter 16.04 of the County Code) in January 1980, which began Napa County's participation in the National Flood Insurance Program (NFIP). Since then, the Ordinance has been amended 10 times. The most recent change to the Ordinance occurred on June 07, 2016, to adopt Flood Insurance Rate Maps issued by the FEMA to become effective on August 3, 2016, and other revisions as requested by FEMA to maintain compliance with requirements of the NFIP. On April 5, 2022, the Board of Supervisors conducted a first reading of an ordinance amending the Napa County Floodplain Management Ordinance, Chapter 16.04 of the County Code, to provide additional clarification and specificity to provisions of construction materials and methods, manufactured homes and residential construction in order to maintain compliance with the prerequisites of FEMA's Community Rating System (CRS) program. At the conclusion of public comment, the Board unanimously passed a motion of intent to adopt the proposed ordinance. This consent item requests that the Board conduct its second reading and take final action adopting the ordinance.

Napa County was accepted into the NFIP CRS in May of 2018, and has completed subsequent re-certification for each of the following years. This year Napa County has confirmed a Cycle Visit with our CRS coordinator to assess Napa County's floodplain management program and re-verify all credits and prerequisites to maintain the current CRS classification.

The CRS is a voluntary program that provides flood insurance premium discounts to communities that implement programs and measures that exceed the minimum floodplain management requirements of the NFIP. The CRS program determines discounts based on credit points provided for floodplain management activities in participating communities. To achieve certain CRS class ratings, communities must meet certain program prerequisites in addition to obtaining the credit points. Napa County currently has a CRS class rating of 7, providing residents purchasing or renewing their flood insurance policies for properties in a SFHA within unincorporated Napa County a 15% discount on their flood insurance premium.

In January 2021, FEMA began implementing the Addendum to the CRS Coordinator's Manual for all new and participating communities. During this year's CRS cycle visit the County's Ordinance must demonstrate conformity to the amended Class 8 prerequisites. The new Class 8 prerequisites requires communities to adopt and enforce at least a 1-foot freeboard requirement (including equipment or mechanical items) for all residential building constructed, substantially improved, and/or reconstructed

due to substantial damage, throughout its SFHA where base flood elevations or depths have been determined. The freeboard requirement is aimed at lowering the risk of flood damage in a community and helping residents realize the reduced flood insurance premiums brought about by higher building elevations. Although the current code interpretation and existing practice in Napa County is to enforce the 1-foot freeboard requirement, Napa County's CRS coordinator has provided revised language consistent with the Addendum to the CRS Coordinator's Manual.

In order to ensure the new Class 8 prerequisites are satisfied, staff recommends that the following amendments to the current Ordinance be adopted.

Napa County Code 16.04.690(D) - Construction material and methods.

> All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment, and other service facilities, elevated at or above a level equal to the base flood elevation plus one foot of freeboard; or they shall be designed and installed to prevent water from entering or accumulating within the components to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during the occurrence of flooding to the base flood elevation plus one foot of freeboard ~~that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding~~.

Napa County Code 16.04.710(C) - Manufactured homes.

> All manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within numbered Zones A, A1-30, AO, AH, AE, V1-30, V, and VE as designated on the FIRM that are not subject to the provisions of subsection (A) of Section 16.04.710 will be elevated so that either:
>
> 1. The lowest floor of the manufactured home is at or above a level equal to the base flood elevation plus one foot of freeboard; or
>
> 2. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six inches in height above grade and be ~~at or above a level equal to the base flood elevation plus one foot of freeboard, and~~ securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement in accordance with Section 16.40.700.

Napa County Code 16.04.720 - Residential construction.

> New residential construction, and any substantial improvement and/or repairs of substantial damage to existing residential buildings and structures, ~~substantially improved or substantially damaged residential structure,~~ within a special flood hazard area, shall have the lowest floor, including basement, elevated to or above a level equal to the base flood elevation plus one foot of freeboard. The floodplain administrator shall be provided the elevation relative to MSL of the lowest floor, including basement, certified by a registered professional engineer or surveyor on FEMA form 81-31 prior to issuance of a certificate of occupancy.

CEO Recommendation: Approve

Additions are underlined.
Deletions are ~~struck through.~~
Revision markers are noted in left or right margins as vertical lines.

ORDINANCE NO. _____

AN ORDINANCE OF THE NAPA COUNTY BOARD OF SUPERVISORS, STATE OF CALIFORNIA, AMENDING SECTIONS 16.04.690 (CONSTRUCTION MATERIALS AND METHODS), 16.04.710 (MANUFACTURED HOMES) AND 16.04.720 (RESIDENTIAL CONSTRUCTION) TO CHAPTER 16.04 (FLOODPLAIN MANAGEMENT) OF TITLE 16 (ENVIRONMENT) OF THE NAPA COUNTY CODE

WHEREAS, in January 1980, the Board of Supervisors (Board) adopted the original Floodplain Management Ordinance (Chapter 16.04 of the Napa County Code)(the Ordinance), which began Napa County's participation in the National Flood Insurance Program (NFIP); and

WHEREAS, since then the Ordinance has been amended ten (10) times. The most recent change to the Ordinance occurred on June 07, 2016, to adopt the Flood Insurance Rate Maps issued by the Federal Emergency Management Agency (FEMA) and other revisions as requested by FEMA to maintain compliance with requirements of the NFIP; and

WHEREAS, Napa County was accepted into the NFIP Community Rating System (CRS) in May of 2018, and has completed subsequent re-certification for each of the following years. The CRS is a voluntary program that provides flood insurance premium discounts to communities that implement programs and measures that exceed the minimum floodplain management requirements of the NFIP. The CRS program determines discounts

based on credit points provided for floodplain management activities in participating communities. To achieve certain CRS class ratings, communities must meet certain program prerequisites in addition to obtaining the credit points. Napa County currently has a CRS class rating of 7, providing residents purchasing or renewing their flood insurance policies for properties in a Special Flood Hazard Area (SFHA) within unincorporated Napa County with a 15% discount on their flood insurance premium; and

WHEREAS, periodic review and updates to the County's Ordinance is required to re-verify all credits and prerequisites to maintain the current CRS classification; and

WHEREAS, in January 2021, FEMA began implementing an Addendum to the CRS Coordinator's Manual for all new and participating communities such as Napa County; and

WHEREAS, Napa County's ordinance must demonstrate conformity to FEMA's amended Class 8 prerequisites. The new Class 8 prerequisites require communities to adopt and enforce at least a one-foot freeboard requirement (including equipment or mechanical items) for all residential building constructed, substantially improved, and/or reconstructed due to substantial damage, throughout its SFHA where base flood elevations or depths have been determined. The freeboard requirement is aimed at lowering risk of flood damage in a community and helping residents realize the reduced flood insurance premiums brought about by higher building elevations; and

WHEREAS, although the current code interpretation and existing practice in Napa County is to enforce the one-foot freeboard requirement, Napa County's CRS coordinator has provided revised language consistent with Addendum to the CRS Coordinator's

Manual. In order to ensure the new Class 8 prerequisites are satisfied Napa County's Floodplain Administer recommends the amendments to the Ordinance set forth below; and

WHEREAS, prior to the consideration and adoption of this Ordinance, the noticing requirements were complied with.

The Napa County Board of Supervisors, State of California, ordains as follows:

SECTION 1. Section 16.04.690 (Construction materials and methods.) of Chapter 16.04 (Floodplain Management) of the Napa County Code is amended to read in full as follows:

16.04.690 Construction materials and methods.

A. All applicable standards of Title 44 of the U.S. Code of Federal Regulations at Section 60.3, the State and county building codes and this chapter must be met for any structure in a flood hazard area. The most restrictive regulation shall apply.

B. All new construction and substantial improvements shall be constructed with materials that are resistant to flood damage.

C. All new construction and substantial improvements shall be constructed using methods and practices that minimize the potential for and impact of flood damage.

D. All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment, and other service facilities, ~~that are designed and/or located so as to prevent water from entering or cumulating within the components during conditions of flooding~~ elevated at or above a level equal to the base flood elevation plus one foot of freeboard; or they shall be designed and installed to prevent water from accumulating within the components to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during the occurrence of flooding to the base flood elevation plus one foot of freeboard.

E. All new and replacement water supply systems shall be designed to minimize or eliminate the potential for infiltration of floodwater into the system.

F. New and replacement sanitary sewage systems shall be designed to minimize or eliminate the potential for infiltration of floodwaters into the systems and for the discharge from the systems into floodwaters.

G. On-site waste disposal systems shall be located so as to avoid the potential for their impairment, or their causing contamination during flooding.

SECTION 2. Section 16.04.710 (Manufactured homes.) of Chapter 16.04 (Floodplain Management) of the Napa County Code is amended to read in full as follows:

16.04.710 Manufactured homes.

A. All manufactured homes that are placed or substantially improved, with Zones A, A1-30, AO, AH, and AE as designated on the FIRM, on sites located:

1. Outside of a manufactured home park or subdivision;

2. In a new manufactured home park or subdivision;

3. In an expansion to an existing manufactured home park or subdivision; or

4. In an existing manufactured home park or subdivision on a site upon which a manufactured home has incurred "substantial damage" as the result of a flood, shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above a level equal to the base flood elevation plus one foot of freeboard and be securely anchored to an adequately anchored foundation system to resist flotation collapse and lateral movement in accordance with Section 16.04.700.

B. All manufactured homes that are placed or substantially improved on sites located within Zones V1-30, V, and VE as designated on the FIRM will meet the requirements of subsection (A) of Section 16.04.710.

C. All manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A, A1-30, AO, AH, AE, V1-30, V, and VE as designated on the FIRM that are not subject to the provisions of subsection (A) of Section 16.04.710 will be elevated so that either:

1. The lowest floor of the manufactured home is at or above a level equal to the base flood elevation plus one foot of freeboard; or

2. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are ~~no less than thirty six inches in height above grade~~ at or above a level equal to the base flood elevation plus one foot of freeboard, and ~~be~~ securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement in accordance with Section 16.40.700.

SECTION 3. Section 16.04.720 (Residential construction.) of Chapter 16.04 (Floodplain Management) of the Napa County Code is amended to read in full as follows:

16.04.720 Residential construction.

New residential construction, and ~~subsequent improvement of any residential structures~~ any substantial improvement and/or repairs of substantial damage to existing residential buildings and structures, within a special flood hazard area, shall have the lowest floor, including basement, elevated to or above a level equal to the base flood elevation plus one foot of freeboard. The floodplain administrator shall be provided the elevation relative to MSL of the lowest floor, including basement, certified by a registered professional engineer or surveyor on FEMA form 81-31 prior to issuance of a certificate of occupancy.

SECTION 4. As further set forth in the staff report accompanying this Ordinance, the Board of Supervisors finds that adoption of this Ordinance is exempt from the provisions of the CEQA pursuant to the General Rule in that it can be seen with certainty that there is no possibility the proposed action may have a significant effect on the environment and therefore

CEQA is not applicable. [See Guidelines For the Implementation of the CEQA 14 CCR 15061(b)(3)].

SECTION 5. If any section, subsection, sentence, clause, phrase or word of this Ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The Napa County Board of Supervisors hereby declares it would have passed and adopted this Ordinance and each and all provisions hereof irrespective of the fact that any one or more of said provisions be declared invalid.

SECTION 6. This Ordinance shall be effective thirty (30) days from and after the date of its passage.

SECTION 7. A summary of this Ordinance shall be published at least once five (5) days before adoption and at least once before the expiration of fifteen (15) days after its passage in the Napa Valley Register, a newspaper of general circulation published in Napa County, together with the names of members voting for and against the same.

The foregoing Ordinance was introduced and read at a regular meeting of the Napa County Board of Supervisors, State of California, held on the 5th day of April,

[THIS SPACE INTENTIONALLY LEFT BLANK]

2022, and passed at a regular meeting of the Napa County Board of Supervisors, State of California, held on the ____ day of _____, 2022, by the following vote:

AYES: SUPERVISORS _____

_____

NOES: SUPERVISORS _____

ABSTAIN: SUPERVISORS _____

ABSENT: SUPERVISORS _____

NAPA COUNTY, a political subdivision of the State of California

_____
RYAN GREGORY, Chair of the
Board of Supervisors

APPROVED AS TO FORM Office of County Counsel	APPROVED BY THE NAPA COUNTY BOARD OF SUPERVISORS	ATTEST: NEHA HOSKINS Clerk of the Board of Supervisors
By: *Laura J. Anderson (e-sign)* Deputy County Counsel By: *Meredith Trueblood (e-sign)* Code Services Date: April 6, 2022	Date: _____ Processed By: _____ Deputy Clerk of the Board	By: _____

I HEREBY CERTIFY THAT THE ORDINANCE ABOVE WAS POSTED IN THE OFFICE OF THE CLERK OF THE BOARD IN THE ADMINISTRATIVE BUILDING, 1195 THIRD STREET ROOM 310, NAPA, CALIFORNIA ON _____.

_____, DEPUTY
NEHA HOSKINS, CLERK OF THE BOARD

ORDINANCE NO. _____

AN ORDINANCE OF THE NAPA COUNTY BOARD OF SUPERVISORS, STATE OF CALIFORNIA, AMENDING SECTIONS 16.04.690 (CONSTRUCTION MATERIALS AND METHODS), 16.04.710 (MANUFACTURED HOMES) AND 16.04.720 (RESIDENTIAL CONSTRUCTION) TO CHAPTER 16.04 (FLOODPLAIN MANAGEMENT) OF TITLE 16 (ENVIRONMENT) OF THE NAPA COUNTY CODE

WHEREAS, in January 1980, the Board of Supervisors (Board) adopted the original Floodplain Management Ordinance (Chapter 16.04 of the Napa County Code)(the Ordinance), which began Napa County's participation in the National Flood Insurance Program (NFIP); and

WHEREAS, since then the Ordinance has been amended ten (10) times. The most recent change to the Ordinance occurred on June 07, 2016, to adopt the Flood Insurance Rate Maps issued by the Federal Emergency Management Agency (FEMA) and other revisions as requested by FEMA to maintain compliance with requirements of the NFIP; and

WHEREAS, Napa County was accepted into the NFIP Community Rating System (CRS) in May of 2018, and has completed subsequent re-certification for each of the following years. The CRS is a voluntary program that provides flood insurance premium discounts to communities that implement programs and measures that exceed the minimum floodplain management requirements of the NFIP. The CRS program determines discounts

based on credit points provided for floodplain management activities in participating communities. To achieve certain CRS class ratings, communities must meet certain program prerequisites in addition to obtaining the credit points. Napa County currently has a CRS class rating of 7, providing residents purchasing or renewing their flood insurance policies for properties in a Special Flood Hazard Area (SFHA) within unincorporated Napa County with a 15% discount on their flood insurance premium; and

WHEREAS, periodic review and updates to the County's Ordinance is required to re-verify all credits and prerequisites to maintain the current CRS classification; and

WHEREAS, in January 2021, FEMA began implementing an Addendum to the CRS Coordinator's Manual for all new and participating communities such as Napa County; and

WHEREAS, Napa County's ordinance must demonstrate conformity to FEMA's amended Class 8 prerequisites. The new Class 8 prerequisites require communities to adopt and enforce at least a one-foot freeboard requirement (including equipment or mechanical items) for all residential building constructed, substantially improved, and/or reconstructed due to substantial damage, throughout its SFHA where base flood elevations or depths have been determined. The freeboard requirement is aimed at lowering risk of flood damage in a community and helping residents realize the reduced flood insurance premiums brought about by higher building elevations; and

WHEREAS, although the current code interpretation and existing practice in Napa County is to enforce the one-foot freeboard requirement, Napa County's CRS coordinator has provided revised language consistent with Addendum to the CRS Coordinator's

Manual. In order to ensure the new Class 8 prerequisites are satisfied Napa County's Floodplain Administer recommends the amendments to the Ordinance set forth below; and

WHEREAS, prior to the consideration and adoption of this Ordinance, the noticing requirements were complied with.

The Napa County Board of Supervisors, State of California, ordains as follows:

SECTION 1. Section 16.04.690 (Construction materials and methods.) of Chapter 16.04 (Floodplain Management) of the Napa County Code is amended to read in full as follows:

16.04.690 Construction materials and methods.

A. All applicable standards of Title 44 of the U.S. Code of Federal Regulations at Section 60.3, the State and county building codes and this chapter must be met for any structure in a flood hazard area. The most restrictive regulation shall apply.

B. All new construction and substantial improvements shall be constructed with materials that are resistant to flood damage.

C. All new construction and substantial improvements shall be constructed using methods and practices that minimize the potential for and impact of flood damage.

D. All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment, and other service facilities, elevated at or above a level equal to the base flood elevation plus one foot of freeboard; or they shall be designed and installed to prevent water from accumulating within the components to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during the occurrence of flooding to the base flood elevation plus one foot of freeboard.

E. All new and replacement water supply systems shall be designed to minimize or eliminate the potential for infiltration of floodwater into the system.

F. New and replacement sanitary sewage systems shall be designed to minimize or eliminate the potential for infiltration of floodwaters into the systems and for the discharge from the systems into floodwaters.

G. On-site waste disposal systems shall be located so as to avoid the potential for their impairment, or their causing contamination during flooding.

SECTION 2. Section 16.04.710 (Manufactured homes.) of Chapter 16.04 (Floodplain Management) of the Napa County Code is amended to read in full as follows:

16.04.710 Manufactured homes.

A. All manufactured homes that are placed or substantially improved, with Zones A, A1-30, AO, AH, and AE as designated on the FIRM, on sites located:

1. Outside of a manufactured home park or subdivision;
2. In a new manufactured home park or subdivision;

3. In an expansion to an existing manufactured home park or subdivision; or

4. In an existing manufactured home park or subdivision on a site upon which a manufactured home has incurred "substantial damage" as the result of a flood, shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above a level equal to the base flood elevation plus one foot of freeboard and be securely anchored to an adequately anchored foundation system to resist flotation collapse and lateral movement in accordance with Section 16.04.700.

B. All manufactured homes that are placed or substantially improved on sites located within Zones V1-30, V, and VE as designated on the FIRM will meet the requirements of subsection (A) of Section 16.04.710.

C. All manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A, A1-30, AO, AH, AE, V1-30, V, and VE as designated on the FIRM that are not subject to the provisions of subsection (A) of Section 16.04.710 will be elevated so that either:

1. The lowest floor of the manufactured home is at or above a level equal to the base flood elevation plus one foot of freeboard; or

2. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are at or above a level equal to the base flood elevation plus one foot of freeboard, and securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement in accordance with Section 16.40.700.

SECTION 3. Section 16.04.720 (Residential construction.) of Chapter 16.04 (Floodplain Management) of the Napa County Code is amended to read in full as follows:

16.04.720 Residential construction.

New residential construction, and any substantial improvement and/or repairs of substantial damage to existing residential buildings and structures, within a special flood hazard area, shall have the lowest floor, including basement, elevated to or above a level equal to the base flood elevation plus one foot of freeboard. The floodplain administrator shall be provided the elevation relative to MSL of the lowest floor, including basement, certified by a registered professional engineer or surveyor on FEMA form 81-31 prior to issuance of a certificate of occupancy.

SECTION 4. As further set forth in the staff report accompanying this Ordinance, the Board of Supervisors finds that adoption of this Ordinance is exempt from the provisions of the CEQA pursuant to the General Rule in that it can be seen with certainty that there is no possibility the proposed action may have a significant effect on the environment and therefore CEQA is not applicable. [See Guidelines For the Implementation of the CEQA 14 CCR 15061(b)(3)].

SECTION 5. If any section, subsection, sentence, clause, phrase or word of this Ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The Napa County Board of Supervisors hereby declares it would have passed and adopted this Ordinance and each and all provisions hereof irrespective of the fact that any one or more of said provisions be declared invalid.

SECTION 6. This Ordinance shall be effective thirty (30) days from and after the date of its passage.

SECTION 7. A summary of this Ordinance shall be published at least once five (5) days before adoption and at least once before the expiration of fifteen (15) days after its passage in the Napa Valley Register, a newspaper of general circulation published in Napa County, together with the names of members voting for and against the same.

The foregoing Ordinance was introduced and read at a regular meeting of the Napa County Board of Supervisors, State of California, held on the 5th day of April,

[THIS SPACE INTENTIONALLY LEFT BLANK]

2022, and passed at a regular meeting of the Napa County Board of Supervisors, State of California, held on the ____ day of _____, 2022, by the following vote:

AYES: SUPERVISORS _____

_____

NOES: SUPERVISORS _____

ABSTAIN: SUPERVISORS _____

ABSENT: SUPERVISORS _____

NAPA COUNTY, a political subdivision of the State of California

_____
RYAN GREGORY, Chair of the
Board of Supervisors

APPROVED AS TO FORM Office of County Counsel	APPROVED BY THE NAPA COUNTY BOARD OF SUPERVISORS	ATTEST: NEHA HOSKINS Clerk of the Board of Supervisors
By: *Laura J. Anderson (e-sign)* Deputy County Counsel By: *Meredith Trueblood (e-sign)* Code Services Date: April 6, 2022	Date: _____ Processed By: _____ Deputy Clerk of the Board	By: _____

I HEREBY CERTIFY THAT THE ORDINANCE ABOVE WAS POSTED IN THE OFFICE OF THE CLERK OF THE BOARD IN THE ADMINISTRATIVE BUILDING, 1195 THIRD STREET ROOM 310, NAPA, CALIFORNIA ON _____.

_____, DEPUTY
NEHA HOSKINS, CLERK OF THE BOARD

Napa County

Board Agenda Letter

Board of Supervisors	**Agenda Date:** 4/19/2022	**File ID #:** 22-687

TO: Board of Supervisors

FROM: Minh C. Tran, County Executive Officer

REPORT BY: Stephen J. Stangland, Public Works Superintendent, for Steven Lederer Public Works Director

SUBJECT: Capital Asset Purchases - HP L365 Printer, Flatbed Application Table

RECOMMENDATION

Director of Emergency Services and Public Works Director request the following Budget Adjustments to purchase an HP L365 Printer and a Flatbed Applicant Table for a total cost of $35,505 partially offset by the 2019 Homeland Security Grant Program (4/5 vote required):

1. Increasing capital assets appropriations in the Emergency Services Grants budget (Fund 1000, Org 1024005) with offsetting revenues from Roads Operations (Fund 2040, Org 2040000) by $5,525 and also by decreasing other objects within its own budget by $14,431 and establishment of capital asset in the amount of $19,956 in Org 1024005 for the purchase of an HP L365 Printer and associated items; and
2. Increasing capital assets appropriations in the Roads Operations budget by $15,549 with the use of its available fund balance and establishment of capital asset in the amount of $15,549 in Org 2040000 for the purchase of a CWT 1428 Flatbed application table and associated items.

EXECUTIVE SUMMARY

The Board previously approved acceptance of the federally funded FY19 Homeland Security Grant Program (HSGP) for the period of September 1, 2019- May 31, 2022. This item allows use of some of those funds, combined with Roads Department funding, for the purchase of an HP L365 Printer and CWT Flatbed application table to be utilized by the Roads Division. These units can be used for quickly printing signs in an emergency situation to facilitate public communication and signing of hazardous areas or evacuation routes.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	No
Where is it budgeted?	This amount will come from Emergency Services Grants and the remaining balance will come from the Roads Operations budget. The Roads fund balance is sufficient to cover these costs.
Is it Mandatory or Discretionary?	Discretionary
Discretionary Justification:	The purchase of the HP L365 Printer will strengthen the County's response to local disasters by providing signage appropriate for any defined disaster. The ease of use and availability of the printer will aid the Roads Division in providing necessary disaster response items to the Office of Emergency Services.
Is the general fund affected?	No
Future fiscal impact:	None.
Consequences if not approved:	If not approved, then we will de-obligate the grant money and return to Cal OES.
County Strategic Plan pillar addressed:	Healthy, Safe, and Welcoming Place to Live, Work, and Visit

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.

BACKGROUND AND DISCUSSION

The Board previously approved acceptance of the federally funded FY19 Homeland Security Grant Program (HSGP) for the period of September 1, 2019- May 31, 2022.

As required in the Cal OES FY2019 HSGP grant guidance, the proposed expenditure plan was developed in consultation with the Approval Authority Body ("Gang of 5") composed of the Napa County Sheriff, the County Public Health Officer, the Napa County Fire Chief, the City of Napa Fire Chief, and the City of Napa Police Chief. The plan included $7,907 from minor equipment/small tools and $6,524 from Grant Management and Support. To date a project balance of $14,431 remains. The Office of Emergency Services proposes using the remaining balance of $14,431 to purchase an HP L365 printer to be housed with the Roads Department. This printer will assist the Roads Department in helping the Office of Emergency Services print signs during natural disasters in Napa County. Having the availability to print signage that has language to support current disasters in Napa County is a valuable asset to the overall goal in Homeland Security Grants Program to building resilient communities, which is part of FEMA's National Preparedness Goals.

In addition, this printer will assist the Road Division in making all different sizes, types and multicolored signs as well as Napa County logos for vehicles and other applications. This printer and associated hardware will give the Road Division sign shop the ability to make signs efficiently in emergency and non-emergency

situations for OES, Sheriff's Office, Building Maintenance and for other departments that the Road Department currently does not have the capability to do. Having the capability to perform this service will save hundreds of dollars per sign as well as cut the waiting time that a private shop would require to produce a sign. Utilizing this printer will increase the efficiency and give the Road Division the flexibility of making signs that the Road Division currently does not have the ability to do, saving staff time across multiple departments.

Napa County

Board Agenda Letter

Board of Supervisors	**Agenda Date:** 4/19/2022	**File ID #:** 22-704

TO: Board of Supervisors

FROM: Minh C. Tran - County Executive Officer

REPORT BY: Neha Hoskins - Clerk of the Board

SUBJECT: Reappointments to the Napa County Winegrape Pest and Disease Control District

RECOMMENDATION

County Executive Officer requests the reappointments of Larry Bettinelli, Christopher Hyde, and David Ilsley to the Napa County Winegrape Pest and Disease Control District Board of Directors representing Napa County Vineyards with the terms of office to commence immediately and expire March 26, 2025.

EXECUTIVE SUMMARY

There are currently three openings on the Napa County Winegrape Pest and Disease Control District Board of Directors due to expiring terms. The County Executive Office advertised the vacancies and received three reappointment applications from Larry Bettinelli, Christopher Hyde, and David Ilsley.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact? No
County Strategic Plan pillar addressed: Effective and Open Government

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.

BACKGROUND AND DISCUSSION

On January 2, 2002, the Napa County Winegrape Pest and Disease Control District Law (Food and Agricultural

Code sections 6292 et seq.) was enacted. The purpose of this law is to make available a procedure for creating the Napa County Winegrape Pest and Disease Control District to assist in the funding of inspection, detection, prevention, and education of Pierce's Disease as stated in the Napa County Glassy-Winged Sharpshooter Work Plan, as approved by the California Department of Food and Agriculture, and accepted by the Napa County Board of Supervisors, to prevent the spread of Pierce's Disease by the glassy-winged sharpshooter.

On February 19, 2002, the Napa County Board of Supervisors adopted Resolution No. 02-26 establishing the Napa County Winegrape Pest and Disease Control District.

In 2006, Napa County growers voted to expand the scope of the District to include programs to detect and control a recent introduction into Napa County, the Vine Mealy bug. The District collects annual assessments of $5.60 per acre for both Glassy-Winged Sharpshooter and Vine Mealy bug control programs.

The District is administered by a five (5) member Board of Directors. Applicants must meet the following qualifications to serve on the District Board:

a. They must be a citizen of the United States and resident of California;

b. They must own lands included in the District devoted, in whole or in part, to the growing of winegrapes; and

c. They must have demonstrated an interest in the control of winegrape pests and diseases.

Staff requests the reappointments of Larry Bettinelli, Christopher Hyde, and David Ilsley to represent Napa County Vineyards on the Napa County Winegrape Pest and Disease Control District Board of Directors.

A Tradition of Stewardship
A Commitment to Service

County Executive Office

1195 Third Street, Suite 310
Napa, CA 94559
www.countyofnapa.org

Main: (707) 253-4421
Fax: (707) 253-4176

Minh C. Tran
County Executive Officer

March 2, 2022

Larry Bettinelli
[redacted]

Re: Napa County Winegrape Pest & Disease Control District

Dear Larry:

You have been a valued member of the **Napa County Winegrape Pest & Disease Control District**. The term of your position will be expiring on March 26, 2022. If you wish to request reappointment for another three-year term, please check the box below:

☒ Yes, I would like my name, this reappointment request letter and application forwarded to the Board of Supervisors requesting reappointment to the **Napa County Winegrape Pest & Disease Control District** for a three-year term.

==========

If you have chosen to request reappointment, please check **one** of the two boxes below regarding your last application.

☒ I confirm that all the information on my last application is current.

☐ Some of the information on my last application is no longer current or is five (5) years old or older. I will submit a new or revised application.

(To complete a new application form either contact the Napa County Executive Office or go to the following link to complete your application online:

https://www.countyofnapa.org/1420/Committees-Commissions

After checking the appropriate box, sign and date on the lines below and return this letter to the County Executive Office by mail, email, or fax.

Larry Bettinelli
SIGNATURE

Mar 15, 2022
DATE

Print

Application for Appointment to Board, Commission, Committee, Task Force or Position - Submission #835

Date Submitted: 4/10/2019

Applicants appointed by the Board of Supervisors will be required to take an oath of office. All applications will be kept on file for one year from the date of application.

Public Records Act

Applications are public records that are subject to disclosure under the California Public Records Act. Information provided by the applicant is not regarded as confidential except for the addresses and phone numbers of references and the applicant's personal information including home and work addresses, phone numbers and email address.

Form 700 Conflict of Interest Code

California Fair Political Practices Website

Please note that appointees may be required by state law and county conflict of interest code to file financial disclosure statements.

Application for Appointment to:

Napa County Winegrape Pest and Disease Control District Board of Directors

Name of Board, Commission, Committee, Task Force or Position.

Category of Membership for Which You Are Applying*

Representing Napa County Vineyards

This information can be found on the news release announcing the opening. You may apply for more than one category if more than one position is open.

Personal Information

The following information is provided in confidence, but may be used by the Board of Supervisors when making the appointment, or be used by the Committee/Commission/Board/Task Force following appointment for purposes of communicating with the appointee.

Full Name*

Larry Albert Bettinelli

Supervisorial District in Which You Reside*

district 3

Home Address*

[redacted]

City*

[redacted]

State*

CA

Zip*

[redacted]

Phone*

[redacted]

Email Address*

[redacted]

Work Address*

[redacted]

City*

[redacted]

State*

Calif

Zip*

[redacted]

Work Phone*

[redacted]

Current Occupation*

Farmer

Within the last 12 months

Current License

Qualified Applicators licnese Jan 1 2019-Dec 31 2020

Professional or occupational, date of issue, and expiration including status

Education/Experience

BS Agriculture Cal Poly

Resume

Browse...

Attach a resume containing this and any other information that would be helpful to the Board in evaluating your application.

Community Participation

Grape growers Issues Committee Chair presently on the NCDPCD as a director

Nature of activity and community location

Other County Board/Commission/Committee on Which You Serve/Have Served

Public Actions that may impact Credit Rating

none

List all court or other public administration actions impacting your credit rating within the past ten (10) years.

Provide names, addresses and phone numbers of 3 individuals who are familiar with your background.

Reference 1

Name*

Larry Albert Bettinelli

Phone*

[redacted]

Address*

[redacted]

City* **State*** **Zip***

[redacted] California [redacted]

Reference 2

Name* **Phone***

Paul Goldberg [redacted]

Address*

[redacted]

City* **State*** **Zip***

[redacted] ca [redacted]

Reference 3

Name* **Phone***

Paul Garvey [redacted]

Address*

[redacted]

City* [redacted]

State* Ca

Zip* [redacted]

Name and occupation of spouse within the last 12 months, if married.

House wife

For Conflict of Interest purposes

Please explain your reasons for wishing to serve and, in your opinion, how you feel you could contribute.*

Continue to give positive direction to our Disease and Pest control District

Responded

☐ Yes

Completed

☐ Yes

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

☑ Yes

☐ No

Electronic Signature Agreement

By checking the "I agree" box below, you agree and acknowledge that 1) your application will not be signed in the sense of a traditional paper document, 2) by signing in this alternate manner, you authorize your electronic signature to be valid and binding upon you to the same force and effect as a handwritten signature, and 3) you may still be required to provide a traditional signature at a later date.

☑ I agree.

Electronic Signature

Larry Albert Bettinelli

Date

4/9/2019

4:15 PM

A Tradition of Stewardship
A Commitment to Service

County Executive Office

1195 Third Street, Suite 310
Napa, CA 94559
www.countyofnapa.org

Main: (707) 253-4421
Fax: (707) 253-4176

Minh C. Tran
County Executive Officer

February 1, 2022

Christopher Hyde
[redacted]

Re: Napa County Winegrape Pest & Disease Control District

Dear Christopher:

You have been a valued member of the **Napa County Winegrape Pest & Disease Control District**. The term of your position will be expiring on March 26, 2022. If you wish to request reappointment for another three-year term, please check the box below:

☑ Yes, I would like my name, this reappointment request letter and application forwarded to the Board of Supervisors requesting reappointment to the **Napa County Winegrape Pest & Disease Control District** for a three-year term.

==========

If you have chosen to request reappointment, please check **one** of the two boxes below regarding your last application.

☑ I confirm that all the information on my last application is current.

☐ Some of the information on my last application is no longer current or is five (5) years old or older. I will submit a new or revised application.

(To complete a new application form either contact the Napa County Executive Office or go to the following link to complete your application online:

https://www.countyofnapa.org/1420/Committees-Commissions

After checking the appropriate box, sign and date on the lines below and return this letter to the County Executive Office by mail, email, or fax **no later than 5:00 p.m. on March 20, 2020.**

SIGNATURE

2/2/2022
DATE

Print

Application for Appointment to Board, Commission, Committee, Task Force or Position - Submission #790

Date Submitted: 3/12/2019

Applicants appointed by the Board of Supervisors will be required to take an oath of office. All applications will be kept on file for one year from the date of application.

Public Records Act

Applications are public records that are subject to disclosure under the California Public Records Act. Information provided by the applicant is not regarded as confidential except for the addresses and phone numbers of references and the applicant's personal information including home and work addresses, phone numbers and email address.

Form 700 Conflict of Interest Code

California Fair Political Practices Website

Please note that appointees may be required by state law and county conflict of interest code to file financial disclosure statements.

Application for Appointment to:

Napa County Winegrape Pest and Disease Control District Board of Directors

Name of Board, Commission, Committee, Task Force or Position.

Category of Membership for Which You Are Applying*

Napa County Winegrape Pest and Disease Control District Board of Directors - Napa County Vineyards bf

This information can be found on the news release announcing the opening. You may apply for more than one category if more than one position is open.

Personal Information

The following information is provided in confidence, but may be used by the Board of Supervisors when making the appointment, or be used by the Committee/Commission/Board/Task Force following appointment for purposes of communicating with the appointee.

Full Name*

Christopher Hyde

Supervisorial District in Which You Reside*

[redacted] 1 bf

Home Address*

[redacted]y

City*

[redacted]

State*

CA

Zip*

[redacted]

Phone*

[redacted]

Email Address*

[redacted]

Work Address*

[redacted]

City*

[redacted]

State*

CA

Zip*

[redacted]

Work Phone*

[redacted]

Current Occupation*

Vineyard Manager

Within the last 12 months

Current License

PA-NAP-3708, Valid Through Dec 31, 2021

Professional or occupational, date of issue, and expiration including status

Education/Experience

B.S. Agricultural Business, Farm & Ranch Management, Cal Poly, San Luis Obispo -2009
E.M.B.A., Wine Business, Sonoma State University -2016

Resume

Christopher Hyde_Resume.docx

Attach a resume containing this and any other information that would be helpful to the Board in evaluating your application.

Community Participation

Volunteer at Napa Valley Language Academy Spanish English Immersion Charter School

Nature of activity and community location

Other County Board/Commission/Committee on Which You Serve/Have Served

Director, Napa County Farm Bureau 2016-Present

Public Actions that may impact Credit Rating

List all court or other public administration actions impacting your credit rating within the past ten (10) years.

Provide names, addresses and phone numbers of 3 individuals who are familiar with your background.

Reference 1

Name*

David Wilson

Phone*

[redacted]

Address*

[redacted]

City*

[redacted]

State*

CA

Zip*

[redacted]

Reference 2

Name*

Ryan Klobas

Phone*

[redacted]

Address*

[redacted]

City*

[redacted]

State*

CA

Zip*

[redacted]

Reference 3

Name*

James Hall

Phone*

[redacted]

Address*

[redacted]

City* [redacted]

State* CA

Zip* [redacted]

Name and occupation of spouse within the last 12 months, if married.

Shannon Walker Hyde, Estate Manager at Hyde Estate Winery

For Conflict of Interest purposes

Please explain your reasons for wishing to serve and, in your opinion, how you feel you could contribute.*

I have 20 years of viticultural experience along with education in the vineyard management and viticulture. I have attended pest district meetings for the past few years, and It is my desire to protect our 200+ acres of Napa vineyards from existing or new pests.

Responded

☐ Yes

Completed

☐ Yes

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

☑ Yes

☐ No

Electronic Signature Agreement

By checking the "I agree" box below, you agree and acknowledge that 1) your application will not be signed in the sense of a traditional paper document, 2) by signing in this alternate manner, you authorize your electronic signature to be valid and binding upon you to the same force and effect as a handwritten signature, and 3) you may still be required to provide a traditional signature at a later date.

☑ I agree.

Electronic Signature

Christopher Hyde

Date

3/12/2019

11:00 AM

Christopher J. Hyde

[redacted]

Professional Experience

- Wilson Daniels Co., Young's Market, St. Helena, CA Sales Intern, 2007
- Merryvale Vineyards LLC, Vineyard/Winery Intern, June - December 2010
- Hyde Vineyards, General Manager, 2011-Present
- HdeV Wines LLC, Director of Viticulture, 2012-Present
- Hyde Estate Winery, Managing Partner, 2013-Present
- Napa Farm Bureau, Director 2016-Present

Education & Credentials

- B.S., Agricultural Business, Farm and Ranch Management, California Polytechnic State University, San Luis Obispo, CA -2009
- E.M.B.A., Sonoma State University, Wine Business -2016

Study Abroad

- Universidad de Salamanca, Studies in Spanish written and oral language –Summer 2003
- Universidad de Valladolid, Spanish culture and language –Summer 2004

Languages

- Fluent in Polish
- Fluent in Spanish

References

Ryan Klobas (CEO, Napa Farm Bureau)..... [redacted]

David Wilson (Pahlmeyer Vineyards, Vineyard Manager)..... [redacted]

James Hall (Winemaker, Founder, Patz & Hall)..... [redacted]

Charles W. Fairbanks V (Senior DTC Manager, Jackson Family Wines)..... [redacted]

County Executive Office

1195 Third Street, Suite 310
Napa, CA 94559
www.countyofnapa.org

Main: (707) 253-4421
Fax: (707) 253-4176

Minh C. Tran
County Executive Officer

A Tradition of Stewardship
A Commitment to Service

March 2, 2022

David Ilsley
[redacted]

Re: Napa County Winegrape Pest & Disease Control District

Dear David:

You have been a valued member of the **Napa County Winegrape Pest & Disease Control District.** The term of your position will be expiring on March 26, 2022. If you wish to request reappointment for another three-year term, please check the box below:

☒ Yes, I would like my name, this reappointment request letter and application forwarded to the Board of Supervisors requesting reappointment to the **Napa County Winegrape Pest & Disease Control District** for a three-year term.

If you have chosen to request reappointment, please check one of the two boxes below regarding your last application.

☒ I confirm that all the information on my last application is current.

☐ Some of the information on my last application is no longer current or is five (5) years old or older. I will submit a new or revised application.

(To complete a new application form either contact the Napa County Executive Office or go to the following link to complete your application online:

https://www.countyofnapa.org/1420/Committees-Commissions

After checking the appropriate box, sign and date on the lines below and return this letter to the County Executive Office by mail, email, or fax.

SIGNATURE

3-3-22
DATE

Print

Application for Appointment to Board, Commission, Committee, Task Force or Position - Submission #792

Date Submitted: 3/12/2019

Applicants appointed by the Board of Supervisors will be required to take an oath of office. All applications will be kept on file for one year from the date of application.

Public Records Act

Applications are public records that are subject to disclosure under the California Public Records Act. Information provided by the applicant is not regarded as confidential except for the addresses and phone numbers of references and the applicant's personal information including home and work addresses, phone numbers and email address.

Form 700 Conflict of Interest Code

California Fair Political Practices Website

Please note that appointees may be required by state law and county conflict of interest code to file financial disclosure statements.

Application for Appointment to:

Napa County Winegrape Pest & Disease Control Board

Name of Board, Commission, Committee, Task Force or Position.

Category of Membership for Which You Are Applying*

[redacted] Napa County Vineyards bf

This information can be found on the news release announcing the opening. You may apply for more than one category if more than one position is open.

Personal Information

The following information is provided in confidence, but may be used by the Board of Supervisors when making the appointment, or be used by the Committee/Commission/Board/Task Force following appointment for purposes of communicating with the appointee.

Full Name*

David Ilsley

Supervisorial District in Which You Reside*

District 4

Home Address*

[redacted]

City*

[redacted]

State*

CA

Zip*

[redacted]

Phone*

[redacted]

Email Address*

[redacted]

Work Address*

[redacted]

City*

[redacted]

State*

CA

Zip*

[redacted]

Work Phone*

[redacted]

Current Occupation*

Director of Vineyards

Within the last 12 months

Current License

Professional or occupational, date of issue, and expiration including status

Education/Experience

Resume

Browse...

Attach a resume containing this and any other information that would be helpful to the Board in evaluating your application.

Community Participation

Nature of activity and community location

Other County Board/Commission/Committee on Which You Serve/Have Served

Public Actions that may impact Credit Rating

List all court or other public administration actions impacting your credit rating within the past ten (10) years.

Provide names, addresses and phone numbers of 3 individuals who are familiar with your background.

Reference 1

Name*

Doug Shafer

Phone*

[redacted]

Address*

[redacted]

City*

[redacted]

State*

CA

Zip*

[redacted]

.....

Reference 2

Name*

[redacted] Johnny White bf

Phone*

[redacted]

Address*

[redacted]

City*

[redacted]

State*

CA

Zip*

[redacted]

.....

Reference 3

Name*

David Perata

Phone*

[redacted]

Address*

[redacted]

City* [redacted]

State* CA

Zip* [redacted]

Name and occupation of spouse within the last 12 months, if married.

For Conflict of Interest purposes

Please explain your reasons for wishing to serve and, in your opinion, how you feel you could contribute.*

As a 3rd generation Napa Valley grape grower, I can provide a voice for the family farmer.

Responded

☐ Yes

Completed

☐ Yes

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

☑ Yes

☐ No

Electronic Signature Agreement

By checking the "I agree" box below, you agree and acknowledge that 1) your application will not be signed in the sense of a traditional paper document, 2) by signing in this alternate manner, you authorize your electronic signature to be valid and binding upon you to the same force and effect as a handwritten signature, and 3) you may still be required to provide a traditional signature at a later date.

☑ I agree.

Electronic Signature

David Ilsley

Date

3/12/2019

3:15 PM

Napa County

Board Agenda Letter

Board of Supervisors	**Agenda Date:** 4/19/2022	**File ID #:** 22-756

TO: Board of Supervisors

FROM: Jason Martin, Fire Chief

REPORT BY: Stacie McCambridge, Staff Services Manager

SUBJECT: Approval of Budget Transfer for Purchase of Rescue Extrication Tools

RECOMMENDATION

County Fire Chief requests approval of a Budget Transfer increasing appropriations in the Capital Asset account by $3,390 with an offsetting decrease to Special Department, Household and Office Supply accounts within the Fire Budget for the purchase of Board approved rescue tools. (4/5 vote required)

EXECUTIVE SUMMARY

County Fire is requesting a budget transfer to increase the Equipment account (55400) by $3,390 for an unforeseen rise in cost of Board approved hydraulic rescue tools. Today's action authorizes the Chair to approve a budget transfer to adjust multiple Fire Subdivisions to accommodate actual costs.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	Yes
Where is it budgeted?	County Fire Department
Is it Mandatory or Discretionary?	Discretionary
Discretionary Justification:	The current equipment has outlived its service life and will need routine repair. Tools may be placed out of order if parts cannot be found.
Is the general fund affected?	No
Future fiscal impact:	Normal maintenance costs. This cost will be included in the future Fire budget.
Consequences if not approved:	Purchase will not be completed. Tools may be placed out of order if parts cannot be found.
County Strategic Plan pillar addressed:	Healthy, Safe, and Welcoming Place to Live, Work, and Visit

Additional Information Click or tap here to enter text.

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.

BACKGROUND AND DISCUSSION

In June of 2021, the Board adopted the 21/22 fiscal year Fire budget, which included a fixed asset amount of $40,033 to purchase vehicle extrication tools replacing current extrication equipment that has outlived its service life and is need of replacement. Hydraulic rescue tools are used by emergency rescue personnel to assist in the extrication of individuals in vehicles accidents, as well as other rescues in small spaces. These tools include cutters, spreaders, and rams.

The original request submitted in March of 2021 totaled $40,033. Due to unforeseen rise in costs, the tools have now increased to $43,251, (difference of $3,390 which includes tools, tax, and shipping). County Fire is requesting approval of a Budget Transfer, which will increase appropriations in the Equipment accounts (55400) within the Fire Budget (Subdivisions 2100016, 2100021, 2100024, 2100038, and 2100027) decreasing expense accounts within the same Subdivisions with no net change to the Fire Fund.

Today's action authorizes the Chair to approve a budget transfer to adjust multiple Fire Subdivisions listed above to accommodate actual costs.

Napa County

Board Agenda Letter

Board of Supervisors	**Agenda Date:** 4/19/2022	**File ID #:** 22-736

TO: Board of Supervisors

FROM: Minh C. Tran, County Executive Officer

REPORT BY: Jennifer Palmer, Director of Housing & Homeless Services

SUBJECT: SB-2 Permanent Local Housing Allocation

RECOMMENDATION

Director of Housing and Homeless Services requests adoption of a Resolution rescinding and replacing Resolution 2020-159 authorizing application and execution of grant agreement documents for the Permanent Local Housing Allocation Program to update authorized signatories.

EXECUTIVE SUMMARY

SB 2 established the Building Homes and Jobs Trust Fund (Fund) and authorized the Department of Housing and Community Development to allocate 70 percent of monies collected and deposited in the Fund, beginning in calendar year 2019, to local governments for eligible housing and homelessness activities. The intent of the bill is to provide a permanent, on-going source of funding to local governments for housing-related projects and programs that assist in addressing the unmet housing needs of their local communities.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	No
Is it Mandatory or Discretionary?	Discretionary
Discretionary Justification:	There is no mandate to apply for these funds. However, the funds are available to Napa County to use to help meet affordable housing goals.
Is the general fund affected?	No
Future fiscal impact:	Appropriation will be budgeted accordingly in future fiscal years.
Consequences if not approved:	Napa County will not have access to allocated funds.
County Strategic Plan pillar addressed:	Healthy, Safe, and Welcoming Place to Live, Work, and Visit

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.

BACKGROUND AND DISCUSSION

SB 2 established the Building Homes and Jobs Trust Fund (Fund) and authorized the Department of Housing and Community Development to allocate 70 percent of monies collected and deposited in the Fund, beginning in calendar year 2019, to local governments for eligible housing and homelessness activities. The intent of the bill is to provide a permanent, on-going source of funding to local governments for housing-related projects and programs that assist in addressing the unmet housing needs of their local communities.

There are a variety of eligible activities the County may choose to utilize the funds for including capital acquisition and/or rehabilitation of affordable housing as well as assisting persons experiencing homelessness with rental assistance and supportive services. It is important to note that if the County invests in housing capital expenditures, constructions or loans on properties, these properties must be in the unincorporated area, whereas services and rental assistance may be provided in a scattered site model throughout the County.

The funding available in the NOFA is for a five-year period and is based on anticipated revenue. The County's five-year estimated funding amount is $859,334. This translates to approximately $172,000 for each year, which is comprised of $163,400 for activities and $8,600 for grant administration.

Application and Spending Plan

The County of Napa received approval for an application proposing to spend 100% of its annual activity allocation over a five-year period to meet the unmet need of having supportive case management services available to support the ongoing tenancy of clients placed in housing after exiting the homeless services system. As the administrative entity of the homeless services system, including permanent housing placement, the County annually receives and administers a substantial amount of rapid-rehousing rental assistance funds. Those funds do not generally come with long-term tenancy care services, including mental health support, to ensure clients assisted into housing received the support needed to successfully sustain their housing. Existing funding for housing tenancy sustaining services is limited to roughly 30 clients at any given time. With over 140 units for clients exiting homelessness set to come online within the next two years, these funds will help ensure long term success of our clients.

Today’s action updates the Resolution authorizing the Napa County Executive Officer or designee to execute the PLHA Standard Agreement and any subsequent amendments or modifications thereto, as well as any other documents which are related to the Program or the PLHA grant awarded to Applicant, as the Department may deem appropriate.

RESOLUTION NO.

RESOLUTION OF THE NAPA COUNTY BOARD OF SUPERVISORS, STATE OF CALIFORNIA, RESCINDING AND REPLACING RESOLUTION 2020-159 AUTHORIZING THE APPLICATION FOR THE PERMANENT LOCAL HOUSING ALLOCATION PROGRAM AND EXECUTION OF A GRANT AGREEMENT AND ANY AMENDMENTS THERETO FOR THE PERMANENT LOCAL HOUSING ALLOCATION PROGRAM

WHEREAS, the State of California (the "State"), Department of Housing and Community Development ("Department") is authorized to provide up to $195 million under the SB 2 Permanent Local Housing Allocation Program Formula Component from the Building Homes and Jobs Trust Fund for assistance to Cities and Counties (as described in Health and Safety Code section 50470 et seq. (Chapter 364, Statutes of 2017 (SB 2)).

WHEREAS, the Permanent Local Housing Allocation (PLHA) Program, the Department issued a re-opening of Notice of Funding Availability ("NOFA") dated 10/23/2020 under

WHEREAS, Napa County is an eligible Local government who has applied for program funds to administer one or more eligible activities, or a Local or Regional Housing Trust Fund to whom an eligible Local government delegated its PLHA formula allocation.

WHEREAS, the Department may approve funding allocations for PLHA Program, subject to the terms and conditions of the Guidelines, NOFA, Program requirements, the Standard Agreement and other contracts between the Department and PLHA grant recipients.

NOW THEREFORE BE IT RESOLVED THAT, by the Napa County Board of Supervisors as follows**:**

1. If Applicant (Napa County) receives a grant of PLHA funds from the Department pursuant to the above referenced PLHA NOFA, it represents and certifies that it will use all such funds in a manner consistent and in compliance with all applicable state and federal statutes, rules, regulations, and laws, including without limitation all rules and laws regarding the PLHA Program, as well as any and all contracts Applicant may have with the Department.
2. Applicant is hereby authorized and directed to receive a PLHA grant, in an amount not to exceed the five- year estimate of the PLHA formula allocations, as stated in Appendix C of the current NOFA $ 859,334 in accordance with all applicable rules and laws.
3. Applicant hereby agrees to use the PLHA funds for eligible activities as approved by the Department and in accordance with all Program requirements, Guidelines, other rules and laws, as well as in a manner consistent and in compliance with the Standard Agreement and other contracts between the Applicant and the Department.
4. Pursuant to section 302(c)(4) of the Guidelines, Applicant's PLHA Plan is attached to this Resolution, and Applicant certifies compliance with all public notice, comment, and hearing requirements in accordance with the Guidelines.

5. Applicant certifies that it has or will subgrant some or all of its PLHA funds to another entity or entities. Pursuant to Guidelines Section 302(c)(3), "entity" means a housing developer or program operator, but does not mean an administering Local Government to whom a Local Government may delegate its PLHA allocation.
6. Applicant certifies that its selection process of these subgrantees was or will be accessible to the public and avoided or shall avoid any conflicts of interest.
7. Pursuant to Applicant's certification in this Resolution, the PLHA funds will be expended only for eligible activities and consistent with all program requirements.
8. Applicant shall be subject to the terms and conditions as specified in the Standard Agreement, the PLHA Program Guidelines and any other applicable SB 2 Guidelines published by the Department.
9. If an application is approved, the Napa County Executive Officer or designee, is authorized to execute the PLHA Program Application, the PLHA Standard Agreement and any subsequent amendments or modifications thereto, as well as any other documents which are related to the Program or the PLHA grant awarded to Applicant, as the Department may deem appropriate.

THE FOREGOING RESOLUTION WAS DULY AND REGULARLY ADOPTED by the Board of Supervisors of the County of Napa, State of California, at a regular meeting of the Board held on the of April 19, 2022, by the following vote:

AYES: SUPERVISORS

NOES: SUPERVISORS

ABSTAIN: SUPERVISORS

ABSENT: SUPERVISORS

NAPA COUNTY, a political subdivision of the State of California

By:

RYAN GREGORY, Chair of the Board of Supervisors

APPROVED AS TO FORM Office of County Counsel By: S.Darbinian Date: March 29, 2022	APPROVED BY THE NAPA COUNTY BOARD OF SUPERVISORS Date: Processed By: _____ Deputy Clerk of the Board	ATTEST: NEHA HOSKINS Clerk of the Board of Supervisors By: _____

Napa County

Board Agenda Letter

Board of Supervisors	**Agenda Date:** 4/19/2022	**File ID #:** 22-737

TO: Board of Supervisors

FROM: Minh C. Tran, County Executive Officer

REPORT BY: Jennifer Palmer, Director of Housing & Homeless Services

SUBJECT: One-Time Housing Funds for Whole Person Care Pilots

RECOMMENDATION

Director of Housing and Homeless Services requests the following actions:

1. Adoption of a Resolution rescinding and replacing Resolution 2020-86 authorizing participation in the allocation of one-time housing funds for Whole Person Care Pilot programs as authorized by AB 74, Budget Act of 2019 to extend the time of reservation by one year.

2. Approval of a Budget Transfer increasing appropriations by $1,000,000 in Affordable Housing Projects (Fund 2080, Subdivision 2080010) offset by increase in revenue from a transfer from Deferred Revenue-Unearned for the financing of the Heritage House and Valle Verde Project Loan. (4/5 vote required)

EXECUTIVE SUMMARY

On June 23, 2020, the Board of Supervisors reserved $1 million in one-time Whole Person Care Funds for Housing for the Heritage House and Valle Verde projects. At that time, construction for the project was expected to commence in March 2021. Due to impacts from the pandemic, including cost increases requiring additional funding to be secured, project construction was delayed by 15-months. The project is now ready to proceed, requiring an extension for the reservation of funds as well as a related budget adjustment.

Today's action will (1) approve the adoption of the resolution rescinding and replacing Resolution 2020-86 authorizing participation in the allocation of one-time housing funds for Whole Person Care Pilot programs by extending the time of reservation and, (2) amend the existing budget appropriation authority by $1,000,000 in Affordable Housing Projects (Fund 2080, Subdivision 2080010).

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	No
Is it Mandatory or Discretionary?	Discretionary
Discretionary Justification:	Heritage House is a project that is qualified for One-Time Whole Person Care funds to provide housing for Med-Cal recipients.
Is the general fund affected?	No
Consequences if not approved:	If this item is not approved, Heritage House will not have the funding available to complete the project as planned.
County Strategic Plan pillar addressed:	Healthy, Safe, and Welcoming Place to Live, Work, and Visit

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.

BACKGROUND AND DISCUSSION

Whole Person Care One-Time Funds

On November 14, 2019, Napa County received $1,491,766.53 in One-Time Housing Funds for Whole Person Care Pilot Programs as authorized by AB 74, Budget Act of 2019. The purpose of these funds is to provide flexible State-only funding to create housing opportunities to Medi-Cal beneficiaries who are homeless, at risk of homelessness or are an at-risk population. The Board of Supervisors approved allocating these funds to two projects:

1. The rehabilitation of five apartment units on Jefferson Street owned by Catholic Charities. The five units were vacant at the time, and the unit's required rehabilitation for health, safety and accessibility requirements. The County worked with Catholic Charities to provide funding to bring the units online for the population Whole Person Care seeks to serve, in an amount not to exceed $491,766.53.

2. Long term loan of $1,000,000 to the Heritage House and Valley View projects to complete the financing of the project to cover the capital costs of constructing. Heritage House is the rehabilitation and conversion of the vacant Sunrise Living facility into 66 units of permanent supportive housing dedicated for homeless and very low-income individuals in the Napa community. The property is located adjacent to the Valle Verde project that is an affordable housing development of 24 units of multi-family apartments designated for low-income families. Residents will be referred to Heritage House through the County's coordinated entry system and be case managed through Abode Services. To ensure the success of every resident at Heritage House, wrap-around services, including mental health, drug and alcohol recovery, and self-sufficiency services, will be provided on a regular basis. Valle Verde will offer affordable units to qualifying households meeting certain income levels and residents will be selected through application and lottery system

Any unused funds will rollover to other project proposals.

Heritage House & Valle Verde Project

Heritage House is the rehabilitation and conversion of the vacant Sunrise Living facility into 66 units of

permanent supportive housing dedicated for homeless and very low-income individuals in the Napa community. The property is located adjacent to the Valle Verde project that is an affordable housing development of 24 units of multi-family apartments designated for low-income families. Residents will be referred to Heritage House through the County's coordinated entry system and be case managed through Abode Services. To ensure the success of every resident at Heritage House, wrap-around services, including mental health, drug and alcohol recovery, and self-sufficiency services, will be provided on a regular basis. Valle Verde will offer affordable units to qualifying households meeting certain income levels and residents will be selected through application and lottery system.

The County of Napa has three sources of funding in the Heritage House & Valle Verde Project. The first two sources were authorized by resolutions on January 29, 2019, reassigned a predevelopment loan in the amount of $1,317,985 from the Gasser Foundation to Burbank Housing Development Corporation for the development of 66 affordable housing units at Heritage House, and authorizing an application to the No Place Like Home program to ensure that 32 units at Heritage House would be set aside for permanent supportive housing for clients exiting the homeless services system. Since the original Heritage House project was contemplated, Burbank Housing Development Corporation combined the Heritage House project with the adjacent Valle Verde project, in order to compete for certain 9% Low Income Housing Tax Credits allocated to Napa County projects as a result of the 2017 wildfire disaster. The combination resulted in a total of 88 units of Affordable Housing between the two projects. The third source of funding is $1,000,000 in One-Time Housing Funds for Whole Person Care Pilot Programs to complete the financing of the project to cover the capital costs of constructing Heritage House & Valle Verde.

Today's item requests the Board of Supervisors approve the adoption of resolution rescinding and replacing Resolution 2020-86 authorizing participation in the allocation of one-time housing funds for Whole Person Care Pilot programs as authorized by AB 74, Budget Act of 2019 to extend the time of reservation by one year, and approve a budget transfer increasing appropriations by $1,000,000 in Affordable Housing Projects (Fund 2080, Subdivision 2080010) offset by increase in revenue from a transfer from Deferred Revenue-Unearned for the financing of the Heritage House and Valle Verde Project Loan.

RESOLUTION NO.

RESOLUTION OF THE BOARD OF SUPERVISORS OF NAPA COUNTY, STATE OF CALIFORNIA, REVISING AND REPLACING RESOLUTION 2020-86, RESERVING $1,000,000 FROM THE ONE-TIME WHOLE PERSON CARE HOUSING GRANT TO ASSIST IN THE CREATION OF 90 HOUSING UNITS AT HERITAGE HOUSE & VALLE VERDE APARTMENTS LOCATED AT 3700 AND 3710 VALLE VERDE DRIVE IN NAPA, CALIFORNIA.

WHEREAS, Napa County received One Million Four Hundred Ninety One Thousand Seven Hundred Sixty Six Dollars and Fifty Three Cents ($1,491,766.53) in One-Time Housing Funds for Whole Person Care Pilot Programs as authorized by AB 74, Budget Act of 2019; and

WHEREAS, the purpose of these funds is to provide flexible State-only funding to create housing opportunities to Medi-Cal beneficiaries who are homeless, at risk of homelessness or are an at-risk population; and

WHEREAS, on January 29, 2019, the Board of Supervisors adopted Resolution No. 2019-18, reassigning a predevelopment loan in the amount of $1,317,985 from the Gasser Foundation to Burbank Housing Development Corporation for the development of 66 affordable housing units at Heritage House, located at 3700 Valle Verde Drive in Napa; and

WHEREAS, on January 29, 2019, the Board of Supervisors also adopted Resolution No. 2019-15 authorizing an application to the No Place Like Home program to ensure that 32 units at Heritage House would be set aside for permanent supportive housing for clients exiting the homeless services system; and

WHEREAS, Burbank Housing Development Corporation has combined the Heritage House project with the adjacent Valle Verde project, a 24-unit affordable housing development located at 3710 Valle Verde Drive (together with Heritage House, the "Project"), in order to compete for certain 9% Low Income Housing Tax Credits allocated to Napa County projects as a result of the 2017 wildfire disaster; and

WHEREAS, Napa County's application for One-Time Housing Funds for Whole Person Care Pilot Programs included a funding request for permanent supportive housing units like those proposed at Heritage House to assist in providing permanent supportive housing for Medi-Cal recipients.

NOW, THEREFORE, BE IT RESOLVED by the Napa County Board of Supervisors hereby reserves a total of One Million Dollars ($1,000,000) from its Whole Person Care One-Time Housing Allocation to assist with the development of the Project subject to the following terms and conditions:

1. Any loans resulting from this reservation of funds may not be approved until there is confirmation that the application conforms to the County's underwriting standards and guidelines.

2. This reservation of funds shall expire on June 30, 2022, unless the County Executive Officer extends the reservation for up to six months, or until December 30, 2022, if, in the County Executive Officer's reasonable discretion, the

Developer has made good faith progress in meeting all of the predisposition conditions. Further extensions must be approved by the Board of Supervisors.

3. A 55 year affordability covenant shall be recorded requiring that all of the units except the manager's unit(s) must be occupied by households with incomes between 30% and 60% of annual median income.

4. The County's contribution shall be provided at signing of loan documents and structured as a loan with three percent simple interest calculated annually.

5. The loan shall be evidenced by a Promissory Note and secured by a Deed of Trust and a Regulatory Agreement recorded against the Property. All documents shall be in a form acceptable to County Counsel.

THE FOREGOING RESOLUTION WAS DULY AND REGULARLY ADOPTED by the Board of Supervisors of Napa County, State of California, at a regular meeting of the Board held on the 19th day of April, 2022, by the following vote:

AYES: SUPERVISORS

NOES: SUPERVISORS

ABSTAIN: SUPERVISORS

ABSENT: SUPERVISORS

NAPA COUNTY, a political subdivision of the State of California

By: _____
RYAN GREGORY, Chair of the Board of Supervisors

APPROVED AS TO FORM Office of County Counsel	APPROVED BY THE NAPA COUNTY BOARD OF SUPERVISORS	ATTEST: NEHA HOSKINS Clerk of the Board of Supervisors
By: *S. Darbinian* Date: April 12, 2022	Date: Processed By: _____ Deputy Clerk of the Board	By: _____

Napa County

Board Agenda Letter

Board of Supervisors	**Agenda Date:** 4/19/2022	**File ID #:** 22-708

TO: Board of Supervisors

FROM: Christine Briceño, Director of Human Resources

REPORT BY: Joy Cadiz, Senior Human Resources Analyst

SUBJECT: Establish Juneteenth as a County Holiday

RECOMMENDATION

Director of Human Resources requests adoption of a Resolution establishing Juneteenth as an observed Napa County holiday effective June 19, 2022, and every June 19 thereafter, and amending all policy manuals and Memoranda of Understanding accordingly.

EXECUTIVE SUMMARY

On March 25, 2022, Napa County and the Napa Association of Public Employees Public Services Employees and Public Services Employee Supervisory Units entered into a Side Letter Agreement to amend the Holidays Observed section of their respective Memorandums of Understanding to include Juneteenth (June 19), effective June 19, 2022. On April 8, 2022, Napa County and the Deputy Sheriffs' Association Law Enforcement and Law Enforcement Supervisory Unit entered into a similar Side Letter Agreement to amend the Holidays section of their respective Memorandums of Understanding to add June 19 (Juneteenth) as a paid holiday.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	Yes. The current fiscal year budget includes approximately $772,000 per day for operations.
Is it Mandatory or Discretionary?	Discretionary
Discretionary Justification:	There is no obligation for the Board to approve the Side Letter Agreements, however, the County and the Unions bargained in good faith within the authority granted by the Board.
Is the general fund affected?	Yes.

Future fiscal impact:	Holiday overtime costs are approximately $98,000 per day and adequate budget is available FY 2021-22. Future operational costs will be budgeted for accordingly.
Consequences if not approved:	The County would have to continue negotiations with the Unions having denied something already agreed upon.
County Strategic Plan pillar addressed:	Effective and Open Government

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.

BACKGROUND AND DISCUSSION

On March 18, 2022, the County began negotiating a successor agreement with the Napa Association of Public Employees (NAPE) which represents the Public Services Employee Unit and the Public Services Employee Supervisory Unit. On March 25, 2022, the County agreed with NAPE to amend the list of observed County holidays to include Juneteenth (June 19th) effective June 19, 2022. The County then met and conferred over the additional holiday with the Deputy Sheriffs' Association Law Enforcement Unit and Law Enforcement Supervisory Unit and entered into a Side Letter Agreement on April 8, 2022, to add Juneteenth as a paid holiday.

June 19th is nationally recognized as Juneteenth, which is the oldest known national celebration of the end of slavery. Since June 19, 1866, Juneteenth Day celebrations have been held across the nation to commemorate African America freedom from slavery. The County believes in celebrating Juneteenth to honor resilience in the face of inhumanity for present and future generations.

Therefore, the Director of Human Resources requests adoption of a resolution declaring Juneteenth a Napa County observed holiday, effective June 19, 2022, and the amending of applicable policy manuals and Memorandums of Understanding.

RESOLUTION NO. 2022-

RESOLUTION OF THE NAPA COUNTY BOARD OF SUPERVISORS, STATE OF CALIFORNIA, ESTABLISHING JUNETEENTH AS A COUNTY HOLIDAY

WHEREAS, Government Code Section 25300 provides that the Board of Supervisors shall provide for the number, compensation, tenure, appointment and conditions of employment of County employees and that such action may be taken by ordinance or resolution; and

WHEREAS, June 19th is the date nationally recognized as Juneteenth; and

WHEREAS, Juneteenth is the oldest known American celebration of slavery ending; and

WHEREAS, more than two years after the January 1, 1863 Emancipation Proclamation, Union soldiers arrived in Galveston, Texas on June 19, 1865 to announce the Civil War had ended and the enslaved were free; and

WHEREAS, Since June 19, 1866, Juneteenth Day celebrations have been held across the country to commemorate African American freedom from slavery; and

WHEREAS, Napa County strongly believes in celebrating Juneteenth to acknowledge and condemn the atrocities of the past and believes in honoring this day of resilience in the face of injustice and inhumanity for present and future generations; and

WHEREAS, for the reasons stated above, Napa County wishes to add June 19th to the list of observed County Holidays.

NOW, THEREFORE, BE IT RESOLVED, that the Napa County Board of Supervisors:

1. Declares Juneteenth a Napa County observed holiday effective June 19, 2022 and every June 19th thereafter; and

2. Directs all policy manuals and Memorandums of Understandings with recognized labor representatives be updated to reflect that Juneteenth is a Napa County observed holiday.

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THE FOREGOING RESOLUTION WAS DULY AND REGULARLY ADOPTED by the Napa County Board of Supervisors, State of California, at a regular meeting of the Board held on the 5th day of April 2022, by the following vote:

AYES: SUPERVISORS _____

_____

NOES: SUPERVISORS _____

ABSTAIN: SUPERVISORS _____

ABSENT: SUPERVISORS _____

NAPA COUNTY, a political subdivision of the State of California

By: _____
RYAN GREGORY, Chair of the Board of Supervisors

APPROVED AS TO FORM Office of County Counsel By: *Susan B. Altman, Deputy* Date: March 23, 2022	APPROVED BY THE NAPA COUNTY BOARD OF SUPERVISORS Date: _____ Processed By: _____ Deputy Clerk of the Board	ATTEST: NEHA HOSKINS Clerk of the Board of Supervisors By:

A Tradition of Stewardship
A Commitment to Service

County Executive Office
Human Resources Division

1195 Third Street, Suite 110
Napa, CA 94559
www.NapaCountyCareers.com

Main: (707) 253-4303
Fax: (707) 259-8189

March 25, 2022

Side Letter Agreement to the Parties' Memoranda of Understanding Dated July 1, 2017 through June 30, 2022 concerning the Juneteenth Holiday

This Side Letter memorializes the agreement between Napa County and the Napa Association of Public Employees (NAPE) Public Service Employee (PSE) and Public Service Employee Supervisory (PSE-Sup) Units to amend Article 48.1(a) of the July 1, 2017 to June 30, 2022 Memoranda of Understanding ("MOU"). The Parties agreed to amend Article 48.1(a) to add June 19 (Juneteenth) as a paid holiday as follows:

"48.1 (a) Holidays Observed

The holidays listed below are observed by County. In departments that remain open on a holiday, affected employees may be assigned to work during the holiday.

(i) January 1 (New Year's Day)

(ii) The third Monday in January (Martin Luther King Jr.'s Birthday)

(iii) The third Monday in February (Washington's Birthday)

(iv) March 31 (Cesar Chavez's Birthday)

(v) The last Monday in May (Memorial Day)

(vi) June 19 (Juneteenth)

(vii) July 4 (Independence Day)

(viii) The first Monday in September (Labor Day)

(ix) November 11 (Armistice Day)

(x) The fourth Thursday in November (Thanksgiving Day)

(xi) The day following Thanksgiving Day

(xii) December 24 (Winter Holiday)

(xiii) December 25 (Winter Holiday)

(xiv)) Every day appointed by the President of the United States or the Governor of the State of California for a public holiday, thanksgiving, or fast when by its terms:

(A) Such day will not occur on an annual basis and is observed by employees of the State of California pursuant to a collective bargaining agreement between the State of California and SEIU, Local 1000 or its successor organization or when;

(B) Such day will recur on an annual basis and has been mutually agreed upon by County and Union, and formally approved by the Board of Supervisors."

This Side Letter constitutes the Parties full and complete agreement to amend Article 48.1(a) of their MOU. There are no changes to the MOU other than those described in this Side Letter.

For Napa County

Christine M. Briceño

Christine M. Briceño
Director of Human Resources

For SEIU Local 1021

Monique Wild
Field Representative, SEIU Local 1021

Sabrina Bucklin,
President PSE Unit

County Executive Office
Human Resources Division

1195 Third Street, Suite 110
Napa, CA 94559
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Main: (707) 253-4303
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A Tradition of Stewardship
A Commitment to Service

April 8, 2022

Side Letter Agreement to the Parties' Memoranda of Understanding Dated October 8, 2019 through September 30, 2022 concerning the Juneteenth Holiday

This Side Letter memorializes the agreement between Napa County and the Deputy Sheriffs' Association Law Enforcement and Law Enforcement Supervisory Unit to amend Article 11.0 of the October 8, 2019 through September 30, 2022 Memoranda of Understanding ("MOU"). The Parties agreed to amend Article 11.1 to add June 19 (Juneteenth) as a paid holiday as follows:

11.0 Holidays

11.1 The following holidays apply to employees in this this unit. However, some employees shall be required to work on these holiday so that County services are provided.

1. January 1 (New Year's Day)
2. The third Monday in January (Martin Luther King Jr.'s Birthday)
3. February 12 (Lincoln's Birthday)
4. The third Monday in February (Washington's Birthday)
5. The last Monday in May (Memorial Day)
6. **June 19 (Juneteenth)**
7. July 4 (Independence Day)
8. The first Monday in September (Labor Day)
9. September 9 (Admission day)
10. The second Monday in October (Columbus Day)
11. November 11 (Veteran's Day)
12. The fourth Thursday in November (Thanksgiving Day)
13. The day following Thanksgiving Day

14. December 25 (Christmas Day)

15. Every day appointed by the President of the United States or the Governor of the State of California for a public holiday, thanksgiving, or fast when by its terms:

(a) By the terms of such appointment, such day will not occur thereafter on an annual basis and such day is also observed by employees of the State of California pursuant to a collective bargaining agreement between the State of California and SEIU, Local 1000 or its successor organization or when;

(B) By the terms of such appointment, such day will thereafter recur on an annual basis and such day may be observed following meeting and conferring and mutual agreement by the County and the Union, provided that if such a holiday is mutually agreed upon, then it shall only be observed if the Board of Supervisors formally approves the holiday.

Except as to Article 11.1.14(a), in the event any of the above holidays fall upon a Sunday, the Monday following is a holiday in lieu thereof.

Except as to Article 11.1.14(a), in the event any of the above holidays fall upon a Saturday, the Friday preceding is a holiday in lieu thereof.

This Side Letter constitutes the Parties full and complete agreement to amend Article 11.1 of their MOU. There are no changes to the MOU other than those described in this Side Letter.

For Napa County

Christine Briceño
Director of Human Resources

For Deputy Sheriff's Association

Kyle Eddleman, President
Deputy Sheriffs' Association
Law Enforcement Unit/
Law Enforcement Supervisory Unit

Napa County

Board Agenda Letter

Board of Supervisors | **Agenda Date:** 4/19/2022 | **File ID #:** 22-723

TO: Board of Supervisors

FROM: Christine Briceño, Director of Human Resources

REPORT BY: Joy Cadiz, Senior Human Resources Analyst

SUBJECT: Adoption of a Resolution Amending the Departmental Allocation List for the Planning, Building, & Environmental Services Department

RECOMMENDATION

Director of Human Resources and Director of Planning, Building, & Environmental Services request adoption of a Resolution amending the Departmental Allocation List for the Planning, Building, & Environmental Services Department, as follows, effective April 30, 2022, with no net increase in full-time equivalents, and a slight impact to the General Fund:

1. Delete one 1.0 FTE Environmental Resource Specialist; and

2. Add one 1.0 FTE Planner II/III.

EXECUTIVE SUMMARY

If approved, the requested action deletes one Environmental Resource Specialist position from the Planning, Building, & Environmental Services Department (PBES), and adds back one Planner II/III. With this action, PBES will provide greater protection for environmental resources through energy conservation, support the Climate Action Committee goals, and aid residents, businesses, and jurisdictions throughout the County.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	Yes
Is it Mandatory or Discretionary?	Discretionary
Discretionary Justification:	This action is necessary to allow Planning, Building & Environmental Services to utilize funding received from the California Public Utilities Commission via the Association of Bay Area Governments to support marketing and program implementation efforts to reach more County residents and businesses.
Is the general fund affected?	Yes

Future fiscal impact:	The increased cost of salary and benefits for the remainder of Fiscal Year 2021-2022 for the proposed reclassification is estimated at $2,000, with 70-80% of that cost to be covered by grant funding. The increased annualized cost is estimated at $12,000, and will budgeted accordingly in future fiscal years.
Consequences if not approved:	If the recommended reclassification is not approved, residents and business would not have opportunities to learn about energy rebates and ways to improve their home/business.
County Strategic Plan pillar addressed:	Effective and Open Government
Vibrant and Sustainable Environment	

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.

BACKGROUND AND DISCUSSION

Since 2013, the Planning, Building & Environmental Services Department (PBES) has received funds from the California Public Utilities Commissions through the Association of Bay Area Governments to support marketing and implementation of rebates and other energy efficiency incentives through the Bay Area Regional Energy Network (BayREN). BayREN has multiple programs: Single Family, Multi-Family, Codes and Standards, Commercial, Water Bill Savings, and Green Labeling. Current PBES staff are able to partially market and implement these programs, but PBES has identified opportunity for improvement. With the addition of the Planner II/III position there is an opportunity to reach more residents and businesses. The additional outreach and education efforts on energy efficiency will lead to greater protection for environmental resources through energy conservation and lower greenhouse gas emissions as a community.

Therefore, the Director of Human Resources and the Director of PBES request the adoption of a resolution amending the Departmental Allocation List for PBES, as shown in "Exhibit A," effective April 30, 2022, with no net increase in full-time equivalents, and a slight increase to the General Fund.

SUPPORTING DOCUMENTS

Resolution

RESOLUTION NO. 2022-

RESOLUTION OF THE NAPA COUNTY BOARD OF SUPERVISORS, STATE OF CALIFORNIA, AMENDING THE DEPARTMENTAL ALLOCATION LIST FOR THE PLANNING, BUILDING & ENVIRONMENTAL SERVICES DEPARTMENT, EFFECTIVE APRIL 30, 2022.

WHEREAS, Government Code section 25300 provides that the Board of Supervisors shall provide for the number, compensation, tenure, appointment and conditions of employment of county employees and that such action may be taken by ordinance or resolution; and

WHEREAS, section 2.100.280 of the Napa County Code provides that the number of positions and classifications in the Departmental Allocation List shall be established from time to time by resolution of the Board of Supervisors; and

WHEREAS, the Director of Human Resources recommends that the proposed changes to the Departmental Allocation List for the Planning, Building & Environmental Services Department, as set forth in Exhibit "A," be implemented.

NOW, THEREFORE, BE IT RESOLVED, that the Napa County Board of Supervisors hereby approves the changes to the Departmental Allocation List for the Planning, Building & Environmental Services Department, as set forth in Exhibit "A," effective April 30, 2022.

[REMAINDER OF THIS PAGE LEFT BLANK INTENTIONALLY]

THE FOREGOING RESOLUTION WAS DULY AND REGULARLY ADOPTED by the Napa County Board of Supervisors, State of California, at a regular meeting of the Board held on the 19th day of April 2022, by the following vote:

AYES: SUPERVISORS _____

NOES: SUPERVISORS _____

ABSTAIN: SUPERVISORS _____

ABSENT: SUPERVISORS _____

NAPA COUNTY, a political subdivision of the State of California

By: _____
RYAN GREGORY, Chair of the
Board of Supervisors

APPROVED AS TO FORM Office of County Counsel By*: Susan B. Altman, Deputy* Date: April 5, 2022	APPROVED BY THE NAPA COUNTY BOARD OF SUPERVISORS Date: Processed By: _____ Deputy Clerk of the Board	ATTEST: NEHA HOSKINS Clerk of the Board of Supervisors By:_____

EXHIBIT A

Director of Human Resources requests approval to amend the Departmental Allocation List as follows:

Department	Budget Unit	Position Control #	Class Title	Effective Date	Change
Planning Bldg & Env Svcs	17000	00002815	Environ Resource Specialist	4/30/22	-1.00
PBES-Natural Resources	17040	00002815	Planner II/III	4/30/22	+1.00

Napa County

Board Agenda Letter

Board of Supervisors | **Agenda Date:** 4/19/2022 | **File ID #:** 22-728

TO: Board of Supervisors

FROM: Christine Briceño, Director of Human Resources

REPORT BY: Joy Cadiz, Senior Human Resources Analyst

SUBJECT: Adoption of a Resolution Amending the Table and Index of Classes and Departmental Allocation List for the Health & Human Services Agency

RECOMMENDATION

Director of Human Resources and Director of Health & Human Services request adoption of a Resolution amending the Table and Index of Classes and the Departmental Allocation List for multiple divisions of the Health & Human Services Agency, effective April 30, 2022, with no net increase in full-time equivalents, and no impact to the County General Fund:

1. Amend the Table and Index of Classes by:
    a. Deleting HHS Utilization Review Coordinator (PSE); and
    b. Adding HHS Utilization Review Coordinator (SUP).

2. Amend the Departmental Allocation List for the Health & Human Services Agency by:
    a. Deleting two 1.0 FTE HHS Utilization Review Coordinator (PSE); and
    b. Adding two 1.0 HHS Utilization Review Coordinator (SUP).

EXECUTIVE SUMMARY

The HHS Utilization Review Coordinator exists in Mental Health and Alcohol and Drug Services and is responsible for utilization review activities for mental health and/or alcohol and drug services provided by the Health & Human Services Agency and its contractors. The classification specification was updated to include the addition of supervisory duties, which makes the Public Services Employee Supervisory Unit the appropriate bargaining unit. If approved, this action will appropriately designate the HHS Utilization Review Coordinator classification as part of the Public Services Employee Supervisory Unit.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact?	No
County Strategic Plan pillar addressed:	Effective and Open Government

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.

BACKGROUND AND DISCUSSION

The HHS Utilization Review Coordinator is responsible for utilization review activities done by a team comprised of a Mental Health Counselor and administrative staff for mental health and/or alcohol and drug services provided by the Health & Human Services Agency (HHSA), and its contractors. Human Resources met and conferred with the Napa Association of Public Employees (NAPE), who were agreeable to the proposed changes.

Currently, the HHS Utilization Review Coordinator does not provide direct supervision to the team than ensures that samples of billable units of mental health and/or alcohol and drug services. If approved, the HHS Utilization Review Coordinator will supervise the team to ensure that services performed by HHSA staff and/or contractors in applicable areas are reviewed prior to billing to confirm that all regulatory requirements have been met, and that services can be billed. Allowing the HHS Utilization Review Coordinator to supervise will streamline processes and allow for the provision of direct feedback to the team, without having to go through a manager.

Therefore, the Director of Human Resources and the Director of Health & Human Services request adoption of a Resolution amending the Table and Index of Classes, the Departmental Allocation List for multiple divisions of the Health & Human Services Agency, effective April 30, 2022, with no net increase in full-time equivalents, and no impact to the County General Fund.

RESOLUTION NO. 2022-

RESOLUTION OF THE NAPA COUNTY BOARD OF SUPERVISORS, STATE OF CALIFORNIA, AMENDING THE TABLE AND INDEX OF CLASSES AND THE DEPARTMENTAL ALLOCATION LIST FOR THE HEALTH & HUMAN SERVICES AGENCY, EFFECTIVE APRIL 30, 2022.

WHEREAS, Government Code section 25300 provides that the Board of Supervisors shall provide for the number, compensation, tenure, appointment and conditions of employment of county employees and that such action may be taken by ordinance or resolution; and

WHEREAS, section 2.100.270 of the Napa County Code provides that the "Table and Index" may be amended from time to time by resolution of the Board of Supervisors; and

WHEREAS, section 2.100.280 of the Napa County Code provides that the number of positions and classifications in the Departmental Allocation Lists shall be established from time to time by resolution of the Board of Supervisors; and

WHEREAS, the Director of Human Resources recommends that the proposed changes to the Table and Index of Classes and the Departmental Allocation List for the Health & Human Services Agency, as set forth in Exhibit "A," be implemented.

NOW, THEREFORE, BE IT RESOLVED, that the Napa County Board of Supervisors hereby approves the changes to the Table and Index of Classes and the Departmental Allocation List for the Health & Human Services Agency, as set forth in Exhibit "A," effective April 30, 2022.

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THE FOREGOING RESOLUTION WAS DULY AND REGULARLY ADOPTED by the Napa County Board of Supervisors, State of California, at a regular meeting of the Board held on the 19th day of April 2022, by the following vote:

AYES: SUPERVISORS _____

NOES: SUPERVISORS _____

ABSTAIN: SUPERVISORS _____

ABSENT: SUPERVISORS _____

NAPA COUNTY, a political subdivision of the State of California

By: _____
RYAN GREGORY, Chair of the Board of Supervisors

APPROVED AS TO FORM Office of County Counsel By*: Susan B. Altman, Deputy* Date: April 5, 2022	APPROVED BY THE NAPA COUNTY BOARD OF SUPERVISORS Date: Processed By: _____ Deputy Clerk of the Board	ATTEST: NEHA HOSKINS Clerk of the Board of Supervisors By:_____

EXHIBIT A

Director of Human Resources requests approval of the following actions, effective April 30, 2022:

1. Amend the Table and Index of Classes, as follows:

    a. Delete: HHS Utilization Review Coordinator (PS2)
    $9,424.00 - $11,305.00 (approximate monthly salary)

    b. Add: HHS Utilization Review Coordinator (SUP)
    $9,424.00 - $11,305.00 (approximate monthly salary)

2. Amend the Departmental Allocation List, as follows:

Department	Budget Unit	Position Control #	Class Title	Effective Date	Change
Health & Human Services - Alcohol & Drug Services	20003	00002441	HHS Utilization Review Coordinator (PS2)	4/30/22	-1.00
Health & Human Services - Alcohol & Drug Services	20003	00002441	HHS Utilization Review Coordinator (SUP)	4/30/22	+1.00
Health & Human Services - Mental Health	20002	00002440	HHS Utilization Review Coordinator (PS2)	4/30/22	-1.00
Health & Human Services - Mental Health	20002	00002440	HHS Utilization Review Coordinator (SUP)	4/30/22	+1.00

Napa County

Board Agenda Letter

Board of Supervisors	**Agenda Date:** 4/19/2022	**File ID #:** 22-732

TO: Board of Supervisors

FROM: Christine Briceño, Director of Human Resources

REPORT BY: Joy Cadiz, Senior Human Resources Analyst

SUBJECT: Adoption of a Resolution Amending the Departmental Allocation List for the Corrections Department

RECOMMENDATION

Director of Human Resources and Director of Corrections request adoption of a Resolution amending the Departmental Allocation List for the Napa County Department of Corrections, by adding one 1.0 FTE Cook II - Limited Term, effective April 30, 2022, through June 30, 2024, with a temporary net increase of one full-time equivalent, and an increase to the County General Fund.

EXECUTIVE SUMMARY

If approved, this request adds one 1.0 full-time equivalent (FTE) Cook II - Limited Term to the Napa County Department of Corrections. The requested Cook II - Limited Term is essential to the California Penal Code's regulation regarding the frequency of serving food. The term will expire on June 30, 2024.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	No
Is it Mandatory or Discretionary?	Discretionary
Discretionary Justification:	California Penal Code Section 6030 establishes minimum standards for local correctional facilities, which includes health and sanitary conditions. The addition of a Cook II - Limited Term will relieve overtime worked by current staff and ensure that meals continue to be prepared and served up to standards.
Is the general fund affected?	Yes

Future fiscal impact:	The increased cost of salaries and benefits for the remainder of Fiscal Year 2021-2022 is estimated at $14,333. The annualized cost is estimated at $86,000, and will be budgeted accordingly in future fiscal years.
Consequences if not approved:	If the addition of a Cook II - Limited Term is not approved, the two current Cooks will have to continue working mandatory overtime, and the Department will struggle to serve meals up to regulation standards.
County Strategic Plan pillar addressed:	Effective and Open Government

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.

BACKGROUND AND DISCUSSION

The Napa County Department of Corrections' (NCDC) Kitchen Team is responsible for providing more than 200 meals three times a day, seven days a week, and is allocated three Cook positions. One incumbent has been out on an extended leave of absence, which has left the kitchen short staffed, resulting in current staff working overtime, and management unable to approve planned leaves. Management has attempted to fill the need with Extra Help Cooks, but this has proved challenging. A limited term Cook II will alleviate the need for Extra Help and will provide consistent coverage for the kitchen.

Therefore, the Director of Human Resources and the Director of Corrections requests adoption of a Resolution amending the Departmental Allocation List for the Napa County Department of Corrections, effective April 30, 2022, through June 30, 2024, with a temporary net increase of one full-time equivalent, and an increase to the General Fund.

SUPPORTING DOCUMENTS

Resolution

RESOLUTION NO. 2022-

RESOLUTION OF THE NAPA COUNTY BOARD OF SUPERVISORS, STATE OF CALIFORNIA, AMENDING THE DEPARTMENTAL ALLOCATION LIST FOR THE DEPARTMENT OF CORRECTIONS, EFFECTIVE APRIL 30, 2022

WHEREAS, Government Code section 25300 provides that the Board of Supervisors shall provide for the number, compensation, tenure, appointment and conditions of employment of county employees and that such action may be taken by ordinance or resolution; and

WHEREAS, section 2.100.280 of the Napa County Code provides that the number of positions and classifications in the Departmental Allocation List shall be established from time to time by resolution of the Board of Supervisors; and

WHEREAS, the Director of Human Resources recommends that the proposed changes to the Departmental Allocation List for the Department of Corrections, as set forth in Exhibit "A," be implemented.

NOW, THEREFORE, BE IT RESOLVED, that the Napa County Board of Supervisors hereby approves the changes to the Departmental Allocation List for the Department of Corrections, as set forth in Exhibit "A," effective April 30, 2022.

[REMAINDER OF THIS PAGE LEFT BLANK INTENTIONALLY]

THE FOREGOING RESOLUTION WAS DULY AND REGULARLY ADOPTED by the Napa County Board of Supervisors, State of California, at a regular meeting of the Board held on the 19th day of April 2022, by the following vote:

AYES: SUPERVISORS _____

NOES: SUPERVISORS _____

ABSTAIN: SUPERVISORS _____

ABSENT: SUPERVISORS _____

NAPA COUNTY, a political subdivision of the State of California

By: _____
RYAN GREGORY, Chair of the Board of Supervisors

APPROVED AS TO FORM Office of County Counsel By: *Susan B. Altman, Deputy* Date: April 5, 2022	APPROVED BY THE NAPA COUNTY BOARD OF SUPERVISORS Date: Processed By: _____ Deputy Clerk of the Board	ATTEST: NEHA HOSKINS Clerk of the Board of Supervisors By:_____

EXHIBIT "A"

Director of Human Resources requests approval to amend the Departmental Allocation List for the Department of Corrections as follows, effective April 30, 2022:

Department	Budget Unit	Position Control #	Class Title	Effective Date	Change
Corrections	14000	NEW	Cook II – Limited Term	4/30/22 – 6/30/24	+1.00

Napa County

Board Agenda Letter

Board of Supervisors	**Agenda Date:** 4/19/2022	**File ID #:** 22-665

TO: Board of Supervisors

FROM: Jon Gjestvang - Chief Information Officer

REPORT BY: Elena Guzman - Staff Services Analyst

SUBJECT: Removal of capital assets from ITS inventory, e-Waste Disposal

RECOMMENDATION

County Executive Officer and Chief Information Officer request the following:

1. Declare certain items of capital asset property as surplus and no longer required for public use;

2. Authorize removal of the capital assets from the Information Technology Services' capital asset inventory; and

3. Authorize e-waste disposal.

EXECUTIVE SUMMARY

This action will remove fully depreciated, obsolete and unusable equipment from the ITS capital asset inventory and allow the equipment to be properly disposed.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact? No
County Strategic Plan pillar addressed: Effective and Open Government

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.

BACKGROUND AND DISCUSSION

All capital asset items on the attached list have become obsolete and deemed unusable.

Today's requested action will authorize removal of the capital asset items from the Information Technology Services' capital asset inventory and allow all items to be disposed of through proper e-waste disposal. All listed capital assets are fully depreciated with no net book value.

Capital Asset Items: Description	Tag ID	Acq Yr	Qty	Justification	Action
Daytona disk to disk to tape backup System	N/A	2010	1	obsolete	disposal
Dell Power Edge R810 (SAS)	C6670	2012	1	obsolete	disposal
Dell Power Edge R710 Server	C7202	2013	1	obsolete	disposal
Dell Power Edge R710 Server	C7203	2013	1	obsolete	disposal
Palo Alto PA 3020 firewall	X1366	2013	1	obsolete	disposal
Palo Alto PA 3020 firewall	X1367	2013	1	obsolete	disposal
Dell Power Vault TL2000 Tape Library	N/A	2015	2	obsolete	disposal
Assureon Server	N/A	2015	1	obsolete	disposal
48 Channel Stancil Logging recorder	27542	2013	1	obsolete	disposal
Personnel Vertical Lift	26960	2002	1	obsolete	disposal

Napa County

Board Agenda Letter

Board of Supervisors	**Agenda Date:** 4/19/2022	**File ID #:** 22-743

TO: Board of Supervisors

FROM: Jon Gjestvang - Chief Information Officer Information Technology Services

REPORT BY: Elena Guzman - Staff Services Analyst

SUBJECT: Capital Asset Purchase and Budget Transfer: Dell Network Server

RECOMMENDATION

Chief Information Officer and Sheriff request the following actions regarding replacement of a network server:

1. A waiver of competitive bidding requirements and sole source award to Dell Marketing LP of Pasadena, California for the purchase of a Dell PowerEdge R340 server in the amount of $6,980, pursuant to County Ordinance § 2.36.090;

2. Establishment of a capital asset in the amount of $6,980 for a Dell PowerEdge R340 server; and

3. Approval of a Budget Transfer increasing appropriations in the Information Technology Services budget in the amount of $6,980 with offsetting revenue from the Sheriff's Operations budget (4/5 vote required).

EXECUTIVE SUMMARY

Approval of today's requested actions will allow Information Technology Services to purchase a replacement network server, establish the server as a capital asset, and approve a budgetary transfer to reimburse ITS for associated costs.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	Yes
Where is it budgeted?	Sheriff's Operations Budget (Fund 1000, Org 1360000)
Is it Mandatory or Discretionary?	Discretionary

Discretionary Justification:	Sheriff's Office SOVideo3 network server has reached the end of its useful life cycle. Microsoft software support of the server's Windows Server 2012 operating system will cease in 2023, making it obsolete. To continue to properly manage the data storage needs of the Sheriff's Office, the purchase of a replacement server is required.
Is the general fund affected?	Yes
Future fiscal impact:	Any future fiscal impact will be budgeted accordingly.
Consequences if not approved:	If not approved, Sheriff's Office will be unable to purchase a replacement server and would have to find an alternative method of data management and storage.
County Strategic Plan pillar addressed:	Effective and Open Government

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.

BACKGROUND AND DISCUSSION

The Sheriff's Office SOVideo3 network server has reached the end of its extended service contract and useful life. In addition, SOVideo3's operating system, Window Server 2012, will no longer be supported by Microsoft next year. To continue to support the present and future data management & storage needs of the Sheriff's Office, a replacement server is required.

Today's requested action will allow Information Technology Services to purchase a Dell PowerEdge R340 server, establish it as a capital asset, and approve a budgetary transfer from the Sheriff's Office to reimburse ITS for the purchase.

Napa County

Board Agenda Letter

Board of Supervisors	**Agenda Date:** 4/19/2022	**File ID #:** 22-644

TO: Board of Supervisors

FROM: Anthony Halstead -Director of Library Services and Community Outreach

REPORT BY: Michelle Carreon - Staff Services Analyst

SUBJECT: Reporting of donations received by the Library January 1, 2022 through March 31, 2022 and acceptance of a donation in the amount of $65,000.

RECOMMENDATION

Director of Library Services and Community Outreach requests the following:

1. Board to accept and instruct the Clerk of the Board to file the quarterly report of donations in the amount of $2,000 or less gifted to Library from January 1, 2022 through March 31, 2022;

2. Authorization to accept a donation in the amount of $65,000 from the Napa County Library Foundation; and

3. Chair to sign a letter of appreciation in acceptance of the donation.

EXECUTIVE SUMMARY

Director of Library Services and Community Outreach is reporting that the Library received $521 in multiple donation during the third quarter of fiscal year 2021-2022. The donations were accepted by the Director in accordance with Resolution 99-56 and deposited within the Library Fund.

Director of Library Services and Community Outreach seeks the Board's approval to accept a donation in the amount of $65,000 from the Napa County Library Foundation.

The donation will help fund projects and programs provided to the community at the Napa County Library locations. Today's action will allow for the orderly acceptance of the Napa County Library Foundation donation.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact?	No
Is it currently budgeted?	Yes

Is it Mandatory or Discretionary?	Discretionary
Discretionary Justification:	Deposit of donations into the specified library location budget will facilitate fiscal monitoring and ensure that donation spending will be consistent with the intent of the donors.
Is the general fund affected?	No
Future fiscal impact:	None.
Consequences if not approved:	If the requested action is not approved, the library will not be able to accept the $65,000 donation to help fund projects and programs provided to the community at the Napa County Library locations.
County Strategic Plan pillar addressed:	Collaborative and Engaged Community

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.

BACKGROUND AND DISCUSSION

On June 1, 1999, the Board of Supervisors adopted Resolution 99-56 authorizing the Library Director to accept on behalf of the Napa County Library donations in the amount of $2,000 or less to support existing Library services and programs. Today, the Director of Library Services and Community Outreach is reporting donations received during the third quarter of fiscal year 2021-2022 in the amount of $521.

On March 17, 2022, the Library received a donation in the amount of $65,000 from Napa County Library Foundation donation. The donation will help fund projects and programs provided to the community at the Napa County Library locations.

Staff requests acceptance of the donations and authorization for the Chair to sign the attached letter of appreciation. The donations will be deposited into the Library Fund accordingly and will be used to support ongoing projects and programs.

A Tradition of Stewardship
A Commitment to Service

Board of Supervisors

1195 Third St.
Suite 310
Napa, CA 94559
www.countyofnapa.org

Main: (707) 253-4386
Fax: (707) 253-4176

Ryan Gregory
Chair

April 19, 2022

Napa County Library Foundation
580 Coombs Street
Napa, CA 94559

Dear members of the Napa County Library Foundation:

Thank you for your recent donation of $65,000 for programs and services at the Napa County Library.

It is the goal of the Library to enrich the lives of community members with books and information. Your ongoing support provides staff the ability to reach a large demographic of County residents, which allows the Library to make a meaningful impact within the community.

Thank you for your continuing support.

Regards,

Ryan Gregory
Chair

Brad Wagenknecht District 1 | **Ryan Gregory** District 2 | **Diane Dillon** District 3 | **Alfredo Pedroza** District 4 | **Belia Ramos** District 5

Date	Description	Amount
1/4/2022	Donation	$ 1.00
1/7/2022	Donation	$ 0.90
1/11/2022	Donation RG	$ 10.00
1/25/2022	Donation	$ 0.50
2/4/2022	Napa Main Donation	$ 0.70
2/8/2022	Donation	$ 0.30
2/11/2022	Library Donations	$ 200.00
2/11/2022	Donation	$ 7.35
2/15/2022	Donation	$ 3.50
2/22/2022	Donation	$ 4.00
2/28/2022	Napa Main Donation	$ 16.95
3/4/2022	Donation	$ 21.00
3/5/2022	YNT Donation	$ 5.55
3/8/2022	Napa Main Donation	$ 40.00
3/11/2022	Napa Donation	$ 1.14
3/11/2022	CAL Donation	$ 16.95
3/15/2022	Donation LL	$ 50.00
3/15/2022	Friends of Yountville Donation	$ 139.82
3/16/2022	YNT Donation	$ 0.90
3/22/2022	Napa Main Donation	$ 0.30
		$ 520.86

Napa County

Board Agenda Letter

Board of Supervisors	**Agenda Date:** 4/19/2022	**File ID #:** 22-752

TO: Board of Supervisors

FROM: David Morrison, Director, Planning Building and Environmental Services

REPORT BY: Brian Bordona, Assistant Director, Planning, Building and Environmental Services

SUBJECT: PBES Department Meeting - Office Closure

RECOMMENDATION

Director of Planning, Building and Environmental Services (PBES) requests adoption and approval for an office closure on Thursday, May 5, 2022 from 12:00 pm to 5:00 pm for a department-wide team building workshop.

EXECUTIVE SUMMARY

The PBES Director requests approval to close the PBES offices from 12:00 pm to 5:00 pm on Thursday, May 5, 2022 to provide department-wide team building workshop. PBES staff has experienced turnover of more than 30 percent in the past two years, while many long-term staff now serve in new roles. In addition, the Department continues to take on new programs and responsibilities in response to an ever-changing regulatory environment. The meeting will provide training for staff to address these issues, as well as to reconnect employees who have been teleworking and/or quarantined for the past two years.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	Yes
Where is it budgeted?	Costs for the workshop will be borne by the PBES budget as well as from funds provided by the Organizational Development Advisory Committee.
Is it Mandatory or Discretionary?	Discretionary

Discretionary Justification:	PBES staff has experienced turnover of more than 30 percent in the past two years. In addition, as we emerge from the pandemic, there is a need for staff to reconnect within the workplace given the past two years of increased employee and family illnesses, required quarantines and isolation. This meeting would provide an opportunity for all Department staff to engage in structured team building to help promote internal communication and coordination between divisions, enhance individual problem-solving skills of shared challenges, and strengthen the PBES team for the challenges that lie ahead.
Is the general fund affected?	Yes
Future fiscal impact:	PBES will continue to budget for workshops of this nature.
Consequences if not approved:	Team building of all department staff promotes internal communication and coordination between divisions, shared vision and goals, and individual problem-solving of shared challenges.
County Strategic Plan pillar addressed:	Effective and Open Government
Additional Information	None

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.

BACKGROUND AND DISCUSSION

Staff is requesting approval to close the office on May 5, 2022 from 12:00 pm to 5:00 pm for a department-wide team building workshop would enable department staff to participate in team building and leadership training exercises. The meeting will be held at Fairview Napa located at Kennedy Park. This would be the first department meeting held since 2016.

PBES staff has experienced turnover of more than 30 percent in the past two years. In addition, as we emerge from the pandemic, there is a need for staff to reconnect within the workplace given the past two years of increased employee and family illnesses, required quarantines and isolation. This meeting would provide an opportunity for all Department staff to engage in structured team building to help promote internal communication and coordination between divisions, enhance individual problem-solving skills of shared challenges, and strengthen the PBES team for the challenges that lie ahead.

The Department currently closes from 12:00 pm - 1:00 pm for the lunch hour, so the closure from 12:00 pm to 5:00 pm would represent a reduction of four hours relative to normal operating hours. To minimize disruption to the public and other who rely on PBES, staff will notify customers in advance of the anticipated closure date. The closure would be noticed in the PBES lobby and on the Department website. Notifications on email signatures would also be used as well as social media outlets. The Department will also work with the County

PIO to assist in providing broad notification.

Napa County

Board Agenda Letter

Board of Supervisors	**Agenda Date:** 4/19/2022	**File ID #:** 22-703

TO: Board of Supervisors

FROM: Amanda Gibbs, Chief Probation Officer

REPORT BY: Ferlyn Buenafe, Staff Services Manager

SUBJECT: Agreement with Idemia Identity & Security USA, LLC

RECOMMENDATION

Chief Probation Officer requests approval of and authorization for the Chair to sign Amendment No. 2 to Agreement No. 200094B with Idemia Identity & Security USA, LLC for a maximum of $9,000 each fiscal year for the term March 1, 2022 through June 30, 2022, with an additional automatic one-year renewal.

EXECUTIVE SUMMARY

Idemia Identity & Security USA, LLC (Idemia) provides vital maintenance and repair services for the software and hardware associated with the LiveScan located at the Juvenile Hall. This vendor will be available to provide on-site maintenance of the equipment, nine business hours a day, five business days a week.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	Yes
Where is it budgeted?	Juvenile Hall Budget (14210)
Is it Mandatory or Discretionary?	Discretionary
Discretionary Justification:	The Agreement is to have maintenance and repair services for the Live Scan machine in the event the need arises.
Is the general fund affected?	Yes
Future fiscal impact:	LiveScan fingerprinting support services is an ongoing expense, and budgeted accordingly in future fiscal years.
Consequences if not approved:	If the agreement is not approved, vital fingerprinting systems will be suspended if a system breakdown occurs. The LiveScan is needed to fingerprint individuals upon booking at the Juvenile Hall.

County Strategic Plan pillar addressed: Effective and Open Government

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: This proposed action is not a project as defined by 15 California Code of Regulations 15378 (STATE CEQA Guidelines) and therefore CEQA is not applicable.

BACKGROUND AND DISCUSSION

The Department has had a LiveScan machine since the Board approved the purchase in 2005. LiveScan is part of the booking process for felony and misdemeanor offenses at Juvenile Hall.

The Amendment increases the contract maximum from $8,600 to $9,000 to support additional service fees.

Approval of today's Agreement authorizes Idemia to continue servicing and maintaining the LiveScan machine in the Department during business hours to ensure the system is in good working order.

Idemia is not a local vendor.

NAPA COUNTY AGREEMENT NO. 200094B
AMENDMENT NO. 2

THIS AMENDMENT NO. 2 TO NAPA COUNTY AGREEMENT NO. 200094B is made and entered into as of this 1st day of April, 2022, by and between NAPA COUNTY, a political subdivision of the State of California, hereinafter referred to as "COUNTY", Idemia Identity & Security USA, LLC, (formerly MorphoTrust USA, LLC), whose mailing address is 5705 W. Old Shakopee Road, Suite 100, Bloomington, MN 55437-3107, hereinafter referred to as "CONTRACTOR";

RECITALS

WHEREAS, on August 1, 2019 COUNTY and CONTRACTOR entered into Napa County Agreement No 20094B (the "Agreement"), under which CONTRACTOR agreed to provide annual maintenance services for the fingerprinting equipment located at the Napa County Probation Juvenile Hall; and

WHEREAS, on July 1, 2021 COUNTY and CONTRACTOR modified the scope and professional fees; and

WHEREAS, COUNTY and CONTRACTOR now desire to modify the professional fees; and

WHEREAS, CONTRACTOR is willing to provide such specialized services to COUNTY under the terms and conditions set forth herein; and

TERMS

NOW, THEREFORE, COUNTY and CONTRACTOR hereby amend Napa County Agreement No. 20094B as follows:

1. Paragraph 2 is hereby amended to read in full as follows:

> **Term of the Agreement.** The term of this Agreement shall commence on August 1, 2019, and shall expire on June 30, 2022, 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 COUNTY 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 two years at the end of each fiscal year, under

the terms and conditions then in effect, 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.

3. Paragraph 3 is hereby amended to read in full as follows:

Compensation.

(a) Rates. In consideration of CONTRACTOR's fulfillment of the promised work, COUNTY shall pay CONTRACTOR at the rates set forth in Exhibit "B-2," attached to Amendment No. 2 and incorporated by reference herein.

(b) Expenses. Travel and other expenses will be reimbursed by COUNTY upon submission of an invoice in accordance with Paragraph 4 at the rates and/or in accordance with the provisions set forth in Exhibit "B-2."

(c) Maximum Amount. Notwithstanding subparagraphs (a) and (b), the maximum payments under this Agreement shall be a total of **Nine Thousand Dollars** ($9,000) each fiscal year for professional services; provided, however, that such amounts shall not be construed as guaranteed sums, and compensation shall be based upon services actually rendered and reimbursable expenses actually incurred.

4. On and after the effective date of this Amendment No. 2 of the Agreement, all references in the Agreement to Exhibit "A," "A-1" and Exhibit "B," and "B-1" shall mean Exhibit "A-2" and Exhibit "B-2" attached to Amendment No. 2.

5. Except as provided in (1)-(4) above, the terms and conditions of the Agreement shall remain in full force and effect.

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

Idemia Identity & Security USA, LLC

By_____
Casey Mayfield, Vice President Project / Program

By_____
Tom McPherson, Assistant Secretary

"CONTRACTOR"

NAPA COUNTY, a political subdivision of
the State of California

By_____
RYAN GREGORY, Chair
Board of Supervisors

"COUNTY"

APPROVED AS TO FORM Office of County Counsel	APPROVED BY THE NAPA COUNTY BOARD OF SUPERVISORS	ATTEST: NEHA HOSKINS Clerk of the Board of Supervisors
By: Rachel L. Ross (e-signature) County Counsel Date: March 1, 2022	Date: _____ Processed By: _____ Deputy Clerk of the Board	By:_____

EXHIBIT "B-2"

COMPENSATION AND EXPENSE REIMBURSEMENT

Description	**Price**
Annual 9/5 Maintenance Services (TPE-5600-ED)	3,240.00
Annual 9/5 Maintenance Services (TPE-PRT-DUP)	342.00
Annual 9/5 Maintenance Services (TPE-HWOX-DIGCAP)	391.00

Other expenses not listed above may be reimbursed with authorization and approval by the Chief Probation Officer.

Napa County

Board Agenda Letter

Board of Supervisors	**Agenda Date:** 4/19/2022	**File ID #:** 22-630

TO: Board of Supervisors

FROM: Steven Lederer, Director of Public Works

REPORT BY: Jonathan Delacruz, Assistant Engineer

SUBJECT: Approval of Plans and Specifications and Authorization to Advertise for Bids for "Sullivan Parking Lot Rehabilitation", PW 20-34

RECOMMENDATION

Director of Public Works requests approval of plans and specifications for the "Sullivan Parking Lot Rehabilitation Project", PW 20-34, authorization to advertise for sealed bids, and opening of the bids at a time, date and location to be published by the Director of Public Works pursuant to Section 20150.8 of the Public Contract Code.

EXECUTIVE SUMMARY

The Sullivan parking lot has deteriorated over the years and is developing potholes and large cracks raising concerns for public safety. The Sullivan Parking Lot Rehabilitation Project will repair and resurface the parking lot pavement. Plans and specification are complete and presented to the Board of Supervisors (Board) for approval and authorization to advertise the project. Funding for the project will come from Property Management's budget. The estimated construction cost is approximately $230K. Public Works staff will return to the Board with a detailed budget based on the lowest bid at time of construction contract award and will request a budget transfer from Property Management to fully fund the project.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	No
Where is it budgeted?	This project will be funded by the Property Management Division Budget (Fund 4300, Org 4300000). The Board of Supervisors previously approved $50,000 for design and preparation of plans and specification.
Is it Mandatory or Discretionary?	Discretionary
Discretionary Justification:	The Sullivan parking lot asphalt surface is deteriorating leading to a potential public safety concerns and needs to be repaired and resurfaced.
Is the general fund affected?	No

Future fiscal impact:	The project will be complete in fiscal year 22-23 with general maintenance requirements in future years funded by Property Management.
Consequences if not approved:	If not approved construction will not take place and the parking lot will continue to deteriorate raising the public safety concerns.
County Strategic Plan pillar addressed:	Healthy, Safe, and Welcoming Place to Live, Work, and Visit

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: Consideration and possible adoption of a Categorical Exemption Class 1: It has been determined that this type of project does not have a significant effect on the environment and is exempt from the California Environmental Quality Act. [See Class 1 ("Existing Facilities") which may be found in the guidelines for the implementation of the California Environmental Quality Act at 14 CCR §15301; see also Napa County's Local Procedures for Implementing the California Environmental Quality Act, Appendix B.]

BACKGROUND AND DISCUSSION

The Sullivan parking lot is owned by the County of Napa and is located west of the Administration building bound by 3rd Street on the north, Randolph Street on west, 4th Street on the south, and Coombs Street on the east. The parking lot is open to the public for all day parking. The parking lot asphalt surface has deteriorated over the years and is beginning to develop pot holes and large cracks creating a potential public safety concern and is in need of rehabilitation. After the repairs and resurfacing the parking lot will be re-striped to its existing configuration including American with Disabilities Act parking stalls. The Board of Supervisors (Board) previously approved $50,000 of budget for design and preparations of plans and specifications. The estimated cost, including design and all other factors, for rehabilitating the Sullivan Parking Lot is approximately $345,000 and will be funded from the Property Management budget. Public Works staff will return to the Board at the time of construction contract award and present a detailed project cost estimate based on the lowest bid, and to request a budget transfer from Property Management to fully fund the project. Staff recommends the Board approve the plans and specifications and authorize the advertisement of the project.

Sullivan Parking Lot Repair and Resurfacing, PW 20-34 4/19/22

Budget Item	Budget Item Amount	BID PHASE Board Appropriation Request Today	Board Appropriation to date	Appropriation Amount Spent to Date	Appropriation Amount % Spent to Date	Appropriation Amount Balance
Construction	$230,000		$0	$0		$0
Construction Contingency (15%)	$34,500		$0	$0		$0
Design and Engineering	$40,000		$40,000	$22,187	55%	$17,813
Construction Management	$20,000		$0	$0		$0
County Project Management/Administration	$10,000		$0	$0		$0
Survey, Geotech, Special Inspections, Permits	$10,000		$10,000	$3,636	36%	$6,364
TOTAL	$344,500	$0	$50,000	$25,823	52%	$24,177

Napa County

Board Agenda Letter

Board of Supervisors	**Agenda Date:** 4/19/2022	**File ID #:** 22-659

TO: Board of Supervisors

FROM: Steven Lederer - Director of Public Works

REPORT BY: Michael Parker - Supervising Staff Services Analyst

SUBJECT: Approval of Amendment to Professional Services Agreements for Fuel Related Services

RECOMMENDATION

Director of Public Works requests the following actions related to the provision of unleaded and diesel fuel services:

1. Approval of and authorization for the Chair to sign Amendment No. 3 to Agreement No. 180153B with Napa Valley Petroleum, Inc., increasing the maximum compensation by $150,000 for a new maximum of $575,000 and extending the term of the agreement from September 30, 2022, to June 30, 2023, with an automatic renewal for no more than two (2) additional years; and
2. Approval of and authorization for the Chair to sign Amendment No. 1 to Agreement No. 180152B with Hunt Allied Petroleum, LLC., increasing the maximum compensation by $150,000 for a new maximum of $450,000 and extending the term of the agreement from September 30, 2022, to June 30, 2023, with an automatic renewal for no more than two (2) additional years.

EXECUTIVE SUMMARY

Approval of today's requested action will allow the Chair to sign Amendment No. 3 to Agreement No. 180153B with Napa Valley Petroleum, Inc (NVP)., and Amendment No. 1 to Agreement No. 180152B with Hunt Allied Petroleum, LLC., increasing the maximum compensation of each agreement by $150,000. Additionally, today's requested action will extend the term of both agreements from September 30, 2022, to June 30, 2023, which aligns with the end of the County's fiscal year. Both agreements have the provision for an automatic renewal at the end of each fiscal year not to exceed two (2) additional years.

Both amendments are needed due to the record high pricing of retail gasoline and diesel. Amendments to the County's current fuel agreements ensures Fleet Management will have sufficient contract authority to

compensate Napa Valley Petroleum and Hunt Allied Petroleum for fuel consumed by County departments.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	Yes
Where is it budgeted?	Fuel charges are budgeted within Fleet Management and allocated to departments based on actuals.
Is it Mandatory or Discretionary?	Mandatory
Is the general fund affected?	Yes
Future fiscal impact:	Funding for the services under these agreements will be budgeted each fiscal year for the term of the agreements. Department divisions budget for fuel costs as part of the annual fuel allocation and are billed monthly based on actuals.
Consequences if not approved:	Due to the current volatility of fuel prices, if the amendments are not approved, the County may not have sufficient contract authority to compensate these fuel service providers and would no longer continue receiving the benefits, including reduced fuel prices, onsite delivery, and access to emergency fuel delivery during natural disasters.
County Strategic Plan pillar addressed:	Effective and Open Government

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.

BACKGROUND AND DISCUSSION

Since approximately 1994, Napa County has received unleaded and diesel fuel services from Napa Valley Petroleum. Following a Request for Proposal (FRP) process, on October 12, 2017, the County entered into Agreement No. 180153B with Napa Valley Petroleum, Inc., and Agreement No. 180152B with Hunt Allied Petroleum, LLC.

Agreement No. 180153B with Napa Valley Petroleum, Inc. provides discounted rates at multiple retail stations in Napa County and provides bulk fuel delivery and technical services to the County's fueling yards in Yountville, Spanish Flat, and at generator sites throughout the County. Subsequent to the approval of the agreement with Napa Valley Petroleum Inc., the State of California introduced Senate Bill 1 (SB 1), the Road Repair and Accountability Act of 2017, which increased fuel taxes for the benefit of the local and state roadway system. Due to the increase on fuel taxes and general gas price fluctuations, the Board approved Amendment No. 1 to Agreement No. 180153B on March 12, 2019, increasing the maximum compensation to $375,000 per fiscal year. A year later on March 24, 2020, the Board approved Amendment No. 2 to Agreement No. 180153B increasing the compensation amount by $50,000 to a maximum of $425,000 per fiscal year due to continued

increased costs from general gas price fluctuations and due to the increased cost of fuel for generators during the Public Safety Power Shutoffs. Based on an analysis of fueling history and locations of Napa County offices, NVP fuel cards are used by most County fleet users. Additionally, services from NVP have been utilized during natural disasters and Public Safety Power Shutoffs for the refilling of generators due to their fuel delivery service and quick response times.

Agreement No. 180152B with Hunt Allied Petroleum, LLC. Provides discounted rates at the Devlin Chevron Station, most commonly utilized by the Napa County Sheriff's Office and Airport. Using the Pacific Pride system through Hunt Allied Petroleum, LLC., the County benefits from having access to numerous retail stations. Although fueling at these stations are at retail prices, expanding the access and number of stations is important for fleet users whose job function takes them to remote places within the County and throughout California.

Both amendments are needed due to the record high pricing of retail gasoline and diesel. Approval of today's requested actions will ensure Fleet Management has sufficient contract authority to compensate both Napa Valley Petroleum and Hunt Allied Petroleum for fuel consumed by County departments.

Napa Valley Petroleum is a local vendor. Hunt Allied Petroleum is a joint venture in which one of the parties has a local office.

AMENDMENT NO. 3
OF
NAPA COUNTY AGREEMENT NO. 180153B

PROFESSIONAL SERVICES AGREEMENT

THIS AMENDMENT NO. 3 OF NAPA COUNTY AGREEMENT NO. 180153B is made and entered into as of this ____day of _____ 2022, by and between NAPA COUNTY, a political subdivision of the State of California, hereinafter referred to as "COUNTY", and NAPA VALLEY PETROLEUM, Inc., a California Corporation, whose mailing address is 257 S. Kelly Road, American Canyon, California 94503, hereinafter referred to as "CONTRACTOR";

RECITALS

WHEREAS, by Napa County Agreement No. 180153B entered into as of October 12, 2017 (hereafter referred to as "Agreement"), CONTRACTOR agreed to provide specialized services for Unleaded and Diesel Fuel Services; and

WHEREAS, on March 12, 2019 (COUNTY and CONTRACTOR entered into Amendment No. 1 increasing the contract maximum by $50,000 per fiscal year to cover additional costs for receiving Unleaded and Diesel Fuel Services; and

WHEREAS, on March 24, 2020, COUNTY and CONTRACTOR entered into Amendment No. 2 increasing the contract maximum by $50,000 per fiscal year to cover additional costs for receiving Unleaded and Diesel Fuel Services; and

WHEREAS, COUNTY and CONTRACTOR now desire to amend the Agreement to extend the term date of the Agreement to align with the County's fiscal year, and to increase the contract maximum by $150,000 per fiscal year to cover additional costs for receiving Unleaded and Diesel Fuel Services that were incurred due to general gas price fluctuations and to operate generators during the Public Safety Power Shutoffs;

TERMS

NOW, THEREFORE, COUNTY and CONTRACTOR agree to amend the Agreement in accordance with the terms and conditions set forth herein as follows:

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

1. **Term of this Agreement.** The term of this Agreement shall commence on the date first above written and shall expire on June 30, 2023, 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 COUNTY 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 two (2) 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. Paragraph 3, "**Compensation**" is hereby amended to read in full as follows:

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

(b) Expenses. No travel or other expenses will be reimbursed by COUNTY.

(c) Maximum Amount. Notwithstanding subparagraphs (a) and (b), the maximum payments under this Agreement shall be a total of THREE-HUNDRED AND TWENTY-FIVE THOUSAND DOLLARS ($325,000) per year for Fiscal Year 2017-18; THREE-HUNDRED AND SEVENTY-FIVE THOUSAND DOLLARS ($375,000) per year for Fiscal Year 2018-19, FOUR-HUNDRED AND TWENTY-FIVE THOUSAND DOLLARS ($425,000) per year for Fiscal Years 2019-20 and 2020-21, and FIVE-HUNDRED AND SEVENTY FIVE THOUSAND DOLLARS ($575,000) for subsequent Fiscal Years; provided, however, that such amounts shall not be construed as guaranteed sums, and compensation shall be based upon services actually rendered.

3. Except as provided above, the terms and provisions of the Agreement shall remain in full force and effect.

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///

SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, this Amendment No. 3 was executed by the parties hereto as of the date first above written.

NAPA VALLEY PETROLEUM, INC.

By: _____
TIM CARDOZA, President

By: _____
TIFFANI VIZZA, Treasurer

"CONTRACTOR"

NAPA COUNTY, a political subdivision of the State of California

By _____
RYAN GREGORY, Chair
Board of Supervisors

"COUNTY"

APPROVED AS TO FORM Office of County Counsel By: *John L. Myers* (e-sign) Deputy County Counsel Date: February 28, 2022	APPROVED BY THE NAPA COUNTY BOARD OF SUPERVISORS Date: _____ Processed By: _____ Deputy Clerk of the Board	ATTEST: NEHA HOSKINS Clerk of the Board of Supervisors By: _____

AMENDMENT NO. 1
OF
NAPA COUNTY AGREEMENT NO. 180152B

PROFESSIONAL SERVICES AGREEMENT

THIS AMENDMENT NO. 1 OF NAPA COUNTY AGREEMENT NO. 180152B is made and entered into as of this ____day of _____ 2022, by and between NAPA COUNTY, a political subdivision of the State of California, hereinafter referred to as "COUNTY", and HUNT ALLIED PETROLEUM, LLC., a California limited liability company, whose mailing address is P.O. Box 277670, Sacramento, California 95827, hereinafter referred to as "CONTRACTOR";

RECITALS

WHEREAS, by Napa County Agreement No. 180152B entered into as of October 12, 2017 (hereafter referred to as "Agreement"), CONTRACTOR agreed to provide specialized services for Unleaded and Diesel Fuel Services; and

WHEREAS, COUNTY and CONTRACTOR now desire to amend the Agreement to extend the term date of the Agreement to align with the County's fiscal year, and to increase the contract maximum by $150,000 per fiscal year to cover additional costs for receiving Unleaded and Diesel Fuel Services that were incurred due to general gas price fluctuations and to operate generators during the Public Safety Power Shutoffs;

TERMS

NOW, THEREFORE, COUNTY and CONTRACTOR agree to amend the Agreement in accordance with the terms and conditions set forth herein as follows:

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

1. **Term of this Agreement.** The term of this Agreement shall commence on the date first above written and shall expire on June 30, 2023, 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 COUNTY 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 two (2) 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. Paragraph 3, "**Compensation**" is hereby amended to read in full as follows:

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

(b) Expenses. No travel or other expenses will be reimbursed by COUNTY.

(c) Maximum Amount. Notwithstanding subparagraphs (a) and (b), the maximum payments under this Agreement shall be a total of THREE-HUNDRED THOUSAND DOLLARS ($300,000) per Fiscal Year 2017-18 thru 2020-21, and FOUR-HUNDRED AND FIFTY THOUSAND DOLLARS ($450,000) for subsequent Fiscal Years; provided, however, that such amounts shall not be construed as guaranteed sums, and compensation shall be based upon services actually rendered.

3. Except as provided above, the terms and provisions of the Agreement shall remain in full force and effect.

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///
///

SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, this Amendment No. 3 was executed by the parties hereto as of the date first above written.

HUNT ALLIED PETROLEUM, LLC

By: _____
JOSHUA M. HUNT, Manager/ Member

By: _____
JOSEPH W. HUNT, Manager/ Member

By: _____
STANLEY TEADERMAN, Manager/ Member

By: _____
DUSTIN KAISER, Manager/ Member

"CONTRACTOR"

NAPA COUNTY, a political subdivision of the State of California

By_____
RYAN GREGORY, Chair
Board of Supervisors

"COUNTY"

APPROVED AS TO FORM Office of County Counsel By: *John L. Myers* (e-sign) Deputy County Counsel Date: March 28, 2022	APPROVED BY THE NAPA COUNTY BOARD OF SUPERVISORS Date: _____ Processed By: _____ Deputy Clerk of the Board	ATTEST: NEHA HOSKINS Clerk of the Board of Supervisors By: _____

Napa County

Board Agenda Letter

Board of Supervisors	**Agenda Date:** 4/19/2022	**File ID #:** 22-661

TO: Board of Supervisors

FROM: Steven E. Lederer - Director of Public Works

REPORT BY: John Vicencio - Associate Engineer

SUBJECT: LNU Fire Complex Spanish Flat Equipment Yard Repair Project, RDS 20-53
Approval of Plans and Specifications and Authorization to Advertise for Bids

RECOMMENDATION

Director of Public Works requests approval of plans and specifications for the "LNU Fire Complex Spanish Flat Equipment Yard Repair Project", RDS 20-53, authorization to advertise for sealed bids and opening of the bids at a time, date and location to be published by the Director of Public Works pursuant to Section 20150.8 of the Public Contract Code.

EXECUTIVE SUMMARY

The Napa County Spanish Flat Corporation Yard, used primarily for storage and staging of Roads equipment and vehicles, was damaged as a result of the 2020 LNU Complex Fire. The damaged areas requiring repairs include the carport structure, the asphalt pad underneath the structure, electrical, and sections of perimeter fencing. The "LNU Fire Complex Spanish Flat Equipment Yard Repair Project", RDS 20-53 will provide for necessary repairs to the site. Plans and Specification are now complete and ready for approval by the Board of Supervisors along with authorization to advertise for bids.

These repairs are covered by the County's insurance policy and it is anticipated that costs associated with the repairs, with the exception of the insurance deductible and staff time, will be reimbursed by insurance.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	No

Where is it budgeted?	Funding from Accumulated Capital Outlay (ACO) Fund (Fund: 3000, Org: 3000000) will be requested when construction contract is awarded. Prior budget transfers occurred on January 26, 2021, from Fund: 1000, Org: 1058006 in the amount of $35,000 for preliminary evaluation damaged structure and clean-up of debris including potential hazardous material, and on January 25, 2022, from ACO Fund in the amount of $50,000 for continued clean up and design and development of bid documents. It is anticipated that insurance will cover the full replacement cost excluding insurance deductible and staff time.
Is it Mandatory or Discretionary?	Discretionary
Discretionary Justification:	The Napa County Spanish Flat Corporation Yard suffered damage to the carport structure and surrounding area, which protects and secures County equipment and vehicles, and needs to be repaired. It is anticipated these cost will be reimbursed by insurance.
Is the general fund affected?	Yes
Future fiscal impact:	It is anticipated that all the work will be completed during 2021/2022 - 2022/2023 fiscal years.
Consequences if not approved:	If repairs are not performed material, equipment and vehicles will be exposed to inclement weather increasing the potential of damage or increased maintenance.
County Strategic Plan pillar addressed:	Healthy, Safe, and Welcoming Place to Live, Work, and Visit

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: Consideration and possible adoption of a Categorical Exemption Class 1: It has been determined that this type of project does not have a significant effect on the environment and is exempt from the California Environmental Quality Act. [See Class 1 ("Existing Facilities") which may be found in the guidelines for the implementation of the California Environmental Quality Act at 14 CCR §15301; see also Napa County's Local Procedures for Implementing the California Environmental Quality Act, Appendix B.].

BACKGROUND AND DISCUSSION

During the 2020 LNU Lighting Complex Fires, the Napa County Spanish Flat corporation yard experienced fire damage that destroyed several vehicles, equipment, and damaged the carport structure, pavement, and the surrounding perimeter fencing.

On January 26, 2021, Staff requested an initial budget transfer of $35,000 to the project budget to provide a preliminary review of the carport structure and to provide general site cleanup. To date, the damaged equipment and fire debris has been removed or contained onsite.

On October 15, 2021, an additional evaluation of the site was conducted with insurance representatives. The inspections revealed that more extensive damage to the carport structure and surrounding area was identified

and would require unanticipated repairs. After this site review, on January 25, 2022 Staff requested a budget transfer of $50,000 to the project budget which would allow for a more in-depth design and development of bid documents to address necessary repairs to the carport structure and surrounding area.

Plans and specifications for this project are now complete and ready for approval by the Board of Supervisors along with authorization to advertise for bids. In the initial project agenda item, staff provided a rough order of magnitude estimate of $250,000 for the project cost. Staff will return to the Board of Supervisors at time of construction award to present a detailed project budget based on the lowest responsible bid and to request a budget transfer to fully fund this project. It is anticipated that this project will be fully reimbursed through the County's insurance carrier with the exception of insurance deductible and County staff time. Any remaining funds will be returned to the ACO.

Napa County

Board Agenda Letter

Board of Supervisors	**Agenda Date:** 4/19/2022	**File ID #:** 22-677

TO: Board of Supervisors

FROM: Steven Lederer - Director of Public Works

REPORT BY: Nydia Campoy - Senior Office Assistant

SUBJECT: Resolution Temporarily Closing a Portion of Henry Road

RECOMMENDATION

Director of Public Works requests adoption of a Resolution temporarily closing a portion of Henry Road between the entrance to Artesa Winery at Mile Post Marker 1.42 and the end of Henry Road from 7:00 A.M. to 11:00 A.M. on Sunday, May 1, 2022, for the Carneros Run.

EXECUTIVE SUMMARY

The Carneros Volunteer Fire Company is requesting that a portion of Henry Road between the entrance to Artesa Winery at Mile Post Marker 1.42 and the end of Henry Road be closed from 7:00 A.M. and 11:00 A.M. on Sunday, May 1, 2022, for the Carneros Run. This partial closure will facilitate the running of the race and will improve public safety during the event.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact?	No
County Strategic Plan pillar addressed:	Collaborative and Engaged Community

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: Approval of the project is a ministerial action which is exempt from CEQA (14 CCR 15268; Friends of Sierra Madre v. City of Sierra Madre (2001) 25 Cal.4th 165).

BACKGROUND AND DISCUSSION

The Carneros Volunteer Fire Company has requested that a portion of Henry Road be closed to facilitate public

safety for the Carneros Run on Sunday, May 1, 2022. The event starts at Artesa Winery and proceeds down the driveway, turning left onto Henry Road, and continuing to where the road dead ends and returns along the same route. Participants can opt for either the 5K or 10K distances. No spectators will be allowed along the course. All businesses and residents along the course route will be contacted no later than two weeks prior to the event.

The Carneros Volunteer Fire Company has sponsored this event since 2008. There will be approximately 300 runners participating in this event to help raise funds for the Carneros Fire Department. There have been no concerns with this event in prior years.

Besides parking on Artesa property, vehicles will be parked along the side of Henry Road and Dealy Lane, under the supervision of experienced volunteers. Buses will pick up runners on Dealy Lane and transport them to and from Artesa Winery. The pick up starts at 6:30 A.M. until conclusion of the race at approximately 11:00 A.M.

The applicant has obtained a certificate of insurance naming the County as additional insured.

Public Works has included conditions to ensure a safe environment for the public. These conditions are:

A. All traffic control devices and personnel shall be in conformance with Caltrans' Traffic Manual;

B. All properties having access to the portion of Henry Road being closed shall be notified prior to the event and access shall be provided to them during the event;

C. Access shall be provided for emergency vehicles at all times;

D. A certificate of insurance in the amount of $1,000,000 shall be provided to the County naming the County of Napa as additional insured; and

E. All costs of clean up and repairs to County facilities damaged as a result of this event shall be borne by the Carneros Volunteer Fire Department.

Calendar of Events

The following special events were scheduled in the six weeks prior to this event, with road closures as noted:

-Napa Women’s Half, March 20 - East Napa - Coombsville Road to Imola to the Avenues - no road closures

-Alpha Win Triathlon, April 9 & 10 - Lake Berryessa - Traffic control for Berryessa-Knoxville Road north of Pope Canyon Rd

The following special events are scheduled in the six weeks following this event; road closures noted:

-Sonoma Women's Triathlon, May 7 - Lake Berryessa - Traffic control for Berryessa-Knoxville Rd north of Pope Canyon Rd

-Davis Double Century, May 21 - Berryessa Area to Butts Canyon Rd - no road closures

RESOLUTION NO. _____

RESOLUTION OF THE NAPA COUNTY BOARD OF SUPERVISORS, STATE OF CALIFORNIA, TEMPORARILY CLOSING A PORTION OF HENRY ROAD

WHEREAS, Section 21101 of the California Vehicle Code allows local authorities to adopt rules and regulations by resolution to provide for temporarily closing a portion of any street or road for celebrations, parades, local special events, and other purposes when, in their opinion, the closing is necessary for the safety and protection of persons who are to use that portion of the street or road during the temporary closing; and

WHEREAS, the Carneros Volunteer Fire Department ("The Permittee") has requested a special events permit for a foot race, the Carneros Run, to be held on May 1, 2022 between the hours of 7:00 A.M. and 11:00 A.M.; and

WHEREAS, as part of the special events permit application, the Permittee has requested the temporary closure of Henry Road between entrance to Artesa Winery at Mile Post 1.42 and the end of Henry Road;

NOW, THEREFORE, BE IT RESOLVED by the Napa County Board of Supervisors pursuant to Section 21101 of the California Vehicle Code that the Board hereby permits the temporary closure of Henry Road on Sunday, May 1, 2022 from 7:00 A.M. to 11:00 A.M. to provide for the safety and protection of persons using those portions of these County roads during that period, subject to the following conditions:

1. Permittee will furnish to the County a Certificate of Insurance in the amount of $1,000,000 with an endorsement naming Napa County and its officers, employees, agents, and volunteers as additional insureds;

2. Traffic control measures including but not limited to signs, barricades and cones shall be used as directed by traffic control personnel and be in accordance with the requirements of the State of California, Department of Transportation, Traffic Manual and as approved by Napa County, both as to type and location;

3. Permittee shall have entered into a contract with the California Highway Patrol for traffic control services during the event;

4. Permittee acknowledges the County, at its sole discretion, has the right to cancel or terminate the event in the interest of public or participant safety.

5. The owners and occupants of all properties having access to the portion of Henry Road being closed shall be notified by Permittee or their representative prior to the event and access shall be provided to them during the event;

6. Access and through travel, if necessary, shall be provided for emergency vehicles at all times; and

7. All clean-up and repair of any damage done to County-owned facilities as a result of this event shall be done by the Permittee at Permittee's expense.

THE FOREGOING RESOLUTION WAS DULY AND REGULARLY ADOPTED by the Napa County Board of Supervisors, State of California, at a regular meeting of the Board held on the _____ day of _____, 2022, by the following vote:

AYES: SUPERVISORS _____

_____

NOES: SUPERVISORS _____

ABSTAIN: SUPERVISORS _____

ABSENT: SUPERVISORS _____

NAPA COUNTY, a political subdivision of the State of California

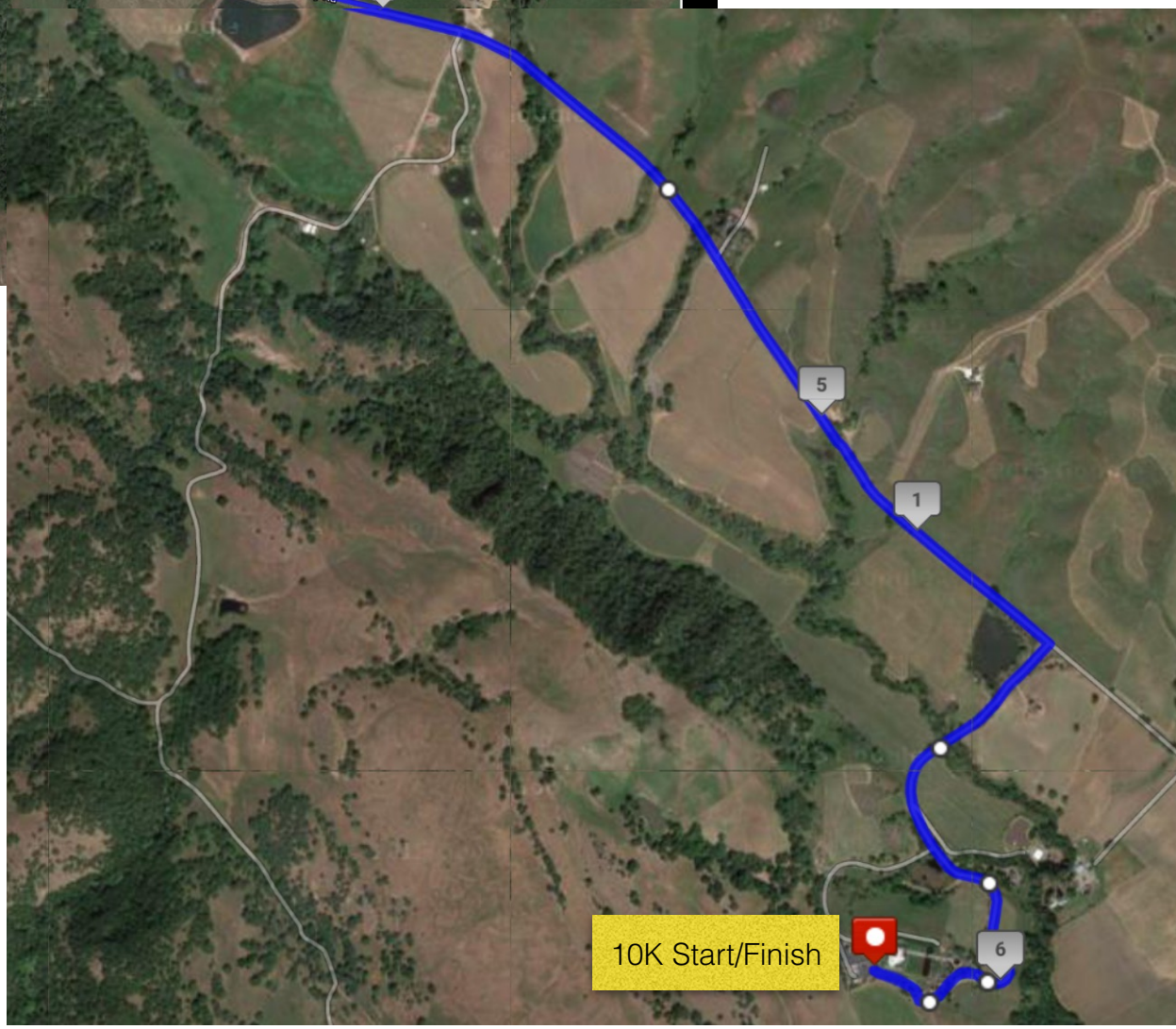
By: _____
RYAN GREGORY, Chair of the Board of Supervisors

APPROVED AS TO FORM Office of County Counsel By: *John L. Myers* (e-sign) Deputy County Counsel Date: March 28, 2022	APPROVED BY THE NAPA COUNTY BOARD OF SUPERVISORS Date: _____ Processed By: _____ Deputy Clerk of the Board	ATTEST: NEHA HOSKINS Clerk of the Board of Supervisors By: _____


DISTANCE
3.1 MI
Carneros Vineyard Run 5K
5K Turn Around
Henry Rd
2
1
Henry Rd
Artesa Winery
5K Start/ Finish
3



Carneros Vineyard Run 10K



April 6, 2022

Re: Carneros Vineyard Run

To Whom It May Concern:

This year the Carneros Vineyard Run will be Sunday, May 1, 2022 at Artesa Vineyards and Winery. The proceeds this year will go towards the department general fund, department personnel training and education, and station updates that the department is in desperate need of. The Carneros Volunteer Fire Dept. has not been able to have this event since 2019 and we are glad to have it back.

The Run will start at 08:00 AM from the Artesa Winery parking lot. Runners will start arriving by 06:30 AM. From the intersection of Dealy Lane and Henry Road to Old Sonoma Road, Dealy Lane will be open to traffic during the race. Henry Road will be closed until the race is over at around 10:00 AM.

Our goal is to inconvenience you as little as possible. Thank you for tolerating some inconvenience during this race. If you have any questions or concerns, please call Athletic Feat on behalf of the Carneros Volunteer Fire Department and Artesa Vineyards and Winery.

Sincerely,
The Race Team

Athletic Feat
(707) 292-4355

Napa County

Board Agenda Letter

Board of Supervisors	**Agenda Date:** 4/19/2022	**File ID #:** 22-682

TO: Board of Supervisors

FROM: Steven Lederer - Director of Public Works - Animal Shelter

REPORT BY: Katie Ribardiere- Animal Shelter Manager

SUBJECT: Acceptance of $40,000 Napa Valley Community Foundation Grant for the Animal Shelter

RECOMMENDATION

Director of Public Works requests the following actions regarding a grant from the Napa Valley Community Foundation (NVCF) for the Napa County Animal Shelter (NCAS):

1. Acceptance of a David and Jane Gotelli Family Fund grant in the amounts of $30,000 for general support and $10,000 for community spay/neuter program support; and
2. Authorization for the Chair to sign a letter of appreciation to the NVCF.

EXECUTIVE SUMMARY

NCAS has been selected to receive a $40,000 grant from the Napa Valley Community Foundation's David and Jane Gotelli Family Fund ($30,000 for general support and $10,000 for the NCAS Spay/Neuter Community Voucher Program). NCAS will focus these funds toward three program areas: Spay/Neuter Community Voucher Program, Advanced Care Medical Support and Behavior Assessments, and Emergency and Disaster Response.

Approval of the requested action will allow the Animal Shelter to accept the grant funds and authorize the Chair to sign a thank you letter to the Napa Valley Community Foundation. Grant funds will be used in fiscal year 2022-23.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	No
Where is it budgeted?	The source of revenue is grant funding from the David and Jane Gotelli Family Fund at the Napa Valley Community Foundation. The revenue will be budgeted in Fund 5040.
Is it Mandatory or Discretionary?	Discretionary

Discretionary Justification:	This grant will be used for general support and support of low-cost spay/neuter services for the community.
Is the general fund affected?	No
Future fiscal impact:	Appropriations to expend the $40,000 grant will be included in fiscal year 2022-23 budget.
Consequences if not approved:	If acceptance of this grant is not approved, NCAS will not receive $40,000 and the specific program areas described above would not be enhanced.
County Strategic Plan pillar addressed:	Effective and Open Government

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.

BACKGROUND AND DISCUSSION

In 2019, the Napa County Animal Shelter and Adoption Center (NCAS) received $20,000 in grant funds from the Napa Valley Community Foundation's David and Jane Gotelli Family Fund (Gotelli Family Fund). These funds were intended to support Shelter operations in fiscal years 2019 and 2020 and have been fully expended. Granted funds were used to support the NCAS Adoption Program, Spay and Neuter Program, and staff training.

In 2021, NCAS received $25,000 in grant funds from NVCF's Gotelli Family Fund. These grant funds have been fully expended and were used to support the NCAS spay/neuter program in fiscal years 2021 and 2022.

In January of 2022, the NVCF invited eligible animal welfare organizations to apply for available grants of up to $30,000 from the Gotelli Family Fund. The County submitted an application, and in March 2022, NCAS was selected to receive a $30,000 general support grant and a $10,000 spay/neuter grant specifically for subsidies/vouchers. If accepted, these funds will be available between April 2022 and April 2023. NCAS management identified three key areas which have the greatest need for additional funding:

1. Spay and Neuter Voucher Community Program - Leading animal welfare organizations promote that spaying and neutering is the most effective way to combat over population of unwanted animals and to keep unwanted animals from entering the animal shelter system. NCAS spays and neuters animals in its care and also operates a Spay/Neuter Voucher Program to support spay/neuter efforts in the community. The Voucher program is available to Napa County residents, including community members who are assisting in efforts to manage feral cat colonies. This program is in high demand and often needs to be managed based upon available funds. NCAS will utilize a minimum of $10,000 of granted funds to assist in meeting community demand for the Spay/Neuter Voucher program.
2. Advanced Care Medical Support and Behavior Assessments - Approximately 1/3 of the animals that enter the NCAS require advanced medical treatments and/or surgical procedures beyond vaccinations

and a health exam. Conditions include kidney disease, heart disease, skin issues, severe dental disease, thyroid issues, bone fractures, eye injuries, etc. These conditions require assessment and frequent treatment by a veterinary specialist. NCAS is also often required to perform behavior assessments for dogs that come to the shelter in advance of adoption and placement. NCAS will utilize granted operational funds to support advanced medical care and behavioral needs that many animals in the care of NCAS require.

3. Emergency and Disaster Response - NCAS is often activated by the County's Emergency Operations Center in response to wildfire, flood, and other emergencies. The Shelter has been activated for four fires and one pandemic since 2017. The Shelter will utilize granted funds for emergency planning and preparation to ensure timely assistance to the community and its pets, including supplies and resources to displaced pets and their owners.

Today's action will approve the acceptance of a $40,000 grant and authorize the Chair to sign a letter of appreciation to the Napa Valley Community Foundation for their support.

A Tradition of Stewardship
A Commitment to Service

Board of Supervisors

1195 Third St.
Suite 310
Napa, CA 94559
www.countyofnapa.org

Main: (707) 253-4421
Fax: (707) 253-4176

Ryan Gregory
Chair

April 14, 2022

Heidi A. Holzhauer, Chair
Napa Valley Community Foundation
3299 Claremont Way, Ste. 4
Napa, Ca 94558

Dear Ms. Holzhauer:

Thank you for the recent general support grant award of $30,000 and spay/neuter subsidies grant award of $10,000 from The David and Jane Gotelli Family Fund. Your contribution to the Napa County Animal Shelter and Adoption Center will help us support the Napa County community and their pets. Funds will be used to support emergency response and preparedness, expand the Spay/Neuter Community Voucher Program, and help us to provide necessary veterinary care to animals that come to the Shelter.

It is the goal of the Napa County Animal Shelter to serve the community by providing a safe and healthy environment for animals in transition, while promoting animal welfare education and responsible pet ownership. This grant will further our mission and you are welcome to visit the Shelter to see your grant dollars at work.

On behalf of the Board of Supervisors and the Napa County Animal Shelter and Adoption Center, thank you for your continued support.

Sincerely,

Ryan Gregory
Chair

Brad Wagenknecht District 1 | **Ryan Gregory** District 2 | **Diane Dillon** District 3 | **Alfredo Pedroza** District 4 | **Belia Ramos** District 5

Napa County

Board Agenda Letter

Board of Supervisors	**Agenda Date:** 4/19/2022	**File ID #:** 22-707

TO: Board of Supervisors

FROM: Steven Lederer - Director of Public Works

REPORT BY: Graham Wadsworth - Engineering Supervisor

SUBJECT: Resolution Certifying the Mileage of County-Maintained Road System

RECOMMENDATION

Director of Public Works requests adoption of a Resolution certifying to the State Department of Transportation, the total mileage of Napa County maintained roads as of May 2022 in accordance with the provisions of Section 2121 of the California Streets and Highways Code.

EXECUTIVE SUMMARY

Section 2121 of the California Streets and Highways Code requires the County to file an annual report of the total mileage of the County-maintained road system, noting any additions or exclusions. This report was last prepared and submitted in 2021. Since that time, there have not been any additions, exclusions nor changes to the measured lengths of County roads. The County-maintained road system totals 419.10 miles.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact?	No
Is it currently budgeted?	No
Where is it budgeted?	The State Controller distributes a portion of the gas tax revenue derived pursuant to Section 2103, 2104, 2105, 2106 and 2034 of the Streets and Highways Code based on, among other factors, the total mileage of the County-maintained road system.
Is it Mandatory or Discretionary?	Mandatory
Discretionary Justification:	This is a mandatory provision of the California Streets and Highways Code.
Is the general fund affected?	No

Future fiscal impact:	This is an annual requirement of the Streets and Highways Code that may cause a minor fluctuation in revenue, if the amount of County-maintained mileage changes in future reports.
Consequences if not approved:	The State of California could withhold payment of revenues allocated from Sections 2100 through 2121 of the code if the County did not comply with the provision.
County Strategic Plan pillar addressed:	Livable Economy for All

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.

BACKGROUND AND DISCUSSION

The Public Works Department maintains 419.10 miles of roads in the unincorporated portions of Napa County. The county road system consists of 38.16 miles of arterial roads, 108.93 miles of collector roads, 5.74 miles of urban local, and 257.46 miles of local roads. The 2020-21 Pavement Management Program (PMP) Update states that the cost to reconstruct the county road system, given current deferred maintenance, is $470 million. To effectively maintain this significant asset with gas tax and sales tax revenue, the County uses the PMP to prioritize road maintenance, repair, and rehabilitation.

The State Controller's Office distributes Highway Users Tax Account (gas tax) funds to the various agencies in the state based on a variety of formulas, in accordance with Sections 2100 to 2121 of the Streets and Highways Code. Factors used in calculating these apportionments include population, number of vehicle registrations, assessed value, assigned percentages, fixed sums per payment period and maintained mileage, which data is reported in the annual Road Fund Report submitted to the State Controller's Office by the Auditor Controller's Office. Section 2121 of the Streets and Highways Code requires each county to submit a certified total of all the mileage of maintained county roadways and a listing of all additions or exclusions, to the State Department of Transportation, who certifies the data to the State Controller. The State Controller uses this data in proportioning the distribution of funds from the Highway Users Tax Account and SB 1 "Road Maintenance and Rehabilitation Program".

For the County to be eligible to receive regional discretionary funds through the Metropolitan Transportation Commission (MTC) for road and safety projects, the County must certify a PMP and the number of miles of county maintained roads. County staff verified that the county maintained roads that are traversable by ordinary automobiles, have become county roads through due legal processes, are open to the general public, and are outside of incorporated cities. Additions typically come from the acceptance of new roadways or relinquishment of former State highways. Exclusions typically come from the annexation of roadways into incorporated cities or from abandonments. Since 2021, there are not any roads that had been accepted by the County nor annexed into cities. The total centerline mileage of roadway maintained by the County for 2022 is 419.10 miles.

RESOLUTION NO. 2022

RESOLUTION OF THE NAPA COUNTY BOARD OF SUPERVISORS, STATE OF CALIFORNIA, CERTIFYING THE MILEAGE OF MAINTAINED COUNTY ROADS AS OF APRIL 2022

WHEREAS, section 2121 of the California Streets and Highways Code provides that each county in the State of California shall submit to the California Department of Transportation any additions and/or exclusions from the county's mileage of county maintained roads as of May of each year, specifying the termini and mileage of each route added or excluded; and

WHEREAS, as authorized by the Napa County Board of Supervisors, the Napa County Department of Public Works certified to the California State Controller on May 5, 2021, that the total mileage of county maintained roads in Napa County as of May 2021 was 419.10 miles; and

WHEREAS, the Department of Transportation certified to the State Controller in the year that the total mileage of maintained County roads was 419.10 miles; and

WHEREAS, the Napa County Department of Public Works completed a thorough review of all county maintained roads for the 2020-21 Pavement Management Program Report and found that the total mileage of maintained county roads is 419.10 miles;

NOW, THEREFORE, BE IT RESOLVED by the Napa County Board of Supervisors, as follows:

1. The total mileage of county maintained roads in Napa County is hereby authorized to be certified to the California Department of Transportation as being 419.10 miles as of April 2022.

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THE FOREGOING RESOLUTION WAS DULY AND REGULARLY ADOPTED by the Napa County Board of Supervisors, State of California, at a regular meeting of the Board held on the 19th day of April, 2022, by the following vote:

AYES: SUPERVISORS

NOES: SUPERVISORS

ABSTAIN: SUPERVISORS

ABSENT: SUPERVISORS

NAPA COUNTY, a political subdivision of the State of California

By: _____
RYAN GREGORY, Chair of the Board of Supervisors

APPROVED AS TO FORM Office of County Counsel	APPROVED BY THE NAPA COUNTY BOARD OF SUPERVISORS	ATTEST: NEHA HOSKINS Clerk of the Board of Supervisors
By: *John L. Myers* (e-sign) Deputy County Counsel Date: March 30, 2022	Date: Processed By: _____ Deputy Clerk of the Board	By:_____

Napa County

Board Agenda Letter

Board of Supervisors | **Agenda Date:** 4/19/2022 | **File ID #:** 22-717

TO: Board of Supervisors

FROM: Steven Lederer - Director of Public Works - 707-259-8228

REPORT BY: Syed Ahsan Kazmi, Senior Traffic Engineer - Public Works - 707-259-8370

SUBJECT: Professional Services Agreement with Willdan Engineering for On-Call Traffic Engineering Support Services.

RECOMMENDATION

Director of Public Works requests approval of and authorization for the Chair to sign an agreement with Willdan Engineering for a maximum of $60,000 per fiscal year for the term of May 1, 2022 through June 30, 2025 to provide on-call traffic engineering support services, including performance of radar speed studies, engineering and traffic surveys, and review/evaluation of private development proposals.

EXECUTIVE SUMMARY

The purpose of this request is to obtain Willdan (consultant) services to provide traffic engineering support services and, if needed, process ongoing and pending private development use permit applications. The previous contract with Willdan expired June 30, 2020 and traffic-engineering services are required to prepare an engineering and traffic survey (ETS) report on 56 roadway segments. These 56 segments have speed limits that are either expired or will expire within 2022 and are required to be recertified with a new ETS to comply with the 7-year limitation set forth in the California Vehicle Code (CVC). Traffic engineering services are also needed in upcoming capital improvement paving and striping projects. In the event of a backlog, Willdan can also be used to provide review of Planning, Building and Environmental Services (PBES) private development projects.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	Yes
Where is it budgeted?	Costs related to this agreement will be borne through the Roads Division Budget for traffic calming and speed studies and from grant/local funding related to capital improvement projects for complete street programs. Cost for peer review related services by consultant will be paid in the Public Works budget but reimbursed through Use Permit Application fees related to development projects.

Is it Mandatory or Discretionary?	Discretionary
Is the general fund affected?	Yes
Consequences if not approved:	If the contract is not approved, the County may be unable to provide the following: review of traffic studies, preparation of CEQA documents, recommendations for proposed wineries, or responses to application requests. Further, if this contract is not approved, staff may be unable to complete the speed studies for enforcement and safety reasons and will be unable to prepare traffic calming studies.
County Strategic Plan pillar addressed:	Effective and Open Government

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.

BACKGROUND AND DISCUSSION

Traffic engineering services are provided by the Public Works Senior Traffic Engineer for a wide array of issues, including assessing roadway safety (and providing recommended solutions), setting speed limits, reviewing private development proposals, and reviews of many other aspects of our roadways. It very often occurs that the needs of the County exceed the time the Engineer has available, or require a specialized expertise not available on our staff. The County often calls on consultants to assist us with these needs.

Currently, the Department is in need of assistance to prepare engineering and traffic survey reports for 56 roadway segments and requires support in obtaining funding for and performing various Highway Safety Improvement Program funded projects. For this reason staff is requesting a new contract with Willdan as they can provide these services and have a history of good work experience (including performance of 45 earlier traffic surveys) in and with Napa County.

Also, Napa County is required by CEQA to conduct an environmental analysis of all discretionary permits submitted for approval. Wineries or other commercial projects generate potentially significant amounts of traffic and are often required to submit Traffic Impact Studies to evaluate potential traffic or traffic safety impacts. The Public Works Senior Traffic Engineer provides technical assistance to the Planning Division of the Planning, Building and Environmental Services (PBES) Department in addition to their various Public Works functions. Since the workload rises and falls based on the number of permits submitted, it is useful to have consultant resources available to assist with these reviews as needed.

NAPA COUNTY AGREEMENT NO. _____

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is made and entered into as of this _____ day of _____, 2022, by and between NAPA COUNTY, a political subdivision of the State of California, hereinafter referred to as "COUNTY," and Willdan Engineering, a California corporation, whose mailing address is 13191 Crossroads Parkway North, Suite 405, Industry, CA 91746, hereinafter referred to as "CONTRACTOR."

RECITALS

WHEREAS, COUNTY wishes to obtain specialized services, as authorized by Government Code section 31000, in order to retain on-call traffic engineering design services; and

WHEREAS, CONTRACTOR is willing to provide such specialized services to COUNTY under the terms and conditions set forth herein;

NOW, THEREFORE, COUNTY hereby engages the services of CONTRACTOR, and CONTRACTOR agrees to serve COUNTY in accordance with the terms and conditions set forth herein:

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 COUNTY 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 two 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 COUNTY with traffic engineering services on an as-needed basis, as further described in Exhibit "A," attached hereto and hereby incorporated by reference.

3. **Compensation.**

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

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

(c) Maximum Amount. Notwithstanding subparagraphs (a) and (b), the maximum payments under this Agreement shall not exceed a total of thirty thousand dollars ($30,000) through June 30, 2022, and sixty thousand dollars ($60,000) per fiscal year thereafter, however, that such amounts shall not be construed as guaranteed sums, and compensation shall be based upon services actually rendered and reimbursable expenses actually incurred.

4. **Method of Payment.**

(a) Professional Services. All payments for compensation and reimbursement for expenses shall be made only upon presentation by CONTRACTOR to COUNTY 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, a detailed description of the tasks completed during the billing period, the names of person(s) 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 County Traffic Engineer 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 COUNTY 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 County Traffic Engineer 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, COUNTY 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 COUNTY may monitor the work performed by CONTRACTOR. COUNTY 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, COUNTY, in addition to any other rights or remedies which COUNTY 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 COUNTY with certification of all such coverages upon request by COUNTY'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 paragraph 7(b), above, shall be evidenced by one or more certificates of coverage or, with the consent of COUNTY's Risk Manager, demonstrated by other evidence of coverage acceptable to COUNTY's Risk Manager, which shall be filed by CONTRACTOR with the Public Works Department 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 COUNTY number or title and department; shall be kept current during the term of this Agreement; shall provide that COUNTY 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 paragraph 7(b)(1) and, for the comprehensive automobile liability insurance coverage referenced in paragraph 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 COUNTY, its officers, employees, agents and volunteers as additional insureds and waiving subrogation. For the Workers Compensation insurance coverage, CONTRACTOR shall file with the evidence of coverage an endorsement waiving subrogation.

(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 COUNTY shall pertain only to liability for activities of CONTRACTOR under this Agreement, and that the insurance provided is primary coverage to COUNTY with respect to any insurance or self-insurance programs maintained by COUNTY. 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 COUNTY'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, COUNTY's Risk Manager, which approval shall not be denied unless the COUNTY'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 COUNTY'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 COUNTY, 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. Except as otherwise prohibited by Civil Code section 2782.8, CONTRACTOR shall defend at its own expense, indemnify, and hold harmless the COUNTY 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), including but not limited to COUNTY employees, and the public, or damage to the property of any person or entity, which arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of CONTRACTOR, its officers, agents, employees, volunteers, representatives, contractors and subcontractors. This duty of CONTRACTOR includes the duty of defense, inclusive of that set forth in California Civil Code Section 2778, but the cost of defense charged to CONTRACTOR shall not exceed CONTRACTOR's proportionate percentage of fault except as otherwise provided by Civil Code section 2782.8. 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, provided 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 COUNTY 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 Napa County Purchasing Agent or designee pursuant to Napa County Code section 2.36.050 is hereby authorized to make all decisions and take all actions required under this Paragraph to terminate this Agreement on behalf of COUNTY 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 COUNTY unless an opportunity for consultation is provided prior to the effective date of the termination. COUNTY hereby authorizes the Napa County Executive Officer to make all decisions and take all actions required under this Paragraph to terminate this Agreement on behalf of COUNTY for the convenience of COUNTY.

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 COUNTY, COUNTY shall promptly return the Software and Application materials to CONTRACTOR. In addition, to the extent CONTRACTOR maintains COUNTY data on those portions of digital software hosted by CONTRACTOR and not controlled by COUNTY ("County data"), CONTRACTOR shall promptly return County data to COUNTY Information Technology Department (ITS) in a format designated by ITS and shall subsequently purge County data from CONTRACTOR's systems upon confirmation from COUNTY that the copy of the data provided to COUNTY 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 COUNTY, the property of and shall be promptly returned to COUNTY, 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 COUNTY 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 COUNTY 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 COUNTY is a party. If the product involves a source code, CONTRACTOR shall either provide a copy of the source code to COUNTY 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 COUNTY 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 COUNTY.

(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 COUNTY for damages sustained by COUNTY by virtue of any breach of the Agreement by CONTRACTOR whether or not the Agreement expired or otherwise terminated, and COUNTY may withhold any payments not yet made to CONTRACTOR for purpose of setoff until such time as the exact amount of damages due to COUNTY 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 either 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.

COUNTY	CONTRACTOR
Napa County Department of Public Works	Willdan Engineering
1195 Third Street, Suite 101	13191 Crossroads Parkway North, Suite 405,
Napa, CA 94559	Industry, CA 91746,

14. **Compliance with 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 COUNTY 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 COUNTY computer network shall sign and have on file with COUNTY's ITS Department prior to receiving such access the certification attached to said Policy.

(e) Napa County Workplace Violence Policy, adopted by the BOS effective May 23, 1995 and subsequently revised effective November 2, 2004, which is located in the County of Napa 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 COUNTY'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 COUNTY, expressed through its County Traffic Engineer. Upon cancellation or expiration of this Agreement, CONTRACTOR shall return to COUNTY 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 COUNTY.

(b) Protection of Personally Identifiable Information and Protected Health Information.

(1) To the extent CONTRACTOR is provided, creates, or has access to, Protected Health Information (PHI), Personally Identifiable Information (PII), or any other legally protected confidential information or data in any form or matter (collectively referred to as "Protected Information"), CONTRACTOR shall adhere to all federal, state and local laws, rules and regulations protecting the privacy of such information. CONTRACTOR shall adhere to all existing and future federal, state and local laws, rules and regulations regarding the privacy and security of Protected Information, including, but not limited to, laws and regulations requiring data encryption or policy and awareness programs for the protection of COUNTY Protected Information provided to, or accessed or created by, CONTRACTOR.

(2) CONTRACTOR shall ensure that its staff is trained to its privacy and security policies and procedures and that appropriate physical, technological and administrative safeguards are in place to protect the confidentiality of COUNTY's Protected Information, including, but not limited to, PHI and PII. Upon request, CONTRACTOR shall make available to COUNTY its policies and procedures, staff training records and other documentation of compliance with this Paragraph 15.

(3) CONTRACTOR agrees to notify COUNTY immediately of any unauthorized access to or disclosure of Protected Information that it becomes aware of.

(4) CONTRACTOR will be responsible for all costs associated with CONTRACTOR's breach of the security and privacy of COUNTY's Protected Information, or its unauthorized access to or disclosure of COUNTY's Protected Information, including, but not limited to, mitigation of the breach, cost to the County of any monetary sanctions resulting from breach, notification of individuals affected by the breach, and any other action required by federal, state, or local laws, rules or regulations applicable at the time of the breach.

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 COUNTY, 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 COUNTY to withhold its consent to assignment. For purposes of this subparagraph, the consent of COUNTY may be given by the County Traffic Engineer.

(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 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 COUNTY by the State of California pursuant to agreement between COUNTY 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 COUNTY 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.

(d) Prevailing Wages. The scope of services includes inspection and land surveying work, which is considered "public works" as defined in the California Labor Code. CONTRACTOR shall comply with all State prevailing wage requirements applicable to such work, including but not limited to those set forth in Exhibit D.

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 COUNTY 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 COUNTY is audited for compliance regarding any withholding or other applicable taxes or amounts, CONTRACTOR agrees to furnish COUNTY with proof of payment of taxes or withholdings on those earnings.

21. **Access to Records/Retention.** COUNTY, 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 COUNTY 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 COUNTY 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 COUNTY 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 COUNTY 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 county relating to this Agreement. CONTRACTOR agrees that if such financial interest does exist at the inception of this Agreement, COUNTY may terminate this Agreement immediately upon giving written notice without further obligation by COUNTY to CONTRACTOR under this Agreement.

(b) Statements of Economic Interest. CONTRACTOR acknowledges and understands that COUNTY 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 County Assessor-Clerk Recorder "assuming office", "annual", and "leaving office" Statements of Economic Interest as a "consultant", as defined in section 18701(a)(2) of Title 2 of the California Code of Regulations, 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 COUNTY'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 either to 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. **Warranty.** CONTRACTOR warrants that the professional services rendered under this Agreement shall be performed in accordance with the standards customarily adhered to by an experienced and competent professional engineering firm using the degree of care and skill ordinarily exercised by reputable professionals practicing in the same field of service in the State of California. CONTRACTOR shall correct any professional services falling below this standard at its sole cost and expense, if notified by COUNTY within one year after completion of such services. This warranty is in addition to any other remedies that may be available to COUNTY in law or equity.

28. **Entirety of Contract.** This Agreement, including any documents expressly incorporated by reference whether or not attached hereto, 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.

29. **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 intentionally blank]

IN WITNESS WHEREOF, this Agreement is executed by Napa County, acting by and through the Chair of the Board of Supervisors, and by the Contractor through its duly authorized officers.

WILLDAN ENGINEERING

By _____
Vanessa Munoz, P. E, T.E, PTOE, President

By _____
Kate Nguyen, Secretary

NAPA COUNTY, a political subdivision of the State of California

By _____
Ryan Gregory, Chair
Napa County Board of Supervisors

APPROVED AS TO FORM Office of County Counsel	APPROVED BY THE NAPA COUNTY BOARD OF SUPERVISORS	ATTEST: NEHA HOSKINS Clerk of the Board of Supervisors
By: *Thomas C. Zeleny* Interim County Counsel	Date: _____ Processed By:	By: _____
Date: April 11, 2022	_____ Deputy Clerk of the Board	

EXHIBIT "A"

SCOPE OF WORK

CONTRACTOR shall provide COUNTY with the following services on an as-needed basis:

I. DESCRIPTION OF SERVICES

To provide traffic engineering consulting services and staff augmentation for various Napa County private development and capital improvement design and construction projects, when requested by County staff. The services include reviewing the traffic sections of environmental documents, building permits, preparing conditions of approval, attending Planning Commission Meetings, and reviewing private development plans. Support Roads and Engineering staff by reviewing encroachment permit applications, citizen requests for traffic calming measures, and capital improvement project plans and specifications. Prepare speed surveys, design traffic calming projects, provide technical expertise, and/or perform traffic modeling. It is anticipated that the work will take approximately 20 hours per week. When requested by the County Traffic Engineer, Willdan traffic engineer must work in our office an agreed upon schedule that meets the County's need. The traffic engineering consultant may also be required to provide training to Public Works staff, as needed.

II. COMPLIANCE WITH GOVERNMENT CODE SECTION 7550. As required by Government Code section 7550, each document or report prepared by CONTRACTOR for or under the direction of COUNTY 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"

COMPENSATION AND EXPENSE REIMBURSEMENT

Payments and expenses are based on the attached "Billing Rate Schedule". Per Diem and lodging are not included and will not be reimbursed by the County.

WILLDAN

WILLDAN ENGINEERING

Schedule of Hourly Rates

Effective July 1, 2021 to June 30, 2022

DESIGN ENGINEERING	
Technical Aide I	$70
Technical Aide II	$91
Technical Aide III	$112
CAD Operator I	$114
CAD Operator II	$132
CAD Operator III	$147
GIS Analyst I	$152
GIS Analyst II	$173
GIS Analyst III	$180
Environmental Analyst I	$127
Environmental Analyst II	$142
Environmental Analyst III	$151
Environmental Specialist	$163
Designer I	$152
Designer II	$158
Senior Designer I	$167
Senior Designer II	$175
Design Manager	$178
Senior Design Manager	$181
Project Manager I	$164
Project Manager II	$182
Project Manager III	$191
Project Manager IV	$206
Principal Project Manager	$210
Program Manager I	$182
Program Manager II	$193
Program Manager III	$211
Assistant Engineer I	$127
Assistant Engineer II	$144
Assistant Engineer III	$152
Assistant Engineer IV	$157
Associate Engineer I	$162
Associate Engineer II	$169
Associate Engineer III	$176
Senior Engineer I	$179
Senior Engineer II	$181
Senior Engineer III	$184
Senior Engineer IV	$189
Supervising Engineer	$193
Traffic Engineer I	$193
Traffic Engineer II	$206
City Engineer I	$206
City Engineer II	$216
Deputy Director	$214
Director	$219
Principal Engineer	$238

BUILDING AND SAFETY	
Assistant Code Enforcement Officer	$93
Code Enforcement Officer	$107
Senior Code Enforcement Officer	$126
Supervisor Code Enforcement	$152
Plans Examiner Aide	$100
Plans Examiner	$152
Senior Plans Examiner	$167
Assistant Construction Permit Specialist	$107
Construction Permit Specialist	$112
Senior Construction Permit Specialist ***	$132
Supervising Construction Permit Specialist	$140
Assistant Building Inspector	$126
Building Inspector***	$140
Senior Building Inspector	$152
Supervising Building Inspector	$167
Inspector of Record	$178
Deputy Building Official	$178
Building Official	$180
Plan Check Engineer	$178
Supervising Plan Check Engineer	$180
Principal Project Manager	$210
Deputy Director	$214
Director	$219

PLANNING	
CDBG Technician	$74
CDBG Specialists	$89
CDBG Analyst	$105
CDBG Coordinator	$131
CDBG Manager	$158
Planning Technician	$112
Assistant Planner	$140
Associate Planner	$152
Senior Planner	$173
Principal Planner	$180
Planning Manager	$195
Deputy Director	$214
Director	$219

ADMINISTRATIVE	
Administrative Assistant I	$83
Administrative Assistant II	$100
Administrative Assistant III	$117
Project Accountant I	$94
Project Accountant II	$110
Project Controller I	$117
Project Controller II	$132

CONSTRUCTION MANAGEMENT	
Labor Compliance Specialist	$126
Labor Compliance Manager	$158
Utility Coordinator	$167
Assistant Construction Manager	$138
Construction Manager	$160
Senior Construction Manager	$180
Resident Engineer I	$180
Resident Engineer II	$187
Project Manager IV	$206
Deputy Director	$214
Director	$219

INSPECTION SERVICES	
Public Works Observer **	$108
Public Works Observer ***	$131
Senior Public Works Observer**	$118
Senior Public Works Observer ***	$131

MAPPING AND EXPERT SERVICES	
Survey Analyst I	$132
Survey Analyst II	$152
Senior Survey Analyst	$173
Supervisor - Survey & Mapping	$182
Principal Project Manager	$210

LANDSCAPE ARCHITECTURE	
Assistant Landscape Architect	$132
Associate Landscape Architect	$152
Senior Landscape Architect	$167
Principal Landscape Architect	$180
Principal Project Manager	$210

** For Non-Prevailing Wage Project *** For Prevailing Wage Project

Mileage/Field Vehicle usage will be charged at the rate in accordance with the current FTR mileage reimbursement rate, subject to negotiation.

Additional billing classifications may be added to the above listing during the year as new positions are created. Consultation in connection with litigation and court appearances will be quoted separately. The above schedule is for straight time. Overtime will be charged at 1.5 times, and Sundays and holidays, 2.0 times the standard rates. Blueprinting, reproduction, messenger services, and printing will be invoiced at cost plus fifteen percent (15%). A sub consultant management fee of fifteen percent (15%) will be added to the direct cost of all sub consultant services to provide for the cost of administration, consultation, and coordination. Valid July 1, 2021 thru June 30, 2022, thereafter, the rates may be raised once per year to the value between the 12-month % change of the Consumer Price Index for the Los Angeles/Orange County/Sacramento/San Francisco/San Jose area and five percent.

Rev. 6/14/2021

EXHIBIT "C"

[Company Name]
[Street Address]
[City, ST ZIP Code]
Phone [phone] Fax [fax]

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		Smith,			
1/1/15	Site visit/investigation 123 Main St,	Engineer	1.5	$165.00	247.50
1/1/15	Napa.	Smith,	1	$165.00	165.00
	Conf w/Owner	Engineer	4	$165,00	660.00
	AutoCad, Bldg X, 3rd Floor	Smith,			
		Engineer			
1/2/15	Rev plans, phone conf w/Owner	Jones, PE	1.75	$195.00	341.25
1/2/15		Smith,			
1/2/15	AutoCad Bldg X, 3rd Floor	Engineer	4	$165.00	660.00
	Conf w/Owner re 2nd Floor	Smith,	.5	$165.00	82.50
		Engineer			
1/3/15	Mtg w/Jones re 2nd Floor; conf	Smith,			
1/3/15	w/Owner	Engineer	1.5	$165.00	247.50
	Mtg w/Smith; conf w/Owner re 2nd	Jones, PE	1.5	$195.00	292.50
	Floor				
				TOTAL	

EXHIBIT "D"

CALIFORNIA PREVAILING WAGE REQUIREMENTS

Pursuant to California Labor Code sections 1720 and 1771, construction, alteration, demolition, installation, repair and maintenance work performed under this Agreement is subject to State prevailing wage laws. State prevailing wage laws require certain provisions be included in all contracts for public works. The Contractor and any subcontractors shall comply with State prevailing wage laws including but not limited to the requirements listed below.

1. Compliance with Prevailing Wage Requirements. Pursuant to California Labor Code sections 1720 through 1861, the Contractor and all subcontractors shall ensure that all workers who perform work under this Agreement are paid not less than the prevailing rate of per diem wages as determined by the Director of the California Department of Industrial Relations (DIR). This includes work performed during the design, site assessment, feasibility study, and other preconstruction phases of construction, including but not limited to inspection and land surveying work, regardless of whether any further construction work is conducted, and work performed during the post-construction phases of construction, including but not limited to all cleanup work at the jobsite.

1.1. Copies of such prevailing rate of per diem wages are on file at the Napa County Public Works Department and are available for inspection to any interested party on request. Copies of the prevailing rate of per diem wages also may be found at http://www.dir.ca.gov/OPRL/DPreWageDetermination.htm. The Contractor and all subcontractors shall post a copy of the prevailing rate of per diem wages determination at each job site and shall make them available to any interested party upon request.

1.2. The wage rates determined by the DIR refer to expiration dates. If the published wage rate does not refer to a predetermined wage rate to be paid after the expiration date, then the published rate of wage shall be in effect for the life of this Agreement. If the published wage rate refers to a predetermined wage rate to become effective upon expiration of the published wage rate and the predetermined wage rate is on file with the DIR, such predetermined wage rate shall become effective on the date following the expiration date and shall apply to this Agreement in the same manner as if it had been published in said publication. If the predetermined wage rate refers to one or more additional expiration dates with additional predetermined wage rates, which expiration dates occur during the life of this Agreement, each successive predetermined wage rate shall apply to this Agreement on the date following the expiration date of the previous wage rate. If the last of such predetermined wage rates expires during the life of this Agreement, such wage rate shall apply to the balance of the Agreement.

2. Penalties for Violations. The Contractor and all subcontractors shall comply with California Labor Code section 1775 in the event a worker is paid less than the prevailing wage rate for the work or craft in which the worker is employed. This shall be in addition to any other applicable penalties allowed under California Labor Code sections 1720 through 1861.

3. Payroll Records. The Contractor and all subcontractors shall comply with California Labor Code section 1776, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. The Contractor shall require all subcontractors to also comply with section 1776. The Contractor and all subcontractors shall furnish records specified in section 1776 on a monthly basis, both to the County and directly to the Labor Commissioner in the manner required by California Labor Code section 1771.4. The Contractor shall ensure its subcontractors prepare and submit payroll records to the County and the DIR as required by this section.

3.1. If the Contractor or a subcontractor is exempt from the DIR registration requirement pursuant to section 9.4 below, then the Contractor or such subcontractor is not required to furnish payroll records directly to the Labor Commissioner but shall retain the records for at least three years after completion of the work, pursuant to California Labor Code section 1771.4(a)(4).

3.2. The County may require the Contractor and its subcontractors to prepare and submit records specified in section 1776 to the County and the Labor Commissioner on a weekly basis, at no additional cost to the County.

4. Apprentices. The Contractor and all subcontractors shall comply with California Labor Code sections 1777.5, 1777.6 and 1777.7 concerning the employment and wages of apprentices. The Contractor is responsible for compliance with this section for all apprenticeable occupations pursuant to California Labor Code section 1777.5(n).

5. Working Hours. The Contractor and all subcontractors shall comply with California Labor Code sections 1810 through 1815, including but not limited to: (i) restrict working hours on public works contracts to eight hours a day and forty hours a week, unless all hours worked in excess of 8 hours per day are compensated at not less than 1½ times the basic rate of pay; and (ii) specify penalties to be imposed on contractors and subcontractors of $25 per worker per day for each day the worker works more than 8 hours per day and 40 hours per week in violation of California Labor Code sections 1810 through 1815.

6. Required Provisions for Subcontracts. The Contractor shall include, at a minimum, a copy of the following provisions in any contract they enter into with a subcontractor: California Labor Code sections 1771, 1771.1, 1775, 1776, 1777.5, 1810, 1813, 1815, 1860 and 1861.

7. Labor Code Section 1861 Certification. In accordance with California Labor Code section 3700, the Contractor is required to secure the payment of compensation of its employees. By signing the Agreement, to which this is an exhibit, the Contractor certifies that:

> "I am aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this Agreement."

8. Compliance Monitoring and Enforcement. This project is subject to compliance monitoring and enforcement by the DIR. The County must withhold contract payments from the Contractor as directed by the DIR, pursuant to California Labor Code section 1727.

9. Contractor and Subcontractor Registration Requirements. The Contractor and all subcontractors shall not be qualified to bid on, be listed in a bid or proposal, subject to the requirements of California Public Contract Code section 4104, or engage in the performance of any contract for public work, unless currently registered and qualified to perform public work pursuant to California Labor Code section 1725.5 It is not a violation of this section for an unregistered contractor to submit a bid that is authorized by California Business and Professions Code section 7029.1 or California Public Contract Code sections 10164 or 20103.5, provided the Contractor is registered to perform public work pursuant to section 1725.5 at the time the contract is awarded.

9.1. A Contractor's inadvertent error in listing a subcontractor who is not registered pursuant to California Labor Code section 1725.5 in response to a solicitation shall not be grounds for filing a protest or grounds for considering the bid or proposal non-responsive provided that any of the following apply: (1) the subcontractor is registered prior to the proposal due date; (2) within 24 hours after the proposal due date, the subcontractor is registered and has paid the penalty registration fee specified in California Labor Code section 1725.5; or (3) the subcontractor is replaced by another registered subcontractor pursuant to California Public Contract Code section 4107.

9.2. By submitting a bid or proposal to the County, the Contractor is certifying that the Contractor has verified that all subcontractors used on this project are registered with the DIR in compliance with California Labor Code sections 1771.1 and 1725.5. The Contractor shall provide proof of registration for themselves and all listed subcontractors to the County at the time of the bid or proposal due date or upon request.

9.3. The County may ask the Contractor for the most current list of subcontractors (regardless of tier), along with their DIR registration numbers, utilized on this project at any time during performance of this Agreement, and the Contractor shall provide the list within ten (10) working days of the County's request.

9.4. This section shall not apply to work performed on a public works project of twenty-five thousand dollars ($25,000) or less when the project is for construction, alteration, demolition, installation, or repair work or to work performed on a public works project of fifteen thousand dollars ($15,000) or less when the project is for maintenance work, pursuant to California Labor Code sections 1725.5(f) and 1771.1(n).

10. Stop Order. Where a contractor or subcontractor engages in the performance of any public work contract without having been registered in violation of California Labor Code sections 1725.5 or 1771.1, the Labor Commissioner must issue and serve a stop order prohibiting the use of the unregistered contractor or subcontractor on ALL public works until the unregistered contractor or subcontractor is registered. Failure to observe a stop order is a misdemeanor.

Napa County

Board Agenda Letter

Board of Supervisors	**Agenda Date:** 4/19/2022	**File ID #:** 22-719

TO: Board of Supervisors

FROM: Steven Lederer - Director of Public Works

REPORT BY: Sydney Diede - Assistant Engineer

SUBJECT: American Canyon Road Pavement Repair and Resurfacing Project RDS 22-04 - Approval of Plans and Specifications and Authorization to Advertise for Bids

RECOMMENDATION

Director of Public Works requests approval of the following actions regarding the American Canyon Road Pavement Repair and Resurfacing Project, RDS 22-04:

1. Approval of plans and specification and authorization to advertise for sealed bids and opening of the bids at a time, date, and location to be published by the Director of Public Works pursuant to section 20150.8 of the Public Contract Code; and
2. Approval of a Budget Transfer for the following (4/5 vote required):
   a. Increase appropriations by $122,750 in the Measure T Non-Operating Special Revenue Fund (Fund 2440, Org 1220053) offset by use of its available fund balance; and
   b. Creation of a new project for the American Canyon Road Pavement Repair and Resurfacing Project (Fund 2040, Org 2040500, Project 22026), and provide appropriations of $122,750 in Project 22026 budget with offsetting revenue from the transfer from the Measure T Non-Operating Special Revenue Fund to fund project through bidding.

EXECUTIVE SUMMARY

American Canyon Road has undergone extensive damage from geologic movement which has led to cracking and movement of the road, resulting in the need for preventative maintenance and repairs to the pavement surface. American Canyon Road is located within the City of American Canyon, Napa County, and the City of Vallejo; therefore, the City of American Canyon and the City of Vallejo want the County to include repairs and resurfacing within their jurisdictions so the entirety of the road can undergo preventative maintenance. Project maintenance and improvements within Napa County include structural repairs to sections of asphalt concrete that are vertically offset, installation of a concrete gopher barrier, and resurfacing the roadway. Roadwork outside of the Napa County limits would be performed under contract with the respective agencies. The project will include several bid alternates that include resurfacing and night work within all three (3) jurisdictions.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	No
Where is it budgeted?	Staff is currently requesting $122,750 to fund the project through bidding from the Measure T SRF. A finalized construction budget will be requested at the time the contract is awarded after bid opening. The cities will provide funding for the construction in their jurisdictions following the bid opening and before construction begins.
Is it Mandatory or Discretionary?	Discretionary
Discretionary Justification:	Approval of plans and specifications and authorization to advertise for bids is necessary to move the project forward toward construction.
Is the general fund affected?	Yes
Future fiscal impact:	It is anticipated that construction will be completed during 2022 - 2023 fiscal year.
Consequences if not approved:	If not approved, American Canyon Road will eventually fail and the County will be required to reconstruct the entirety of the road, thus heavily impacting this essential commuter route and multiplying the estimated expenses by a scale of 10 to 30 times the projected cost for maintenance.
County Strategic Plan pillar addressed:	Healthy, Safe, and Welcoming Place to Live, Work, and Visit

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: **Consideration and possible adoption of a Categorical Exemption Class 1:** It has been determined that this type of project does not have a significant effect on the environment and is exempt from the California Environmental Quality Act. [See Class 1 ("Existing Facilities") which may be found in the guidelines for the implementation of the California Environmental Quality Act at 14 CCR §15301; see also Napa County's Local Procedures for Implementing the California Environmental Quality Act, Appendix B.]

BACKGROUND AND DISCUSSION

In 2018 Napa County voters passed a ½ cent sales tax, known as Measure T, to finance the maintenance and repair of existing roads within the limits of Napa County. Experience demonstrates that it is essential to perform preventative maintenance to prolong the life span of a roadway at a lower cost, rather than reconstructing a road after it has failed at 10 to 30 times the cost of preventive maintenance. The Napa County General Plan Circulation Element does not include a functional classification for American Canyon Road, however, the California Road System Map shows the road as a major collector road, providing direct access to and from the City of American Canyon to Interstate 80.

American Canyon Road spans three (3) jurisdictions. Heading in the eastbound direction, the road begins

within the city limits of American Canyon and becomes a Napa County road approximately 0.4 miles east of Flosden Road and Newell Drive. The Napa County portion of the road ends shortly before reaching I-80, spanning approximately 1.8 miles. The section of pavement east of the Napa County limit occurs within the City of Vallejo and continues to the Caltrans right-of-way entrance to Interstate 80 (a segment of road about 750 linear feet long).

General work in the County includes, but is not limited to, dig outs and repairs of failing pavement areas (with extreme cracking and an obvious vertical offset) and the installation of a non-reinforced concrete barrier (occurring below grade and spanning about 1/4 mile), along the southern edge of the road (to deter rodent burrowing below the pavement surface). The proposed repair includes grinding out four (4) inches of the existing asphalt concrete, installing a geosynthetic fabric to strengthen the pavement, and placing a new layer of hot mix asphalt concrete.

The Engineer's Estimate for the construction of the road repair in Napa County is $351,000. The total cost including soft costs and contingency is estimated at $591,450. If funding is available for more than the necessary repairs, the Director will recommend that the Board approve bid alternates to resurface and restripe the full length of Napa County's portion of the road. Bid Alternate #1 is to resurface with a double chip seal and fog seal and is estimated at $465,000. Bid Alternate #2 is to resurface the road with a single cape seal and microsurfacing and is estimated at $555,000. The bid documents will also include bid alternates for night work. This budget transfer request of $122,750 is only for the design and bidding phase for the Napa County portion of work.

Napa County reached out to the City of American Canyon and the City of Vallejo to combine their portions of the road surface into a single comprehensive project for the public's benefit. If the bid alternates extending work into the jurisdictions of American Canyon and Vallejo are awarded, portions of the road surface within the City of American Canyon will be repaired and the road would be resurfaced and restriped in both the City of American Canyon and the City of Vallejo. If night work is awarded as part of the project, all jurisdictions will participate in night work activities. It is expected that the agreements with the City of American Canyon and/or the City of Vallejo will be brought to this Board with the request to approve the construction contract. The Cities of American Canyon and Vallejo would provide funding for the County of Napa to pay the Contractor for work performed within the cities, should all parties consent to the terms and sign the contract.

Road repairs within the City of American Canyon, also known as Bid Alternate #6, and including soft costs and contingency is estimated to cost $131,000. Bid Alternate #7 is to resurface the road with a single cape seal and microsurfacing and is estimated at $160,000.

The cost for resurfacing and restriping within the City of Vallejo is estimated at $53,000 for the double chip seal and fog seal and $60,000 for the single cape seal with microsurfacing. The City of Vallejo will receive the same surface treatment that the County of Napa chooses.

Plans and Specification are complete and ready for approval by the Board of Supervisors. The Director is requesting authorization to advertise for bids and approval of a Budget Transfer for the design phase. Staff will return to the Board of Supervisors at the time of construction award to present a detailed project budget based on the lowest responsible bid and to request a budget transfer to fund the construction.

BUDGET SUMMARY: AMERICAN CANYON ROAD, RDS 22-04						
						4/4/2022
Budget Item	**Budget Item Amount**	**Request Today**	**Board Appropriation To Date**	**Appropriation Amount Spent to Date**	**Appropriation % Spent to Date**	**Appropriation Amount Balance**
Construction Contract	$351,000	$0	$0	$0	0%	$0
15% Construction Contingency	$52,650	$0	$0	$0	0%	$0
Design and Engineering	$85,000	$85,000	$0	$42,388	0%	$42,388
15% Design and Engineering Contingency	$12,800	$12,750	$0	$0	0%	$0
Lands and TCE	$0	$0	$0	$0	0%	$0
Construction Management	$50,000	$0	$0	$0	0%	$0
County Project Management/Administration	$25,000	$25,000	$0	$0	0%	$0
Environmental, Geotechnical and Special Inspections	$15,000	$0	$0	$0	0%	$0
Permits	$0	$0	$0	$0	0%	$0
TOTAL	$591,450	$122,750	$0	$42,388	0%	$42,388

Napa County

Board Agenda Letter

Board of Supervisors	**Agenda Date:** 4/19/2022	**File ID #:** 22-720

TO: Board of Supervisors

FROM: Steven Lederer - Director of Public Works

REPORT BY: Dewey Phan, Assistant Engineer

SUBJECT: Award of Storm Repair Construction Contracts for Projects at Dry Creek Road MPM 6.2, 9.48, 9.75, and Diamond Mountain Road MPM 1.1

RECOMMENDATION

Director of Public Works requests the following actions regarding 2021 Four Lagging Walls Construction Projects:

1. Award of a contract to Piazza Construction of Penngrove, California for their low base bid of $2,282,930 and Additional Alternative No. 1 at Dry Creek Rd MPM 6.2, RDS 21-30 of $150,716 to construct an additional lagging wall #3, for a total of $2,433,646 and authorize the Chair to sign the construction contract for the following:
    a. Dry Creek Road MPM 6.2, RDS 21-30
    b. Dry Creek Road MPM 9.48, RDS 21-39
    c. Dry Creek Road MPM 9.75, RDS 21-06
    d. Diamond Mountain Road MPM 1.1, RDS 21-04
2. Approval of Budget Transfers increasing appropriations by $2,921,983 in Measure T non-operating special revenue fund (Fund 2440, Org 1220053) and increase appropriation by $370,921 in SB1 non-operating special revenue fund (Fund 2440, Org 1220052) offset by the use of its available fund balance to fund the following four Roads Capital Improvement Projects: (4/5 Vote Required)
    a. Increase appropriation by $1,188,210 in Dry Creek Road-MPM 6.2, RDS 21-30, project budget in the Roads CIP budget (Program 22010) offset by increase in revenue from the transfer from Measure T funds;
    b. Increase appropriation by $370,921 in Dry Creek Road-MPM 9.48, RDS 21-39, project budget in the Roads CIP budget (Program S9106) offset by increase in revenue from the transfer from the SB1 Budget;

c. Increase appropriation by $968,016 in Dry Creek Road-MPM 9.75, RDS 21-06, project budget in the Roads CIP budget (Program S7312) offset by increase in revenue from the transfer from Measure T funds; and

d. Increase appropriation by $765,757 in Diamond Mountain Road-MPM 1.1, RDS 21-04, project budget in the Roads CIP budget (Program S7127) offset by increase in revenue from the transfer from Measure T funds.

EXECUTIVE SUMMARY

A series of storms caused significant damage at several locations, including the following project sites:

1. Dry Creek Road mile post marker (MPM) 9.75 - Sustained about 70 feet of embankment failure;
2. Diamond Mountain Road MPM 1.1 - Sustained about 50 feet of roadway and embankment failure.
3. Dry Creek Rd. MPM 9.48- Sustained about 15 feet of roadway and embankment failure.
4. Dry Creek Road MPM 6.2-Sustained about 70 feet of embankment failure causing two slides and roadway distress.

For each site, the proposed repair is to reconstruct the road and bank with a steel soldier pile and concrete lagging retaining wall. The four sites were advertised as one construction contract for economies of scale. Work is expected to commence in the spring of 2022 and be completed prior to the winter of 2022/23.

The engineer's estimate including the Additional Alternative No. 1 was $2,015,000. It is recommended that the Board award the contract to Piazza Construction for their low bid of $2,282,930 and Additional Alternative No. 1 of $150,716 for a total cost of $2,433,646, approve the budget transfer, and authorize the Chair to sign the construction contract.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	No
Where is it budgeted?	Fund 2040, Org 2040500. The full cost of each project is estimated as follows: 22010 - Dry Creek Road MPM 6.2 = $1,384,295, S9106 - Dry Creek Road MPM 9.48 = $487,656, S7312 - Dry Creek Road MPM 9.75 = $1,144,673, S7127 - and Diamond Mountain MPM 1.1 = $924,830 for a Total = $3,941,454. The funding for 22010 (RDS 21-30), S7312 (RDS 21-06) and S7127 (RDS 21-04), is from Measure T fund and the funding for S9106 (RDS 21-39) is from SB1 fund
Is it Mandatory or Discretionary?	Discretionary
Discretionary Justification:	The proposed project will stabilize the roadways and reconstruct the roadway pavement sections. The requested approvals will allow for construction of the repair.

Is the general fund affected?	No
Future fiscal impact:	Design began in Fiscal Year 2021-22 and construction will begin in Fiscal Year 2021-22. Construction will likely continue into Fiscal Year 2022-23. For the repairs next to Dry Creek bank, it is possible that 5 to 10 years of monitoring and additional budget will be required beyond FY 2022-23
Consequences if not approved:	Future rain events could cause additional landslides
County Strategic Plan pillar addressed:	Livable Economy for All
Additional Information	The Board appropriated the following funding for the design phase in the respective Projects: 22010 - Dry Creek Road MPM 6.2 = $196,085, S9106 - Dry Creek Road MPM 9.48 = $116,735, S7312 - Dry Creek Road MPM 9.75 =$171,657, and S7127 - Diamond Mountain Road MPM 1.1 = $159,073, for a Total = $643,550.

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: Consideration and possible adoption of a Categorical Exemption Class 1: It has been determined that this type of project does not have a significant effect on the environment and is exempt from the California Environmental Quality Act. [See Class 1 ("Existing Facilities") which may be found in the guidelines for the implementation of the California Environmental Quality Act at 14 CCR §15301; see also Napa County's Local Procedures for Implementing the California Environmental Quality Act, Appendix B.]

BACKGROUND AND DISCUSSION

Winter storms that occurred between 2017 and 2021 caused damage to Dry Creek Road near mile post markers (MPM) 6.2, 9.48, and 9.75 and Diamond Mountain Road near MPM 1.1. Dry Creek Road MPM 9.48 and MPM 9.75 sustained 15 feet and 70 feet of embankment failure, respectively. At Dry Creek Road MPM 6.2, heavy rains over saturated a 70 foot long +/- portion of the road causing two slides and roadway distress. Diamond Mountain Road MPM 1.1 sustained 30 feet of embankment failure. If these sites are not stabilized and repaired prior to the next significant rain event, it is possible that major and more disruptive failure will occur.

The project proposes to stabilize the roads with steel soldier pile and concrete lagging walls and re-construct the roadways with full-depth asphalt repairs with minimal intrusion into Dry Creek. At Dry Creek MPM 6.2, the consultant designed two separate retaining walls totaling 150 linear feet, however, due to the potential susceptibility to a future slide between the walls, County staff recommends constructing a 60 linear foot long wall between the two separate walls to make a continuous 210 linear feet long wall. This portion was bid as an additive alternate.

The four projects were advertised on March 11, 2022 as one bid package for economies of scale and the Clerk of the Board opened six bids on April 7, 2022.

Piazza Construction	Penngrove, CA	$2,282,930.00
Granite Rock Company	San Jose, CA	$2,424,246.00
Maggiora & Ghilotti	San Rafael, CA	$2,456,700.00
Ghilotti Construction	Santa Rosa, CA	$2,456,789.10
Gordon N. Ball, Inc.	Alamo, CA	$2,911,095.00
Suulutaaq, Inc.	Suisun City, CA	$2,989,819.60

The engineer's estimate was $2,015,000. The successful low bidder is Piazza Construction for their base bid of $2,282,930 and Additional Alternate No.1 of $150,716. Construction is anticipated to commence in May 2022 and to be completed by October/November of 2022, weather permitting. A 10% contingency is requested for any unforeseen items of work.

The total project budget with the addition of engineering design, construction management, project management, special inspection and contingency is $3,941,454 and will be funded with Measure T and SB1 funds (see attached project budget). In addition to a previous appropriations of $643,550, a budget transfer of $3,292,904 is needed to move this project forward.

Piazza Construction is not a local vendor however, the Public Contract Code requires that the construction contract be awarded to the lowest responsible and responsive bidder regardless of whether the low bidder is local or not. Staff reached out to the local construction contractor community by advertising the request for bids in the Napa Valley Register and the Solano-Napa Builder's Exchange, and by posting on the County website. Staff also sent "Notices to Contractors" to the local construction community. Once the construction contract is awarded, County staff will contact the Napa County Workforce Investment Board (WIB) and require the successful contractor to contact the WIB and let the WIB know of its hiring needs.

Budget Item	Budget Item Amount	Board Appropriation Request Today	Board Appropriation To Date	Appropriation Amount Spent to Date	Appropriation Amount % Spent to Date	Appropriation Amount Balance
Construction Contract	$2,433,646	$2,433,646	$0	$0	0%	$0
10% Construction Contingency	$243,365	$243,365	$0	$0	0%	$0
Design and Engineering	$627,037	$106,105	$520,932	$275,940	53%	$244,992
10% Design and Engineering Contingency	$67,406	$54,788	$12,618	$0	0%	$12,618
Lands and TCE	$10,000	$0	$10,000	$0	0%	$10,000
Construction Management	$270,000	$270,000	$0	$0	0%	$0
County Project Management/Administration	$150,000	$70,000	$80,000	$27,794	35%	$52,206
Enviro Survey, Tribal Monitorting, Geotech and Special Inspections	$115,000	$115,000	$0	$0	0%	$0
Permits	$25,000	$0	$20,000	$0	0%	$20,000
TOTAL (4 SITES)	**$3,941,454**	**$3,292,904**	**$643,550**	**$303,734**		**$339,816**

BUDGET SUMMARY: DRY CREEK ROAD MPM 6.2, RDS 21-39						
Program: 22010 (Funding Source: Measure T)						4/7/2022
Budget Item	**Budget Item Amount**	**Board Appropriation Request Today**	**Board Appropriation To Date**	**Appropriation Amount Spent to Date**	**Appropriation % Spent to Date**	**Appropriation Amount Balance**
Construction Contract	$891,936	$891,936	$0	$0	0%	$0
10% Construction Contingency	$89,194	$89,194	$0	$0	0%	$0
Design and Engineering	$221,059	$59,974	$161,085	$106,453	66%	$54,632
10% Design and Engineering Contingency	$22,106	$22,106	$0	$0	0%	$0
Lands and TCE	$10,000	$0	$10,000	$0	0%	$10,000
Construction Management	$70,000	$70,000	$0	$0	0%	$0
County Project Management/Administration	$40,000	$20,000	$20,000	$648	3%	$19,352
Environmental, Geotechnical and Special Inspections	$35,000	$35,000	$0	$0	0%	$0
Permits	$5,000	$0	$5,000	$0	0%	$5,000
TOTAL	$1,384,295	$1,188,210	$196,085	$107,101	55%	$88,984

BUDGET SUMMARY: DRY CREEK ROAD MPM 9.48, RDS 21-39						
Program: S9106 (Funding Source: SB1)						4/7/2022
Budget Item	**Budget Item Amount**	**Board Appropriation Request Today**	**Board Appropriation To Date**	**Appropriation Amount Spent to Date**	**Appropriation % Spent to Date**	**Appropriation Amount Balance**
Construction Contract	$235,910	$235,910	$0	$0	0%	$0
10% Construction Contingency	$23,591	$23,591	$0	$0	0%	$0
Design and Engineering	$94,048	$9,931	$84,117	$40,155	48%	$43,962
15% Design and Engineering Contingency	$14,107	$1,489	$12,618	$0	0%	$12,618
Lands and TCE	$0	$0	$0	$0	0%	$0
Construction Management	$65,000	$65,000	$0	$0	0%	$0
County Project Management/Administration	$30,000	$15,000	$15,000	$3,599	24%	$11,401
Environmental, Geotechnical and Special	$20,000	$20,000	$0	$0	0%	$0
Permits	$5,000	$0	$5,000	$0	0%	$5,000
TOTAL	$487,656	$370,921	$116,735	$43,754	37%	$72,981

BUDGET SUMMARY: DRY CREEK ROAD MPM 9.75, RDS 21-06						
Program: S7312 (Funding Source: Measure T)						4/7/2022
Budget Item	**Budget Item Amount**	**Board Appropriation Request Today**	**Board Appropriation To Date**	**Appropriation Amount Spent to Date**	**Appropriation % Spent to Date**	**Appropriation Amount Balance**
Construction Contract	$712,300	$712,300	$0	$0	0%	$0
10% Construction Contingency	$71,230	$71,230	$0	$0	0%	$0
Design and Engineering	$182,857	$36,200	$146,657	$41,412	28%	$105,245
10% Design and Engineering Contingency	$18,286	$18,286	$0	$0	0%	$0
Lands and TCE	$0	$0	$0	$0	0%	$0
Construction Management	$70,000	$70,000	$0	$0	0%	$0
County Project Management/Administration	$40,000	$20,000	$20,000	$13,776	69%	$6,224
Enviro Survey, Tribal Monitoring, Geotech and Special Inspections	$40,000	$40,000	$0	$0	0%	$0
Permits	$10,000	$0	$5,000	$0	0%	$5,000
TOTAL	$1,144,673	$968,016	$171,657	$55,188	32%	$116,469

NAPA COUNTY DIAMOND 1.1 BUDGET SUMMARY, RDS 21-04						
Program: S7127 (Funding Source: Measure T)						4/7/2022
Budget Item	**Budget Item Amount**	**Board Appropriation Request Today**	**Board Appropriation To Date**	**Appropriation Amount Spent to Date**	**Appropriation % Spent to Date**	**Appropriation Amount Balance**
Construction Contract	$593,500	$593,500	$0	$0	0%	$0
10% Construction Contingency	$59,350	$59,350	$0	$0	0%	$0
Design and Engineering	$129,073	$0	$129,073	$87,920	68%	$41,153
10% Design and Engineering Contingency	$12,907	$12,907	$0	$0	0%	$0
Lands and TCE	$0	$0	$0	$0	0%	$0
Construction Management	$65,000	$65,000	$0	$0	0%	$0
County Project Management/Administration	$40,000	$15,000	$25,000	$9,771	39%	$15,229
Enviro Survey, Geotech and Special Inspections	$20,000	$20,000	$0	$0	0%	$0
Permits	$5,000	$0	$5,000	$0	0%	$5,000
TOTAL	$924,830	$765,757	$159,073	$97,691	61%	$61,382

Napa County

Board Agenda Letter

Board of Supervisors	**Agenda Date:** 4/19/2022	**File ID #:** 22-745

TO: Board of Supervisors

FROM: Steve Lederer - Director of Public Works

REPORT BY: Daniel Basore - Engineering Supervisor

SUBJECT: Approval of Plans and Specifications and Authorization to Advertise for Bids for "Calistoga Area Paving Phase I Project", RDS 22-03

RECOMMENDATION

Director of Public Works requests approval of plans and specifications for the "Calistoga Area Paving Phase I Project", RDS 22-03, authorization to advertise for sealed bids, and opening of the bids at a time, date and location to be published by the Director of Public Works pursuant to Section 20150.8 of the Public Contract Code.

EXECUTIVE SUMMARY

Napa County received funds from Pacific Gas and Electric (PG&E) as a settlement for damages caused by the 2017 North Bay fires. The Board of Supervisors (Board) has designated $16 million of this funding towards road repairs. On January 25, 2022 the Board authorized $2,750,000 in funding for Calistoga Area Paving Phase I project to conduct repairs on the following damaged roads:

- Petrified Forest Road (City limits to Franz Valley School Road intersection)
- Tubbs Lane (deferred to 2024)
- Myrtledale Road
- Franz Valley School Road

During design staff determined there is not adequate budget to rehabilitate all four roads to a desired design life. Staff will defer Tubbs Lane, which is currently in the best condition out of the four roads to phase II, planned in 2024 in order to accumulate funds to allow for a 20-year rehabilitated design life.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	Yes
Where is it budgeted?	Fund 2040, Org 2040500, Project 22011

Is it Mandatory or Discretionary?	Discretionary
Discretionary Justification:	Approval of plans and specifications and authorization to advertise for sealed bids is necessary to move to the construction phase.
Is the general fund affected?	No
Future fiscal impact:	Construction is expected to be commence in FY 21-22 and be completed in FY 22-23. There is no additional fiscal impact anticipated.
Consequences if not approved:	The project will not move forward to the construction phase and the damaged roads will not be repaired.
County Strategic Plan pillar addressed:	Livable Economy for All

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: Consideration and possible adoption of a Categorical Exemption Class 1: It has been determined that this type of project does not have a significant effect on the environment and is exempt from the California Environmental Quality Act. [See Class 1 ("Existing Facilities") which may be found in the guidelines for the implementation of the California Environmental Quality Act at 14 CCR §15301; see also Napa County's Local Procedures for Implementing the California Environmental Quality Act, Appendix B.]

BACKGROUND AND DISCUSSION

Napa County received funds from Pacific Gas and Electric (PG&E) as a settlement for damages caused by the 2017 North Bay fires. The Board of Supervisors (Board) has designated $16 million of this funding towards road repairs. On January 25, 2022 the Board authorized $2,750,000 in funding for Calistoga Area Paving Phase I project to conduct repairs on the following damaged roads:

- Petrified Forest Road (City limits to Franz Valley School Road intersection)
- Tubbs Lane (deferred to 2024)
- Myrtledale Road
- Franz Valley School Road

Shaw Williams Road, which is a relatively short (quarter of a mile) County owned road stems off of Franz Valley School Road, will be included in Phase I as a bid additive alternate.

During design staff determined there is not adequate budget to rehabilitate all four roads to a desired design life. Tubbs Lane, which is currently in the best condition out of the four roads will be deferred to phase II, planned in 2024 in order to accumulate funds to allow for a 20-year rehabilitated design life. Phase II will also include a roadway seal on the County owned portion of Petrified Forest Road as well as rehabilitation of roads yet to be determined in the Calistoga vicinity; Phase II will be funded by Measure T funds.

Staff will return to the Board at a future date with a detailed project budget based on the lowest bid, and to request construction award. Staff recommends the Board approve the plans and specifications for bidding.

Calistoga Area Paving Phase I, RDS 22-03 4/19/22

		BID PHASE				
Budget Item	**Budget Item Amount**	**Board Appropriation Request Today**	**Board Appropriation to date***	**Appropriation Amount Spent to Date**	**Appropriation Amount % Spent to Date**	**Appropriation Amount Balance**
Construction	$1,500,000	$0	$2,165,000	$0	0%	$2,165,000
Construction Contingency (15%)	$225,000	$0	$315,000	$0	0%	$315,000
Design and Engineering	$80,000	$0	$80,000	$35,000	44%	$45,000
Construction Management	$70,000	$0	$70,000	$0	0%	$70,000
County Project Management/Administration	$40,000	$0	$40,000	$5,000	13%	$35,000
Geotech, Special Inspections	$80,000	$0	$80,000	$28,000	35%	$52,000
	$1,995,000	$0	$2,750,000	$68,000		$2,682,000

Notes:

*The original appropriation amount was $2,750,000 for the Calistoga Area Paving Phase I project. Tubbs Lane has been defered to phase II planned for construction in 2024 and all remaining funds will be rolled over to Phase II.

Napa County

Board Agenda Letter

Board of Supervisors	**Agenda Date:** 4/19/2022	**File ID #:** 22-746

TO: Board of Supervisors

FROM: Steven Lederer, Director of Public Works

REPORT BY: Liang Chin Su, Assistant Engineer

SUBJECT: Approval of Plans and Specifications and Authorization to Advertise for Bids for "East Central Paving Project, Phase Two". RDS 21-25B

RECOMMENDATION

Director of Public Works requests approval of plans and specifications for "East Central Paving Project, Phase Two," RDS 21-25B, authorization to advertise for sealed bids, and opening of the bids at a time, date and location to be published by the Director of Public Works pursuant to Section 20150.8 of the Public Contract Code.

EXECUTIVE SUMMARY

The County has received funds from Pacific Gas and Electric (PG&E) as a settlement for damages caused by the 2017 North Bay fires. The Board has designated $16 million of this funding towards road repairs. On May 4, 2021, the Board of Supervisor authorized $5,250,000 in funding to conduct repairs for East Central Paving Project Phase One, which was completed during FY 21-22. The remainder of Phase One funding and an anticipated additional $1,500,000 from PG&E funds will be used to conduct repairs for East Central Paving Project Phase Two, which includes the following roads:

- Second Avenue (All - southbound lane)
- Vichy Avenue (All)
- Mt. George Avenue (All)
- Olive Hill Lane (All)

The Director of Public Works recommends approval of plans and specifications and authorization to put the project out to bid in order to move into the construction phase of the project.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact?	No
Is it currently budgeted?	Yes

Where is it budgeted?	Fund 2040, Org 2040500, Project 21067
Is it Mandatory or Discretionary?	Discretionary
Discretionary Justification:	Approval of plans and specifications and authorization to advertise for sealed bids is necessary to move to the construction phase.
Is the general fund affected?	No
Future fiscal impact:	Staff will return and request the additional funds required to fund the project at the time of the construction contract award.
Consequences if not approved:	The project will not move forward to the construction phase and the damaged roads will not be repaired.
County Strategic Plan pillar addressed:	Livable Economy for All

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: Consideration and possible adoption of a Categorical Exemption Class 1: It has been determined that this type of project does not have a significant effect on the environment and is exempt from the California Environmental Quality Act. [See Class 1 ("Existing Facilities") which may be found in the guidelines for the implementation of the California Environmental Quality Act at 14 CCR §15301; see also Napa County's Local Procedures for Implementing the California Environmental Quality Act, Appendix B.]

BACKGROUND AND DISCUSSION

Napa County has settled with PG&E and recovered $33,954,044 to compensate the County for roadway damages, response costs and lost revenue funds that resulted from the 2017 North Bay fires. On July 28, 2020, the Board of Supervisors (Board) allocated $16,000,000 of this settlement to repair roadway damages. On May 4, 2021, the Board authorized an increase in the revenue and expenditures of $5,250,000 for a project to repair the following damaged roads:

- Atlas Peak Road (2400 feet North of Hardman Avenue to Westgate Drive)
- Hillcrest Avenue (All)
- Westgate Avenue (All)
- Soda Canyon Road (Silverado Trail to Loma Vista Drive)
- Second Avenue (All - northbound lane)
- Maui Way (All)
- Pinnacle Peak (All)

After the completion of East Central Paving Project Phase One, approximately $1,600,000 remained from the appropriated amount. Pending bid results, the remaining funds from Phase One and an anticipated request for additional $1,500,000 will be used to repair the following roads as part of the East Central Paving Project, Phase Two:

- Second Avenue (All - southbound lane)

- Vichy Avenue (All)
- Mt. George Avenue (All)
- Olive Hill Lane (All)

Approval of this item will allow the project to move toward the construction phase to repair the damaged roads. Proposed road treatments consist of grind and overlays, dig out and repairing failed areas, striping, and signage. Project construction is anticipated in summer of 2022. The estimated total project cost for East Central Paving Project, Phase Two is $3,100,000. Staff will return to the Board later to present a detailed project budget and for award of a construction contract after bids are opened.

East Central Paving Project, Phase Two, RDS 21-25B 4/19/22
(Second Avenue, Vichy Avenue, Mt George Avenue, Olive Hill Lane)

		BID PHASE				
Budget Item	**Budget Item Amount**	**Board Appropriation Request Today**	**Board Appropriation to date***	**Appropriation Amount Spent to Date**	**Appropriation Amount % Spent to Date**	**Appropriation Amount Balance****
Construction	$2,513,495		$1,200,000	$0	0%	$1,200,000
Construction Contingency (15%)	$377,024		$180,000	$0	0%	$180,000
Design and Engineering	$50,000		$50,000	$11,021	22%	$38,979
Construction Management	$45,000		$45,000	$0	0%	$45,000
County Project Management/Administration	$22,000		$33,000	$0	0%	$33,000
Survey, Geotech, Special Inspections, Permits	$86,600		$86,600	$9,200	11%	$77,400
TOTAL	$3,094,119	$0	$1,594,600	$20,221	1%	$1,574,379

*Remainder from East Central Paving Phase One, RDS 21-25
**Staff is expecting to request an additional $1,500,000 at the time of construction contract award to fund the total project cost

Napa County

Board Agenda Letter

Board of Supervisors	**Agenda Date:** 4/19/2022	**File ID #:** 22-794

TO: Board of Supervisors

FROM: Minh C. Tran - County Executive Office

REPORT BY: Kendra Bowyer - Emergency Services Officer

SUBJECT: Bay Area Air Quality Management District Grant Opportunities

RECOMMENDATION

County Executive Officer/Director of Emergency Services requests the following related to the County's grant application submittal to the Bay Area Air Quality Management District (BAAQMD) for a maximum amount of approximately $235,000:

1. Authorization to submit a grant application to BAAQMD for the purpose of purchasing air filter machines and filters to deploy to locations around the community to create clean air facilities in the event of a wildfire and other smoke events;
2. Approval and authorization for the Chair to sign the Wildfire Preparedness Program Agreement; and
3. Approval and authorization for the County Executive Officer/Director of Emergency Services to sign the associated grant funding documents and serve as the authorized representative for signing invoices and other administrative documents.

EXECUTIVE SUMMARY

The Office of Emergency Services is seeking a grant to fund portable air filtration units and air filters. The BAAQMD is offering two grant opportunities via two separate programs: 1) Wildfire Preparedness Program (WPP) and 2) Assembly Bill 836 - Clean Air Centers (AB 836). These grants will cover 100% of the cost for the units and filters. The purpose of the clean air centers are to create a network of clean air facilities across the Bay Area in order to mitigate the adverse public health impacts due to wildfires and other smoke events.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact? No

County Strategic Plan pillar addressed: Healthy, Safe, and Welcoming Place to Live, Work, and Visit

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.

BACKGROUND AND DISCUSSION

The Office of Emergency Services is seeking a grant to fund portable air filtration units and air filters. The Bay Area Air Quality Management District is offering two grant opportunities via two separate programs:

1) Wildfire Preparedness Program (WPP) and 2) Assembly Bill 836 - Clean Air Centers (AB 836). The grants will cover 100% of the cost for the units and filters. The purpose of the clean air centers are to create a network of clean air facilities across the Bay Area in order to mitigate the adverse public health impacts due to wildfires and other smoke events. The amount may change based on other Bay Area counties participation.

The clean air centers are locations where the community may gather, including, but not limited to, evacuations shelters, libraries, community centers, and public meeting locations such as the board chambers. The center will provide the community a location where they can receive clean air refuge when necessary. It also allows for continuity of government by allowing jurisdictions the ability to hold their regularly scheduled meetings. The Office of Emergency Services will determine when the clean air centers should be activated. This decision will be made by monitoring the Air Quality Index (AQI) across the County. Based on Health and Safety Industry standards, a clean air facility may be stood up if the AQI reaches over 150, which is considered the "Unhealthy" level. Over the last five (5) years Napa County has ranked fourth (4th) in the Bay Area for the number of day's air quality has reached an AQI of over 150.

The County will be required to store and maintain the units for the duration of the grant period which is five (5) years for the AB 836 grant and two (2) years for the WPP grant. These grants are offered in differing amounts to counties across the Bay Area.

The County will be required to report to the BAAQMD when the portable units are deployed and how many community members the facilities served.

In order to complete the application for the Wildfire Preparedness Program grant, the County must submit a letter of agreement with the BAAQMD designating a County Liaison, agreeing to notify the Air District when air filtration units are deployed, submitting semi-annual reporting to the Air District, agree to take ownership of air filtration units upon receipt, safely store air filtration units, maintain inventory and asset-tag all air filtration units, train County staff on how to operate and maintain air filtration units per manufacturer specifications and conduct such maintenance pursuant to manufacturer specifications. The County must deploy air filtration units

for wildfire purposes to sheltering and evacuation centers and/or other congregate locations open to the public.

In order to complete the applications for the AB 836 grant, the County must submit a completed application which includes providing the BAAQMD a list of facilities to potentially be used for clean air centers, which includes their location, size, hours of operation, specifications for, quantity and total cost of units and filters requested, delivery location and each facilities' operations plan.

The letter, if so authorized by the Board, will be signed by the County Executive Officer/Director of Emergency Services. Throughout the application, grant award, and reporting processes, additional documents may need to be signed. With this action, the Board authorizes the Director of Emergency Services to act as the County's representative and signatory for all invoices and other administrative documents. This action is not acceptance of the grant nor will it require any expense at this time. It is authorization to proceed and a commitment, if approved, for funding that is subsequently accepted by the County, to abide by the above listed conditions.

STATE OF CALIFORNIA
California Department of Environmental Protection Agency
Air Resources Board
RD/HEAB/AB836_T1 (August 2021)

Application for the Wildfire Smoke Clean Air Centers for Vulnerable Populations Incentive Pilot Program

COVER SHEET

1. Applicant Information

Applicant (501(c)(3) organization, tribe, faith-based organization, air district, individual, or others) Name: Napa County, through the Napa County Office of Emergency Services
Applicant Physical Address (Street, City, State, Zip code): *1195 third Street Napa California 94559*
Applicant Mailing Address (Street, City, State, Zip code): *1195 Third Street, Napa California 94558 Attn: Office of Emergency Services*
Signature Authority (Person Authorized to Legally Enter Into Grant Agreement) First name and Last name: Ryan Gregory Title of Signature Authority: Chair of the Napa County Board of Supervisors
Signature Authority Contact Information Kendra Bowyer, Napa County liaison Phone: 707-299-1637 Fax: Click or tap here to enter text. E-mail: kendra.bowyer@countyofnapa.org

2. Community Engagement

How did you engage with communities to determine appropriate locations for Clean Air Centers?

Napa County OES engaged with each City Manager, Town Manager and County departments within Napa County to discuss and determine the most likely and beneficial location where residents would gather in the event of poor air quality due to a wildland fire.

3. Documented Evidence of Wildfire Smoke Burden in Served Communities

The Number of Days of Air Quality Index (AQI) value of 151 or higher in the past five years: 23
Other Relevant Information: Based on the EPA's Air quality index report, Napa County comes in fourth in the Bay area for number of days with an AQI greater than 151. Napa County is presently under a state of emergency due to the severe drought across the County. Due to the drought and other factors, it is to be expected that Napa County may experience an extremely active fire season in 2022 and over the next several years. This will significantly increase the need for clean air facilities for Napa County residents.

4. Self-Certifications and Attestations

I certify that all information in this application is true, correct, and complete to the best of my knowledge and belief. I certify that I am signing on behalf of the applicant in the capacity as a signature authority indicated next to my name below and that I am authorized to execute this application on behalf of the applicant.	
Signature Authority:	
First and last name of Signature Authority (print legibly): Ryan Gregory, Chair of the Napa County Board of Supervisors; Kendra Bowyer, Napa County liaison	Date: Click or tap to enter a date.

Approved as to form: County Counsel's Office
By: S. Darbinian, Deputy

5. Supporting Documentation

Please attach any supporting documents to your application.

Wildfire Preparedness Program

Agreement between

Bay Area Air Quality Management District

and

Napa County

Contract No. 2022.099

I. Parties

The parties to this Agreement ("Agreement") are the Bay Area Air Quality Management District ("Air District") whose address is 375 Beale Street, Suite 600, San Francisco, CA 94105, and the Napa County, through its Office of Emergency Services ("County") whose address is at 1195 Third Street, Suite B-20, Napa, Ca 94559.

II. Purpose

California experienced some of the deadliest and most destructive wildfires in its history over the last several years. Studies show that climate change is not only causing higher temperatures and longer dry periods, but also lengthening the wildfire season and increasing the risk of wildfires throughout the state. The Air District's Wildfire Air Quality Response Program (WAQRP) is a comprehensive program intended to prepare for and respond to catastrophic wildfires and ensure health-protective measures and strategies are in place. Through this program, the Air District will purchase and provide heavy-duty portable air filtration units for regional emergency management authorities throughout the San Francisco Bay Area to help communities prepare for wildfire smoke that has the potential to impact air quality in entire regions for consecutive days.

This Agreement between the Air District and the County is to join resources to protect public health and improve indoor air quality in communities most vulnerable to wildfire smoke. This Agreement between the Air District and the County is to store and deploy air filtration units to sheltering and evacuation centers and congregate facilities beginning in the 2022 wildfire season.

III. Term and Termination

The term of this Agreement is from the date of execution by the parties until July 31, 2024, unless further extended by amendment of this Agreement in writing or terminated earlier. The parties may terminate this Agreement by mutual consent in writing.

IV. Air District Responsibilities

1. Purchase and provide the County with air filtration units with a total monetary value of approximately $100,000, for use during wildfire smoke events.

2. Solicit bulk pricing for air filtration units via a request for quotation (RFQ) and purchase air filtration units.

3. Provide for delivery of air filtration units to address specified by the County.

4. Designate an Air District liaison in **Attachment A** (Organization Contact Information) to facilitate communications with designated County liaison.

V. County Responsibilities

1. Designate a County liaison and provide that liaison's contact information in **Attachment A.** The liaison is responsible for notifying the Air District at wildfireprogram@baaqmd.gov when air filtration units are deployed and for submitting semi-annual reporting to the Air District as outlined in this Agreement.

2. Take ownership of air filtration units upon receipt of the air filtration units.

3. Safely store air filtration units.

4. Maintain inventory and asset-tag all air filtration units.

5. Train County staff on how to operate and maintain air filtration units per manufacturer specifications and conduct such maintenance pursuant to manufacturer specifications. County shall be responsible for maintenance costs.

6. Deploy air filtration units for wildfire purposes to sheltering and evacuation centers and/or other congregate locations open to the public that are or are reasonably expected to be impacted by wildfire smoke and within the County. Eligible facilities may be operated by the County or any other public entity. Congregate facilities may include but are not limited to schools, libraries, and community centers. In the absence of a wildfire event, air filtration units may be used for incidental purposes, such as the reduction of risk of COVID-19 transmission or urban smoke exposure.

7. Air filtration units may be deployed by the County, at County's option, for mutual aid to other counties, but only within the nine Bay Area counties (San Francisco, San Mateo, Alameda, Santa Clara, Contra Costa, Solano, Sonoma, Marin, Napa). The County must track the air filtration units deployed for mutual aid and report the deployment as part of the annual reporting requirements to the Air District. All units shall be returned for safe storage to the County.

8. Provide semi-annual reports to the Air District at wildfireprogram@baaqmd.gov using **Attachment B** (Reporting Form). Semi-annual reports must be received by the Air District by January 15th (for reporting period from July 1st to December 31st) and July 15th (for reporting period from January 1st to June 30th) of each year, and include the following information for each deployment:
   a. Name of wildfire (if known and when deployed/used in response to a specific wildfire event)
   b. Facility name and address of the evacuation center/sheltering facility/congregate facility where air filtration unit(s) were deployed
   c. Date of air filtration unit deployment
   d. Number of air filtration unit(s) deployed
   e. Number of days the air filtration unit(s) were deployed

f. Indicate whether the evacuation center/sheltering facility/congregate facility had an existing heating, ventilation, and air conditioning (HVAC) system and whether the air filtration unit(s) operated in conjunction with existing HVAC
g. Size and dimensions of each facility space where air filtration units were used
h. Report feedback on the operations and maintenance of the air filtration units, including recommendations for their improved use
i. Other wildfire tracking information, if known

VI. Acknowledgments

The County shall acknowledge Air District support each time the activities funded, in whole or in part, by this Agreement are publicized by the County in any news media, press release, brochures, or other type of promotional material. The acknowledgment of Air District support must state “Funded by a Grant from the Bay Area Air Quality Management District.” Initials or abbreviations for Air District shall not be used.

VII. Assignment

No party shall assign, sell, license, or otherwise transfer any rights or obligations under this Agreement to a third party without the prior written consent of the other party, and any attempt to do so shall be void upon inception.

VIII. Indemnification

In lieu of and notwithstanding the pro rata risk allocation, which might otherwise be imposed between the Parties pursuant to Government Code Section 895.6, the Parties agree that all losses or liabilities incurred by Party shall not be shared pro rata but, instead, County and Air District agree that, pursuant to Government Code Section 895.4, County shall fully indemnify and hold Air District, its officers, board members, employees, and agents, harmless from any claim, expense or cost, damage or liability imposed for injury (as defined in Government Code Section 810.8) occurring by reason of the negligent acts or omissions or willful misconductCounty, its officers, employees or agents, under or in connection with or arising out of any work, authority or jurisdiction delegated to such party under this Agreement. No party, nor any officer, board member or agent thereof shall be responsible for any damage or liability occurring by reason of the negligent acts or omissions or willful misconduct of the other Parties hereto, their officers, board members, employees, or agents, under or in connection with or arising out of any work authority or jurisdiction delegated to such other Parties under this Agreement.

IX. Entire Agreement and Modification

This Agreement represents the final, complete, and exclusive statement of the agreement between the parties and supersedes all prior and contemporaneous understandings and agreements of the parties. No party has been induced to

enter into this Agreement by, nor is any party relying upon, any representation or warranty outside those expressly set forth herein. This Agreement may only be amended by mutual agreement of the parties in writing and signed by both parties.

X. Miscellaneous

Neither party to this Agreement has the authority to act on behalf of the other party or bind the other party to any obligation. The parties to this Agreement agree to make reasonable attempts to resolve between them any dispute regarding this Agreement before seeking to enforce the Agreement in any court of law or dispute resolution forum. The sole remedy for non-performance under this Agreement, including, but not limited to, any intentional or unintentional loss, theft, or damage to the air filtration units, shall be termination of this Agreement, with no damages or penalty owed by the non-performing party.

IN WITNESS WHEREOF, the parties to this Agreement have caused this Agreement to be duly executed on their behalf by their authorized representatives.

Bay Area Air Quality Management District

Alexander Crockett
Interim Acting Executive Officer/APCO

Date

Napa County

Ryan Gregory, Chair of the Board of Supervisors

Date

` Approved as to form:
District Counsel

Adan Schwartz
Acting District Counsel

Date

Approved as to Form: Napa County Counsel
By: S. Darbinian, Deputy
April 13, 2022

ATTACHMENT A – Organization Contact Information

Primary Points of Contact

The primary points of contact in each organization will be responsible for the implementation of the Agreement in their respective organizations, coordinating activities between organizations, and responding to questions regarding this Agreement. In the event that the primary point of contact is no longer able to serve, a new contact will be designated and the other organization informed of the change.

NOTE: When any attachment is updated, the revised attachment is inserted in the Agreement. The Agreement ***does not*** need to be signed again.

Napa County, Office of Emergency Services		**Bay Area Air Quality Management District**	
Contact Name	Kendra Bowyer	**Contact Name**	Geraldina Grunbaum
Title	Emergency Services Officer	**Title**	Senior Air Quality Specialist
Office Phone	707-299-1637	**Office Phone**	415-749-4956
Mobile	707-346-7763	**Mobile**	415-930-1794
e-mail	Kendra.bowyer@countyofnapa.org	**e-mail**	Wildfireprogram@baaqmd.gov

Napa County Totals	$234,038
Filtration Units (+ tax)	$ 101,050.89
Filters (+ tax)	$ 132,986.76

AB 836 Totals
Filtration Units (+ tax)
Filters (+ tax)
Remaining Balance:

	$116,000
$	4,400.12
$	132,986.76
$	(21,386.89)

Wildfire Preparedness Program (WPP)
Filtration Units (+ tax)
Remaining Balance:

$100,000	
$	96,650.77
$	3,349.23

Funded by Grant:	AB 836
Names of facilities	**Calistoga**
Units	
Square feet of each facility	2,800
Which units you would like for each facility	Smart Health Blast
Cost of single unit	$926
Number of units per facility	1
Total Cost for Units	$926
Filters	
HEPA filter	Blast
Cost of single unit	$199.99
Total Number of Filters	5
HEPA Filter Cost	$999.95
CARBON filter	Blast carbon
Cost of single unit	$119.99
Total Number of Filters	5
Carbon filter cost	$600
Total Cost for Filters	$1,600
Cost for Units and Tax	$997
Cost for Filters and Tax	$1,724
Total Cost Per Facility (Unit,Filters,Tax)	**$2,721**
Shipping address(es) for units and filters	1108 Myrtle, Calistoga, CA 94515
Hours of operation for each facility	10-6 - Mon-Sat
How will you deploy the units (City P&R staff, etc.)	Public Works
When the Units will operate (A certain AQI number, etc.)	When AQI at the facility reaches a mir
How you will keep track of inventory	Spreadsheet Maintained by Library
what populations you are trying to serve, ***if*** anyone in particular	General

WPP	WPP
Napa	**Yountville**
35,000	1,100
Smart Health Blast	Smart Health Blast
$926	$926
10	1
$9,256	$926
Blast	Blast
$199.99	$199.99
50	5
$9,999.50	$999.95
Blast carbon	Blast carbon
$119.99	$119.99
50	5
$6,000	$600
$15,999	$1,600
$9,974	$997
$17,239	$1,724
$27,213	**$2,721**
580 Coombs St, Napa, CA 94559	/ashington St, Yountville, CA
9-8 - Mon-Thursd, 10-6 Fri-Sat, 1-5 Sun	10-5 Tues-Sat
imum of 151	

WPP	Totals	
American Canyon		
5,400		
Smart Health Blast		
$926		
2	14	
$1,851	$12,958.96	
Blast		
$199.99	$799.96	
10	70	
$1,999.90	$13,999.30	
Blast carbon		
$119.99	$479.96	
10	70	
$1,200	$8,399.30	
$3,200	$22,398.60	
		WPP Total
$1,995	$13,963.28	$12,966
$3,448	$24,134.49	
$5,443	**$38,098**	Grant Total
300 Crawford Way, American Canyon, CA 94503		
10-6 Mon-Sat		



Funded by Grant:	WPP
Names of facilities:	**Crosswalk Church (25' ceilings)**
Square feet of each facility	9040
Worship Center	3536
Gym	5504
Units	
Which units you would like for each facility	Smart Health Blast
Cost of single unit	$926
Number of units per facility	9
Total Cost for Units	$8,331
Filters	
HEPA filter	Blast
Cost of single unit	$199.99
Total Number of Filters	45
Total HEPA Filter Cost	$8,999.55
CARBON filter	Blast carbon
Cost of single unit	$120
Total Number of Filters	9
Total Carbon filter cost	$1,080
Total Cost for Filters	$10,079
Cost for Units and Tax	$8,976
Cost for filters and tax	$10,861
Total Cost Per Facility (Unit,Filters,Tax)	**$19,837**
Shipping address(es) for units and filters	Napa County Distribution Center At
Hours of operation for each facility	8:00am – 5:00pm – Monday -Friday
How will you deploy the units (City P&R staff, etc.)	Public Works
When the Units will operate (A certain AQI number, etc.)	When an Evacuation Shelter is open
How you will keep track of inventory	Spreadsheet maintained by Health a
For each facility, what populations you are trying to serve, ***if*** anyone in particular	Evacuees ordered to evacuate their

WPP	WPP
Napa Valley College (25' ceilings)	**Napa Expo (Chardonnay Hall) (25' ceilings)**
16000	16000
Smart Health Blast	Smart Health Blast
$926	$926
11	11
$10,182	$10,182
Blast	Blast
$199.99	$199.99
55	55
$10,999.45	$10,999.45
Blast carbon	Blast carbon
$120	$120
11	11
$1,320	$1,320
$12,319	$12,319
$10,971	$10,971
$13,274	$13,274
$24,245	**$24,245**

tn: Michael Rondez 2721 Napa Valley Corporate Drive Napa CA, 94558 (707-344-8038)

ıed by the EOC and the Air Quality is at an AQI of 151

and Human Services

home during a disaster

	Totals:	
	31	
	$28,694.84	
	$599.97	
	155	
	$30,998.45	
	$359.97	
	31	
	$3,719.69	
	$34,718.14	
		WPP Total
	$30,918.69	$30,919
	$37,408.80	
Grand Total:	**$68,327.49**	

Funded by Grant:	AB 836
Names of facilities	**Las Flores Community Center**
Units	
Square feet of each facility	7,600
Which units you would like for each facility	Smarter HEPA - Blast CMKQ101.3
Cost of single unit	$1,099
Number of units per facility	2
Total Cost for Units	**$2,198**
Filters	
HEPA filter	Blast
Cost of single unit	$200
Total Number of Filters	10
HEPA Filter Cost	$1,999.90
CARBON filter	Blast carbon
Cost of single unit	$120
Total Number of Filters	10
Carbon filter cost	$1,200
Total Cost for Filters	**$3,200**
Cost for Units and Tax	$2,368
Cost for Filters and Tax	$3,448
Total Cost	**$5,816**
Shipping address(es) for units and filters	770 Jackson St. Napa, CA 94559
Hours of operation for each facility	During activation events
How will you deploy the units (City P&R staff, etc.)	Public Works
When the Units will operate (A certain AQI number, etc.)	When AQI at the County Administration building reach
How you will keep track of inventory	Spreadsheet maintained by Public Works
For each facility, what populations you are trying to serve, *if* anyone in particular	General Public

WPP	WPP
Senior Center Large Event Room	**City Council Chambers**
3,600	2,020
Smarter HEPA - Blast CMKQ101.3	Smarter HEPA - Blast CMKQ101.3
$1,099	$1,099
1	1
$1,099	**$1,099**
Blast	Blast
$200	$200
5	5
$999.95	$999.95
Blast carbon	Blast carbon
$120	$120
5	5
$600	$600
$1,600	**$1,600**
$1,184	$1,184
$1,724	$1,724
$2,908	**$2,908**
770 Jackson St. Napa, CA 94559	770 Jackson St. Napa, CA 94559
During activation events	During City Council Meetings
esa minimum of 151	

	Totals:
	4
	$4,396
	$600
	20
	$4,000
	$360
	20
	$2,400
	$6,400
	$4,737
	$6,896
Grand Total:	**$11,632**

WPP Total
$2,368

Funded by Grant:
Names of facilities
Units
Square feet of each facility
Which units you would like for each facility
Cost of single unit
Number of units per facility
Total Cost for Units
Filters
HEPA filter
Cost of single unit
Total Number of Filters
HEPA Filter Cost
CARBON filter
Cost of single unit
Total Number of Filters
Carbon filter cost
Total Cost for Filters
Cost for Units and Tax
Cost for Filters and Tax
Total Cost
Shipping address(es) for units and filters
Hours of operation for each facility
How will you deploy the units (City P&R staff, etc.)
When the Units will operate (A certain AQI number, etc.)
How you will keep track of inventory
For each facility, what populations you are trying to serve, *if* anyone in particular

AB 836	WPP
Generations Room - Com. Center	**Heritage Room - Com. Center**
5,000	3,800
Smart Health Blast - SmarterHEPA	Smart Health Blast - SmarterHEPA
$960	$960
1	1
$960	$960
Blast	Blast
$132	$132
5	5
$660.00	$660.00
Blast	Blast
$97	$97
5	5
$485	$485
$1,145	$1,145
$1,034	$1,034
$1,234	$1,234
$2,268	**$2,268**
6516 Washington St. Yountville, CA 94599	6516 Washington St. Yountville, CA 94599
8 AM - 5 PM	8 AM - 5 PM
Staff	Staff
Anytime the AQI is above 150	Anytime the AQI is above 150
Stored in secure location. Inventoried as part of ou	
General Public. Evacuated or displaced.	

WPP	WPP	
Council Chambers - Town Hall	**Com. Center Lobby**	
1,500	750	
Smart Health Blast - SmarterHEPA	MedAir MA-112	
$960	$559	
1	1	
$960	$559	
Blast	MA-112	
$132	$135	
5	5	
$660.00	$673.50	
Blast		
$97		
5		
$485	$0	
$1,145	$674	
$1,034	$602	
$1,234	$726	
$2,268	**$1,328**	**Grand Total:**
6550 Yount St. Yountville, CA 94599	6516 Washington St. Yountville, CA 94599	
8 AM - 5 PM	8 AM - 5 PM	
Staff	Staff	
Anytime the AQI is above 150	Anytime the AQI is above 150	
r normal process and annual maintenace.		
Elderly or health compromised		

Totals:
4
$3,438.80
$530.70
20
$2,653.50
$291.00
15
$1,455.00
$4,108.50
$3,705.31
$4,426.91
$8,132

WPP Total
$2,671

Funded by Grant:	WPP
Names of facilities	**Board Chambers**
Units	
Square feet of each facility	2,800
Which units you would like for each facility	Smart Health Blast
Cost of single unit	$926
Number of units per facility	2
Total Cost for Units	$1,851
Filters	
HEPA filter	Blast
Cost of single unit	$200
Total Number of Filters	10
HEPA Filter Cost	$1,999.90
CARBON filter	Blast carbon
Cost of single unit	$120
Total Number of Filters	10
Carbon filter cost	$1,200
Total Cost for Filters	$3,200
Cost for Units and Tax	$1,995
Cost for Filters and Tax	$3,448
Total Cost	**$5,443**
Shipping address(es) for units and filters	Napa County Distribution Center
Hours of operation for each facility	During Board of Supervisor Meet
How will you deploy the units (City P&R staff, etc.)	Public Works
When the Units will operate (A certain AQI number, etc.)	When AQI at the County Adminis
How you will keep track of inventory	Spreadsheet maintained by OES
For each facility, what populations you are trying to serve, *if* anyone in particular	General Public

WPP		Totals:
Board Meeting Conference room for viewing		
35,000		
Smart Health Blast		
$926		
1		3
$926		$2,776.92
Blast		
$200		$399.98
5		15
$999.95		$2,999.85
Blast carbon		
$120		$239.98
5		15
$600		$1,799.85
$1,600		$4,799.70
$997		$2,992.13
$1,724		$5,171.68
$2,721	**Grand Total:**	**$8,163.81**

Attn: Michael Rondez 2721 Napa Valley Corporate Drive Napa CA, 94558 (707-344-8038)

ings

stration building reaches a minimum of 151

WPP Total

$2,992

Funded by Grant:
Names of facilities
Units
Square feet of each facility
Which units you would like for each facility
Cost of single unit
Number of units per facility
Total Cost for Units
Filters
HEPA filter
Cost of single unit
Total Number of Filters
HEPA Filter Cost
CARBON filter
Cost of single unit
Total Number of Filters
Carbon filter Cost
Total Cost for Filters
Cost for Units and Tax
Cost for Filters and Tax
Total Cost
Shipping address(es) for units and filters
Hours of operation for each facility
How will you deploy the units (City P&R staff, etc.)
When the Units will operate (A certain AQI number, etc.)
How you will keep track of inventory
For each facility, what populations you are trying to serve, ***if*** anyone in particular

WPP
Calistoga Community Center
2,200
Smart Health Blast
$1,099
1
$1,099
Blast
$200
5
$999.95
Blast carbon
$120
5
$600
$1,600
$1,184
$1,724
$2,908
414 Washington St., Calistoga CA 94515
During public meetings and cooling center operations
City Public Works
when the AQI reaches a minimum of 151
spreadsheet maintained by public works and parks and rec.
General Public

WPP
Calistoga High School Multipurpose Room
6,300
Smart Health Blast
$1,099
5
$5,495
Blast
$200
25
$4,999.75
Blast carbon
$120
25
$3,000
$8,000
$5,921
$8,619
$14,540
Calistoga Joint Unified School District Facility Staff: 1520 Lake St., Calistoga, CA 94515
During public meetings, public events, and sporting events
Facility Staff
when the AQI reaches a minimum of 151
spreadsheet maintained by facility staff
General Public

WPP
Calistoga Monhoff Center
4000 (total but split over two levels)
Smart Health Blast
$1,099
2
$2,198
Blast
$200
10
$1,999.90
Blast carbon
$120
10
$1,200
$3,200
$2,368
$3,448
$5,816
414 Washington St., Calistoga CA 94515
City Public Works
when the AQI reaches a minimum of 151
spreadsheet maintained by public works and parks and rec.
General Public

WPP
Calistoga Elementary School Multi-purpose room
4,000
Smart Health Blast
$1,099
3
$3,297
Blast
$200
15
$2,999.85
Blast carbon
$120
15
$1,800
$4,800
$3,553
$5,172
$8,724

Calistoga Joint Unified School District Facility Staff: 1520 Lake St., Calistoga, CA 94515
During public meetings, public events, and sporting events
Facility Staff
when the AQI reaches a minimum of 151
spreadsheet maintained by facility staff
General Public

WPP	WPP
Calistoga High School Old Gym	**Calistoga Elementary School Library**
10,310	1,580
Smart Health Blast	Smart Health Blast
$1,099	$1,099
9	1
$9,891	$1,099
Blast	Blast
$200	$200
45	5
$8,999.55	$999.95
Blast carbon	Blast carbon
$120	$120
10	5
$1,200	$600
$10,199	$1,600
$10,658	$1,184
$10,990	$1,724
$21,647	**$2,908**
Calistoga Joint Unified School District Facility Staff: 1520 Lake St., Calistoga, CA 94515	Calistoga Joint Unified School District Facility Staff: 1520 Lake St., Calistoga, CA 94515
During public meetings, public events, and sporting events	During public meetings, public events, and sporting events
Facility Staff	Facility Staff
when the AQI reaches a minimum of 151	when the AQI reaches a minimum of 151
spreadsheet maintained by facility staff	spreadsheet maintained by facility staff
General Public	General Public

WPP	WPP
Calistoga High School Library	**Calistoga City Hall**
1,580	3000 (total but split over two levels)
Smart Health Blast	Smart Health Blast
$1,099	$1,099.00
1	3
$1,099	$3,297
Blast	Blast
$200	$200
5	15
$999.95	$2,999.85
Blast carbon	Blast carbon
$120	$120
5	15
$600	$1,800
$1,600	$4,800
$1,184	$3,297
$1,724	$5,172
$2,908	**$8,469**
Calistoga Joint Unified School District Facility Staff: 1520 Lake St., Calistoga, CA 94515	414 Washington St., Calistoga CA 94515
During public meetings, public events, and sporting events	Monday-Friday 8am-4:30pm
Facility Staff	City Public Works
when the AQI reaches a minimum of 151	when the AQI reaches a minimum of 151
spreadsheet maintained by facility staff	spreadsheet maintained by public works and parks and rec.
General Public	General Public

WPP			
Calistoga High School New Gym		**Totals**	
16,000			
Smart Health Blast			
$1,099.00			
14		39	
$15,386		$42,861.00	
Blast			
$200		$1,799.91	
70		195	
$13,999.30		$30,998.45	
Blast carbon			
$120		$1,079.91	
10		100	
$1,200		$11,999.00	
$15,199		$50,997.05	
			WPP Total
$15,386		$44,734.80	$44,735
$16,377		$54,949.32	
$31,763	**Grand Total**	**$99,684.12**	

Calistoga Joint Unified School District Facility Staff: 1520 Lake St., Calistoga, CA 94515
During public meetings, public events, and sporting events
Facility Staff
when the AQI reaches a minimum of 151
spreadsheet maintained by facility staff
General Public

Smart Health Blast
Specifications:
- Clean Air Delivery Rate (CADR): Blast capacity of air flow at 1360 cubic feet per minute (CFM) is beyond the CADR Testing protocol in 1000 sq ft. rooms where the CADR is only tested to 450 CFM. For something as powerful as the Blast we suggest using Air Changes per Hour (ACH) to determine efficacy.
-Air Flow (low-high): 455-1360 Cubic Feet per Minute (CFM)
-Area Cleaned (ACH): 5100sf filtered in 30 minutes, 2000sf filtered every 12 minutes
- Noise level dB (low-high): 34 - 48
- Power consumption (Watts): 67 - 140
-Dimensions: 48.4" x 22.6" x 13", Weight: 69 lbs
- Uses a HEPA filter with a 5,280 hour life span, 12 - 24 months to help protect you from viruses, bacteria, mold, allergens, dust mites and pollen. (Life span can change depending on air quality and usage.)
- Optional carbon filter to remove odors, smoke and volatile organic compounds (VOC's) with a 12 - 18 month life span

MedAir MA-112
Technical Specifications
NET/GROSS WEIGHT (IN LB)
33.5 lbs
DIMENSION IN INCH
28.3"H x 15.7”W x 15.4”D
WATTAGE
95W
CONTROLS
On/Off, Fan Speed, Child Lock, Timer, Sleep Mode
FAN SPEED
4 Speeds
PARTICLE CADR
950m^3/h
STANDARD COVERAGE
5,000 sq. ft. every 60 minutes, 2,500 sq. ft. every 30 minutes, 1,250 sq. ft. every 15 minutes
IONIZER
Yes with On/Off functionality (Optional)
WARRANTY
Lifetime if genuine Medify filters are used at the recommended cadence
FILTER LIFE
4-5 months or 3,000 hours
FILTERING CONFIGURATION
Pre-filter, H13 True HEPA, active carbon composite
NOISE LEVEL (DB)
Maximum: 70dBA
RATED INPUT VOLTAGE / FREQUENCY
110-120V/60Hz
WHEELS (YES/NO)
Yes

Napa County

Board Agenda Letter

Board of Supervisors	**Agenda Date:** 4/19/2022	**File ID #:** 22-854

TO: Board of Supervisors

FROM: Jason Martin, Fire Chief

REPORT BY: Stacie McCambridge, Staff Services Manager

SUBJECT: Discussion of the Early Wildland Fire Detection RFP

RECOMMENDATION

County Fire Chief requests discussion and direction regarding the Wildfire Early Detection System and direction regarding the current Request for Proposal (RFP) process.

EXECUTIVE SUMMARY

On August 24, 2021, the Board provided direction to enter into a short-term contract with Illumination Technologies California (ITC) to install and activate 3 Fire IQ cameras which would provide early fire detection capabilities for a portion of the County during the 2021 fire season. At the same time, the Board requested staff investigate the possibility of contracting for a larger system, one that would provide similar service on a larger scale. The RFP was intentionally "technologically neutral" to provide the ability for bids to present various early detection options.

PROCEDURAL REQUIREMENTS

1. Staff Report
2. Public Comment
3. Motion, second, discussion and vote on item.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact? No
County Strategic Plan pillar addressed: Healthy, Safe, and Welcoming Place to Live, Work, and Visit

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: There is no possibility the proposed action may have a significant effect on the environment and therefore CEQA is not applicable pursuant to the General Rule contained in the Guidelines for the Implementation of the California Environmental Quality Act, 14 CCR 15061 (b)(3).

BACKGROUND AND DISCUSSION

Since 2014, there have been nine declared disasters for wildfires in Napa County. During 2020, the LNU Lightning Complex Fire killed six people, burned 363,220 acres, destroyed 1,491 structures, and caused $47 million in damage. The Glass Fire burned 67,480 acres, destroyed 1,555 structures, and caused $750 million in damage. In 2018, the County Fire burned 89,831 acres. In 2017, the Tubbs, Nuns and Atlas Fires killed 48 people, burned 144,125 acres, and destroyed over 5,756 structures. The "Napa County Multi-Jurisdictional Hazard Mitigation Plan" states that 36 percent of the population, 38 percent of the parcels and $2.36 Billion of improvements in Napa County are within "Moderate" to "Very High" Wildfire Hazard Severity Zones.

On August 13, 2020, the Federal Emergency Management Agency approved the "Napa County Multi-Jurisdictional Hazard Mitigation Plan 2020 Update". In December 2020, the Board of Supervisors approved an updated "Napa County Operational Area Emergency Operations Plan". In May 2021, the Napa Community Firewise Foundation completed a county-wide Community Wildfire Protection Plan (CWPP) to help Agencies, Fire Safe Councils, Communities, and local homeowners define, plan, and prioritize actions to limit damage from the inevitability of wildland fire. It was funded in large part by a CAL FIRE Climate Change Investment Fund Fire Prevention Grant.

There are several ALERT Wildfire cameras throughout the San Francisco North Bay Area that public safety staff and the public can use to observe Napa County. CalFire uses the pan-tilt-zoom cameras to monitor wildfires; however, there is not software available to detect fire starts (ignition) nor alert first responders. On February 3, 2020, the Federal Emergency Management Agency (FEMA) granted $2 million to the California Governor's Office of Emergency Services (Cal OES) and Sonoma County for long-range, fire detection cameras. Mounted high on towers, the cameras will alert emergency officials of potential wildfires by constantly surveying Sonoma County and portions of Mendocino, Lake, Napa, and Marin counties for smoke and fire in order to prevent the loss of life, property, and economic damage. (https://www.fema.gov/press-release/20210318/fema-grants-cal-oes-and-sonoma-county-2m-wildfire-detection-system) With $300,000 of the funding, Sonoma County hired Alchera to provide software for the ALERT Wildfire cameras. Reports to date indicate the software is not performing well.

After the 2020 fires, Napa County pursued options for detecting wildfire starts and giving firefighters a chance to extinguish a fire before it grows out of control. In 2020, Illumination Technologies California (ITC) worked with the City of Calistoga and Napa County to construct two cellular towers (monopoles) with sirens, install an IQ FireWatch fire sensor on an existing communications tower at the Clover Flat Landfill (CFL), and construct a new tower with an IQ FireWatch sensor on private property on Diamond Mountain (DM). The monopoles are on Petrified Forest Road west of the City and Rosedale Lane east of the City. The CFL is east of Calistoga and

DM is south of Calistoga.

On July 21, 2020, ITC made a presentation to the Board of Supervisors on their proposal to install monopoles at various locations on the County's rights-of-way to improve cellular telephone coverage and IQ FireWatch sites on private property to detect wildfire starts. On February 23, 2021, the Board approved an agreement with ITC to pay the County to hire a consultant to prepare the necessary California Environmental Quality Act (CEQA) document for the Monopole Project. In late February and March, WRECO staff conducted field surveys of the 13 commercially viable monopoles around the Napa Valley, 10 monopoles that are not commercially viable to improve broadband service outside of the Napa Valley, and 11 IQ FireWatch sites on private property.

In June 2021, ITC requested a change in the terms of a draft Right-of-way agreement, which reduced the IQ FireWatch system from 10 sensors, to two, or possibly three locations that could cover 75% of the area of the Napa Valley. They removed the offer to locate telecommunications poles in unprofitable, but hard to serve areas around the County, and reduced their offer to maintain and operate the IQ FireWatch system from 30 years to only include 2021 and 2022.

On August 24, 2021, the Board rejected the original proposal and directed staff to towards a service agreement with ITC for the three IQ FireWatch sensors. In September 2021, ITC planned to install a third IQ sensor on the County's existing communications tower on Atlas Peak, which is northeast of Yountville. The August 24 Board Agenda Letter regarding IQ FireWatch sensors and a map with the locations of the IQ FireWatch sensors are attached. As mentioned previously, the Board of Supervisors approved entering into a service agreement with ITC for monitoring the three IQ FireWatch sensors which were used for the remainder of the 2021 fire season.

In Napa County, most wildfires are reported by the general public, commercial airline flights, and dedicated aerial reconnaissance during periods of high fire risk and the County is also interested in other long-term options, such as using satellites to detect wildfire ignitions and notify first responders of the location of the fire, especially at night. All forms of technology will be considered so long as they meet the County's need for early detection and notification at a reasonable price.

Proposals were received in response to the RFP and interviews conducted in December 2021. An interview panel consisting of 3 fire personnel and two representatives from Public Works selected one vendor and all respondents were notified. At the present time, one vendor has submitted a protest. The Board has two options: 1) continue with the protest process; or 2) reject all bids. If the Board rejects all bids, staff will return with recommendations for the 2022 Fire Season.

The RFP included the County's ability to reserve the right to reject any or all proposals submitted, and no

representation is made that any agreement will be awarded pursuant to this RFP or otherwise.

While the idea and concept of early detection is appealing, none of the companies interviewed have existing contracts or track records to validate their ability to perform. Each company's staff profile showed them working in this venue for the last 12-18 months, with no full-time early detection specialists or references. This is not to say they may not be leading experts in technology or "artificial intelligence"; however, there is no current proof of concept for this RFP that proves the cost to benefit value yet. It is easy to assume that if a given system worked, then you may be able to quantify its value, however, proposing anywhere from half a million to 1.6 million dollars annually on an unproven concept is a gamble. Each vendor stated that 'their interpretation of detections is getting better all the time or 'constantly improving,' but no one could give more than a single example or two of consistent improvements over our current model of 911 reporting.

Napa County

Board Agenda Letter

Board of Supervisors	**Agenda Date:** 4/19/2022	**File ID #:** 22-543

TO: Board of Supervisors

FROM: Oscar Ortiz - Sheriff-Coroner

REPORT BY: Rollie Soria, Staff Services Analyst II

SUBJECT: AB 481 Ordinance

RECOMMENDATION

PUBLIC HEARING 9:00 AM

Sheriff requests the following actions regarding California State Assembly Bill 481:

1. Introduction and intention to adopt an ordinance approving a military equipment use policy of the Sheriff's Office, as required by AB 481; and

2. Approval of and authorization for continued use of certain law enforcement equipment, acquired prior to January 1, 2022, which by definition of AB 481, now qualifies as military equipment.

EXECUTIVE SUMMARY

In accordance with Assembly Bill 481 (AB 481), Sheriff's Office is seeking approval to adopt a military equipment use policy by ordinance and for the continued use of certain law enforcement equipment acquired prior to January 1, 2022. If approved, the Sheriff's Office will provide an annual military equipment report to the Board of Supervisors and public, as required by AB 481.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact?	No
Is it currently budgeted?	No
Where is it budgeted?	N/A
Is it Mandatory or Discretionary?	Mandatory
Discretionary Justification:	N/A
Is the general fund affected?	No

Future fiscal impact:	N/A
Consequences if not approved:	If not approved, the Sheriff's Office would be out of compliance with AB 481.
County Strategic Plan pillar addressed:	Effective and Open Government

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.

BACKGROUND AND DISCUSSION

California State Assembly Bill 481 (AB 481) was authored by Assemblymember David Chiu (D-San Francisco) to address funding, acquisition and use of certain law enforcement equipment, which by definition of this law, now qualifies as military equipment. The intent of AB 481 stems from the Department of Defense Law Enforcement Support 1033 Program (1033 Program), which transfers military equipment to non-military law enforcement agencies. The Sheriff's Office does not participate in the 1033 Program. The legislation, however, also creates more transparency, oversight and accountability in the use and acquisition of other law enforcement equipment that could now be described as "military equipment" by language in AB 481. Governor Gavin Newsom signed AB 481 into law on September 30, 2021.

AB 481 requires California law enforcement agencies, including Napa County Sheriff's Office, to obtain applicable governing body approval of a military equipment use policy by ordinance. In addition, AB 481 requires law enforcement agencies to seek approval for continued use of any qualifying equipment acquired prior to January 1, 2022. In addition, thirty (30) days prior to this public meeting, Sheriff's Office posted the following documents to its public-facing website: Policy 706 Military Equipment and AB 481 Equipment Report, both of which are attached to this board letter.

Since the language of AB 481 appears to extend beyond the 1033 Program, law enforcement agencies across California are trying to interpret what qualifies for the reporting requirement and what is law enforcement equipment. The United States military, for example, utilizes handcuffs but handcuffs are universally recognized as a piece of law enforcement equipment. Several agencies, including the Sheriff's Office, are taking the position that it is better to "over report" and be fully transparent on all equipment and related use policies, even though all the equipment available to the Sheriff's Office and its specialized units is law enforcement equipment for public safety purposes.

In accordance with AB 481, Sheriff's Office is now seeking to adopt an ordinance approving a military equipment use policy and for the continued use of applicable equipment acquired prior to January 1, 2022. If approved, Sheriff's Office will provide an annual military equipment report to the Board of Supervisors and public.

ORDINANCE NO. _____

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF NAPA COUNTY, STATE OF CALIFORNIA, ADOPTING A MILITARY EQUIPMENT USE POLICY PURSUANT TO AB 481

The Board of Supervisors of Napa County hereby finds and declares the following:

WHEREAS, Governor Gavin Newsom signed AB 481 into law on September 30, 2021; and

WHEREAS, the legislative intent behind AB 481 is to increase the public transparency by which California law enforcement agencies fund, acquire, and/or use military equipment, as defined under AB 481; and

WHEREAS, AB 481 requires California law enforcement agencies, such as the Sheriff's Department, to obtain approval from their governing body, of a miliary equipment use policy prior to taking certain actions relating to the funding, acquisition, and/or use of military equipment; and

WHEREAS, AB 481 requires that the governing body make certain findings with respect to the military equipment use policy prior to its approval as set forth in Government Code Section 7071(d)(1); and

WHEREAS, AB 481 requires California law enforcement agencies that receive approval for a military equipment use policy to submit to the governing body an annual military equipment report for each type of military equipment approved by the governing body within one year of approval, and annually thereafter so long as the military equipment is available for use; and

WHEREAS, AB 481 requires the applicable governing body of the California law enforcement agency to annually review the military equipment use policy to either disapprove a renewal of the authorization of a type of military equipment or amend the military equipment use policy; and

WHEREAS, in order to comply with AB 481, the Sheriff's Department has submitted its Military Equipment Use Policy No.706 for the Board's review and adoption, along with the Military Equipment Report.

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

SECTION 1. The Board finds that the considerations and requirements in Government Code Section 7071(d)(1) have been met. Specifically, the Board makes the following findings:

A. The military equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety;

B. The proposed military equipment use policy will safeguard the public's welfare, safety, civil rights, and civil liberties;

C. If purchasing the equipment, the equipment is reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety; and

D. There was no prior policy on use of military equipment and therefore no findings can be made with respect to compliance of prior use with prior policies.

SECTION 2. Napa County Sheriff Department Policy No.706, entitled "Military Equipment," and attached hereto as Exhibit A, is hereby adopted and approved.

SECTION 2. This Ordinance shall take effect thirty (30) days after its passage.

SECTION 3. The Board of Supervisors finds that adoption of this ordinance is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

SECTION 4. A summary of this Ordinance shall be published at least once five days before adoption and at least once before the expiration of 15 days after its passage in the Napa Register, a newspaper of general circulation published in the County of Napa, together with the names of members voting for and against the same.

The foregoing Ordinance was introduced and read at a regular meeting of the Board of Supervisors of Napa County, State of California, held on the 19th day of April, 2022, and passed at a regular meeting of the Board of Supervisors of the County of Napa, State of California, held on the ___ day of _____, 2022, by the following vote:

AYES: SUPERVISORS _____

_____

NOES: SUPERVISORS _____

ABSTAIN: SUPERVISORS _____

ABSENT: SUPERVISORS _____

_____
RYAN GREGORY, Chairman
Napa County Board of Supervisors

APPROVED AS TO FORM Office of County Counsel	APPROVED BY THE NAPA COUNTY BOARD OF SUPERVISORS	ATTEST: NEHA HOSKINS Clerk of the Board of Supervisors
By: *S. Darbinian* Date: April 11, 2022	Date: Processed By: _____ Deputy Clerk of the Board	By: _____

Military Equipment

706.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the approval, acquisition, and reporting requirements of military equipment (Government Code § 7070; Government Code § 7071; Government Code § 7072). While the Legislatures defines our equipment as military equipment, this Office defines this equipment as law enforcement equipment.

706.1.1 DEFINITIONS

Definitions related to this policy include (Government Code § 7070):

Governing body – The elected or appointed body that oversees the Office.

Military equipment – Includes but is not limited to the following:

- Unmanned, remotely piloted, powered aerial or ground vehicles.
- Mine-resistant ambush-protected (MRAP) vehicles or armored personnel carriers.
- High mobility multipurpose wheeled vehicles (HMMWV), two-and-one-half-ton trucks, five-ton trucks, or wheeled vehicles that have a breaching or entry apparatus attached.
- Tracked armored vehicles that provide ballistic protection to their occupants.
- Command and control vehicles that are either built or modified to facilitate the operational control and direction of public safety units.
- Weaponized aircraft, vessels, or vehicles of any kind.
- Battering rams, slugs, and breaching apparatuses that are explosive in nature. This does not include a handheld, one-person ram.
- Firearms and ammunition of .50 caliber or greater, excluding standard-issue shotguns and standard-issue shotgun ammunition.
- Specialized firearms and ammunition of less than .50 caliber, including firearms and accessories identified as assault weapons in Penal Code § 30510 and Penal Code § 30515, with the exception of standard-issue firearms.
- Any firearm or firearm accessory that is designed to launch explosive projectiles.
- Noise-flash diversionary devices and explosive breaching tools.
- Munitions containing tear gas or OC, excluding standard, service-issued handheld pepper spray.
- TASER® Shockwave, microwave weapons, water cannons, and long-range acoustic devices (LRADs).
- Kinetic energy weapons and munitions.
- Any other equipment as determined by a governing body or a state agency to require additional oversight.

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706.2 POLICY

It is the policy of the Napa County Sheriff's Office that members of this office comply with the provisions of Government Code § 7071 with respect to military equipment.

706.3 MILITARY EQUIPMENT COORDINATOR

The Sheriff should designate a member of this office to act as the military equipment coordinator. The responsibilities of the military equipment coordinator include but are not limited to:

(a) Acting as liaison to the governing body for matters related to the requirements of this policy.

(b) Identifying office equipment that qualifies as military equipment in the current possession of the Office, or the equipment the Office intends to acquire that requires approval by the governing body.

(c) Conducting an inventory of all military equipment at least annually.

(d) Collaborating with any allied agency that may use military equipment within the jurisdiction of Napa County Sheriff's Office (Government Code § 7071).

(e) Preparing for, scheduling, and coordinating the annual community engagement meeting to include:

1. Publicizing the details of the meeting.
2. Preparing for public questions regarding the office's funding, acquisition, and use of equipment.

(f) Preparing the annual military equipment report for submission to the Sheriff and ensuring that the report is made available on the office website (Government Code § 7072).

(g) Establishing the procedure for a person to register a complaint or concern, or how that person may submit a question about the use of a type of military equipment, and how the Office will respond in a timely manner.

706.4 MILITARY EQUIPMENT INVENTORY

The following constitutes a list of qualifying equipment for the Office:

[Insert attachment here]

706.5 APPROVAL

The Sheriff or the authorized designee shall obtain approval from the governing body by way of an ordinance adopting the military equipment policy. As part of the approval process, the Sheriff or the authorized designee shall ensure the proposed military equipment policy is submitted to the governing body and is available on the office website at least 30 days prior to any public hearing concerning the military equipment at issue (Government Code § 7071). The military equipment policy must be approved by the governing body prior to engaging in any of the following (Government Code § 7071):

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(a) Requesting military equipment made available pursuant to 10 USC § 2576a.

(b) Seeking funds for military equipment, including but not limited to applying for a grant, soliciting or accepting private, local, state, or federal funds, in-kind donations, or other donations or transfers.

(c) Acquiring military equipment either permanently or temporarily, including by borrowing or leasing.

(d) Collaborating with another law enforcement agency in the deployment or other use of military equipment within the jurisdiction of this office.

(e) Using any new or existing military equipment for a purpose, in a manner, or by a person not previously approved by the governing body.

(f) Soliciting or responding to a proposal for, or entering into an agreement with, any other person or entity to seek funds for, apply to receive, acquire, use, or collaborate in the use of military equipment.

(g) Acquiring military equipment through any means not provided above.

706.6 COORDINATION WITH OTHER JURISDICTIONS

Military equipment used by any member of this jurisdiction shall be approved for use and in accordance with this Office's policy. Military equipment used by other jurisdictions that are providing mutual aid to this jurisdiction shall comply with their respective military equipment use policies in rendering mutual aid.

706.7 ANNUAL REPORT

Upon approval of a military equipment policy, the Sheriff or the authorized designee should submit a military equipment report to the governing body for each type of military equipment approved within one year of approval, and annually thereafter for as long as the military equipment is available for use (Government Code § 7072).

The Sheriff or the authorized designee should also make each annual military equipment report publicly available on the office website for as long as the military equipment is available for use. The report shall include all information required by Government Code § 7072 for the preceding calendar year for each type of military equipment in office inventory.

706.8 COMMUNITY ENGAGEMENT

Within 30 days of submitting and publicly releasing the annual report, the Office shall hold at least one well-publicized and conveniently located community engagement meeting, at which the Office should discuss the report and respond to public questions regarding the funding, acquisition, or use of military equipment.

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NAPA COUNTY OFFICE OF SHERIFF-CORONER

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NAPA, CALIFORNIA 94558-6292
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OSCAR ORTIZ
Sheriff - Coroner

Commitment to
Community

Napa County Sheriff

AB 481
Equipment Report

April 2022

Considerations:

The AB481-reportable equipment inventory sheets contained within this document were compiled near year-end 2021 and new-year 2022.

With respect to costs, funding, annual upkeep expenses and estimated effective lifespan, every effort has been made to be as accurate as possible while at the same time acknowledging that many factors directly affecting those aforementioned values are unpredictable.

Costs associated with the following items represent the best estimates at the time this document was prepared. Many of these items are not purchased from manufacturers, but from dealers, who adjust costs in accordance with market factors beyond the predictive abilities or control of Napa SO.

Due to the unpredictable nature of the law enforcement profession, many of the item estimated upkeep costs and effective lifespans are best estimates and may vary greatly on a year-to-year basis, due to the availability of training, type of operational incidents or other factors.

"Annual Allocation" refers to the quantity needed "on hand" over the course of a calendar year to meet all reasonably-anticipated operational and training needs. Some items may be carried over in inventory year to year depending on operational/training tempo.

With respect to terminology, "expendable equipment" items are items that typically have a one-time use and then cannot be used again, such as chemical agents or smoke grenades.

In an effort to be as efficient as possible, many items, both "expendable" and otherwise have operational applications across a diverse set of the Sheriff's Office missions. For example, "40mm launcher (single and multi-shot capability)" is an item that is utilized by Patrol, SWAT, Mobile Field Force and other auxiliary assignments. The cost and unit allocation estimates that state "across all divisions" represents the best estimation of the requirements for those items to fill all needs for the Sheriff's Office.

Additionally, there are costs for non-AB481 equipment that are intrinsically tied to the costs for the following items. For example, slings, carrying cases, magazines, sighting systems, flashlights, cleaning supplies, batteries and other non-AB481 reportable items are not included in the cost estimations, unit allocation or upkeep portions of this report.

It should also be noted that the legislature has designated these items as “military equipment”. While the military may use some of the same equipment, the Sheriff’s Office (SO) deems all of this equipment as law enforcement equipment. Much the same as the military using handcuffs, there are items in common. The manner and reason they are used is significantly different.

For many years, this office has also displayed and offered education about our equipment and why we use it. The vast majority of equipment on this list was approved for funding through the County of Napa. From our Citizen’s Academy to National Night Out, we have always been open for discussion and education.

12-Gauge Muzzle Bang/Launching Cartridge (1370 Launching Cup)

Description:
The 12-Gauge Muzzle Bang / Launching Cartridge incorporates an opaque shell and utilizes black powder as the propellant. It has the ability to be used alone as a Muzzle Bang for crowd management during riotous behavior as well as tactical deployment situations against or for propelling grenades (Chemical Agent/Smoke) when using the 1370 Launching Cup.

Purpose & Use:
The 12-Gauge Muzzle Bang / Launching Cartridge used alone produces 170 dB of sound output. It is designed to be aimed at the floor or wall at a 45° angle. This round should not be direct fired at personnel. It is used as a crowd management tool in crowd control situations as a means of warning, intimidation or diversion. It may be deployed in the air over crowds or to the side for dissuading movement in a given direction. It may also be deployed to the far side of buildings to divert the attention away from an approach or entry. We have this equipment for a worst case scenario when lives or property is threatened by hostile intentions.
Launching Cartridge application: The 12-Gauge Muzzle Bang / Launching Cartridge used in conjunction with the 1370 Launching Cup provides the operator with the ability of projecting the Pocket Tactical family of hand delivered grenades. The use of the Launching Cup will project the grenades further than can be hand delivered. This increases the distance between law enforcement and crowds, reducing the chance for injuries to both parties.

Cost & Quantity Allocation:
This expendable equipment has no unique or temporary funding source. Unit cost of $7/ea. Annual estimated training and operational allocation of approximately 300 units.

Training Requirements:
Deputies must successfully complete department-approved training to be authorized to use the 12-Gauge Muzzle Bang / Launching Cartridge.

Compliance Protocols:
Use of the 12-Gauge Muzzle Bang / Launching Cartridge shall conform to all relevant SO policies, including but not limited to SO Policy 302.9, 404, 407 and 431.
Must also maintain compliance with local, state and federal storage, transportation and handling regulations and all relevant local, state and federal use of force legislation.

Public complaint procedures:
SO Department Policy Number 1009 shall apply to all personnel complaints.

40 mm launcher (single and multi-shot capability)

Description:
The 40 mm less lethal launcher is device that has the ability to shoot multiple types of 40 mm projectiles.

Purpose & Use:
A 40 mm launcher is used to deploy less lethal munitions and chemical agents for a variety of missions. Specifically, this launcher has been used effectively to stop aggression from lethal force, open windows for viewing, and de-escalate situations.

Cost & Quantity Allocation:
This piece of equipment has no unique or temporary funding source. Unit cost of $800. Annual estimated training and operational allocation of approximately 30 units across all divisions. Estimated effective lifespan 10+ years.

SWAT procedural rules that govern use:
The 40 mm launcher shall be used by SWAT team members under the direction of the SWAT team Commander.

Training Requirements:
Must complete annual SWAT firearms qualification and regularly required refresher training.

Compliance Protocols:
Use of the 40 mm launcher shall conform to all relevant SO policies, including but not limited to SO Policy 300,302,303,305,404, as well as all local, state and federal use of force laws.

Public complaint procedures:
SO Department Policy Number 1009 shall apply to all personnel complaints.

40MM Muzzle Blast Round

Description:
The 40mm Muzzle Blast Rounds incorporate an aluminum shell and utilize smokeless powder as the propellant. The 40mm Muzzle Blast Rounds are designed to deliver chemical agents in the immediate area (30 feet) of the grenadier. The 40mm Muzzle Blast Round is available in OC (Oleoresin Capsicum) or CS (Chlorobenzylidenemalononitrile). 40mm Muzzle Blast is deployed from a 40mm launcher.

Purpose & Use:
The 40mm Muzzle Blast Rounds are normally used as a crowd management solution for the immediate and close deployment of chemical agent in crowd control management during riotous behavior. However, it has proven successful during tactical operations. As a pain compliance round for riot management, the 40mm Muzzle Blast Rounds are a device for deploying chemical laden powder at close ranges for indoor or outdoor operations. The 40mm Muzzle Blast provides instantaneous emission of chemical agent directly at or on riotous, non-compliant subjects close to the police line or within confined spaces. As a tactical round, the Muzzle Blast Rounds have been used in operations such as barricaded subjects, room clearing, space denial, and a means of contaminating crawl spaces and attics. The purpose of the Muzzle Blast Round is to minimize the risks to all parties through pain compliance, temporary discomfort, and/or incapacitation of potentially violent or dangerous subjects.

Cost & Quantity Allocation:
This expendable equipment has no unique or temporary funding source. Unit cost of $28.00. Annual estimated training and operational allocation of approximately 10 units.

Training Requirements:
Deputies must successfully complete department-approved training to be authorized to use the 40mm Muzzle Blast Rounds.

Compliance Protocols:
Use of the 40mm Muzzle Blast Rounds shall conform to all relevant NSO policies, including but not limited to NSO Policy 404, 407 and 431.
Must also maintain compliance with local, state and federal storage, transportation and handling regulations and all relevant local, state and federal use of force legislation.

Public complaint procedures:
Napa SO Department Policy Number 1009 shall apply to all personnel complaints.

NONEL (NONELECTIC DELAY DETONTOR) –Various lengths of orange shock tube

Description:
NONEL nonelectric delay detonator consist of a length of orange shock tube with a High Strength detonator attached to one end. They are available in various lengths.

Purpose & Use:
Nonel is an energetic material component in explosive breaching charge construction. Explosive breaching is surgical and often offers a safer method of opening doors. Specifically, some doors are unable to be opened by mechanical breaching in a timely manner putting a greater risk to loss of life.

Cost & Quantity Allocation:
This expendable equipment has no unique or temporary funding source. Unit cost of $10/ea. Annual estimated training and operational allocation of approximately 700 units across all divisions.

SWAT procedural rules that govern use:
Nonel shall be handled only by Explosive Breaching trained deputies or under their direct supervision and direction while constructing explosive breaching charges. Grain weights, measurement lengths and all calculations shall be verified by a trained Explosive Breacher. All Nonel shall be stored in compliance with ATF regulations and handled in accordance with best practices as established by Explosive Breaching training standards.

Training Requirements:
Deputies must successfully complete FETT Basic/Intermediate or higher-level Explosive Breacher Course. Must complete required FETT Explosive Breacher re-certification courses at regularly required intervals.
Must maintain compliance with local, state and federal storage, transportation and handling regulations.

Compliance Protocols:
Use of Nonel as part of SWAT Operations shall conform to all relevant NSO policies, including but not limited to SO Policy 404, 407, 408 as well as all local, state and federal use of force legislation.

Public complaint procedures:
SO Policy Number 1009 shall apply to all personnel complaints.

Armor Piercing (AP) projectiles (various calibers)

Description:
AP rounds is designed to penetrate through hardened material that other rounds are unable to.

Purpose & Use:
For the designated marksman (DM) to have the capability to stop various types of vehicles and penetrate harden objects.

Cost & Quantity Allocation:
This expendable piece of equipment has no unique or temporary funding source. Unit cost of $2.50/round. Annual estimated training and operational allocation of approximately 500 units.

SWAT procedural rules that govern use:
AP rounds shall be used by SWAT team members under the direction of the SWAT team Commander.
Use of AP rounds shall conform to all relevant local, state and federal use of force legislation.

Training Requirements:
Must complete annual SWAT rifle qualification and regularly required firearms training

Compliance Protocols:
Use of the AP round shall conform to all relevant NSO policies, including but not limited to SO Policy 305,404

Public complaint procedures:
Napa SO Policy Number 1009 shall apply to all personnel complaints.

BALLISTIC BREACHING ROUND (HOLLOW POINT CUTTER ROUND)

Description:
The Ballistic Breaching Cutter Round is designed to work in correlation with a Ballistic Breaching Shot gun. The Ballistic Breaching Cutter Round is encased in a 12-gauge shotgun casing and usually consists of a hardened steel slug.

Purpose & Use:
A Ballistic Breaching Cutter Round is a shotgun shell specially made to be fired through hardened barriers, cut through concrete re-bar, penetrate security glass, car doors and punch into automotive engine blocks. These rounds may be used when the option of mechanical breaching would be ineffective.

Cost & Quantity Allocation:
This expendable piece of equipment has no unique or temporary funding source. Unit cost of $30/box. Annual estimated training and operational allocation of approximately 5 units.

SWAT procedural rules that govern use:
The Ballistic Breaching Cutter Round shall be handled only by ballistic breaching trained deputies or under their direct supervision and direction. The firearm shall be handled in accordance with best practices as established by ballistic breaching standards.

Training Requirements:
Deputies must successfully complete a basic or higher-level Ballistic Breaching Course taught by an appropriate training company.
Must maintain compliance with local, state and federal use of force requirements.

Compliance Protocols:
Use of the Ballistic Breaching Round or Slug as part of SWAT Operations shall conform to all relevant SO policies, including but not limited to SO Policy 404, 407, 408.

Public complaint procedures:
SO Policy Number 1009 shall apply to all personnel complaints.

BALLISTIC BREACHING ROUND (various material components)

Description:
The Ballistic Breaching Round is designed to work in correlation with a Ballistic Breaching Shotgun. The Ballistic Breaching Round is encased in a 12-gauge shotgun casing and usually consists a variety of different materials allows for versatility of use based on target analysis.

Purpose & Use:
When properly utilized for a ballistic breaching task, it is designed to impact and structurally weaken the object it hits (thereby weakening the structure enough to allow successful tactical breaching) and then disperse into a relatively harmless powder. This round is used as an option to optimize mechanical breaching depending on the construction of the door.

Cost & Quantity Allocation:
This expendable piece of equipment has no unique or temporary funding source. Unit cost of $25/box. Annual estimated training and operational allocation of approximately 10 units.

SWAT procedural rules that govern use:
The Ballistic Breaching Round or Slug shall be handled only by ballistic breaching trained deputies or under their direct supervision and direction. They shall be handled in accordance with best practices as established by ballistic breaching standards.

Training Requirements:
Deputies must successfully complete a basic or higher-level Ballistic Breaching Course. Must maintain compliance with local, state and federal use of force requirements.

Compliance Protocols:
Use of the Ballistic Breaching Round or Slug as part of SWAT Operations shall conform to all relevant SO policies, including but not limited to SO Policy 404, 407, 408.

Public complaint procedures:
SO Policy Number 1009 shall apply to all personnel complaints.

BALLISTIC BREACHING SHOTGUN

Description:
A short-barrel pistol-gripped 12-gauge pump action shotgun that has been modified to best perform ballistic breaching tasks. The breaching shotgun is designed to work in correlation with specific breaching rounds or slugs.

Purpose & Use:
When it is properly employed, a breaching shotgun can provide teams with safe and fast door breaching. Ballistic breach may also be employed to breach non-traditional barriers. This shotgun offers a reliable platform for entry into denied areas when unknown doors or barriers are encountered. It can also be used in a planned event when the construction of the door requires more than mechanical breaching.

Cost & Quantity Allocation:
This piece of equipment has no unique or temporary funding source. Unit cost of $800/ea. Annual estimated training and operational allocation of approximately 2 units. Annual estimated upkeep costs dependent on rounds fired and preventative maintenance. Estimated effective lifespan 10+ years.

SWAT procedural rules that govern use:
The Breaching Shotgun shall be handled only by ballistic breaching trained deputies or under their direct supervision and direction. The firearm shall be handled in accordance with best practices as established by ballistic breaching standards.

Training Requirements:
Deputies must successfully complete a basic or higher-level Ballistic Breaching Course and receive regular refresher training.
Must maintain compliance with local, state and federal use of force requirements.

Compliance Protocols:
Use of the Ballistic Breaching Shotgun as part of SWAT Operations shall conform to all relevant SO policies, including but not limited to SO Policy 404, 407, 408.

Public complaint procedures:
SO Policy Number 1009 shall apply to all personnel complaints.

12-Gauge-Drag-Stabilized Munition

Description:
The 12-Gauge Drag Stabilized Munition is comprised of a translucent 12-Gauge shell loaded with a 40 gram, tear shaped bag made from a cotton and ballistic material blend and filled with #9 shot. The rounds are also available as green marking powder.

Purpose & Use:
12-Gauge Drag Stabilized Munition is a point-of-aim, point-of-impact, direct-fire munition that is most commonly used in situations where greater accuracy and deliverable energy is desired for the incapacitation of an aggressive, non-complaint subject at longer distances. These are considered Less Lethal Impact Munitions (LLIM). The munition is deployed from a designated and clearly marked less lethal 12-gauge shotgun.

Cost & Quantity Allocation:
This expendable equipment has no unique or temporary funding source. Unit cost of $7.00. Annual estimated training and operational allocation of approximately 250 units.

Training Requirements:
Deputies must successfully complete department-approved training to be able to use 12-Gauge Drag Stabilized Munitions.

Compliance Protocols:
Use of 12-Gauge Drag Stabilized Munitions shall conform to all relevant SO policies, including but not limited to SO Policy 302.9, 404, 407 and 431.
Must also maintain compliance with local, state and federal storage, transportation and handling regulations and all relevant local, state and federal use of force legislation.

Public complaint procedures:
SO Policy Number 1009 shall apply to all personnel complaints.

Chemical Agents- handheld delivered grenade devices

Description:
The Chemical Agents handheld grenade devices utilizes an M201A1 Fuze with enclosed canister that come in a variety of sizes, configurations and irritant payloads. In the OC (Oleoresin Capsicum) or CS (Chlorobenzylidenemalononitrile) configurations, pelletized chemical agent is discharged through a gas port(s) from the canister.

Purpose & Use:
Chemical Agents handheld grenade devices can be used to conceal tactical movement. They can be used in crowd control management during riotous behavior as well as tactical deployment situations to detect and/or dislodge barricaded subjects. The purpose of Chemical Agents handheld grenade devices is to minimize the risks to all parties through pain compliance, temporary discomfort, and/or incapacitation of potentially violent or dangerous subjects. The different configurations allows for indoor or outdoor deployments.

Cost & Quantity Allocation:
This expendable equipment has no unique or temporary funding source. Unit cost of $45. Annual estimated training and operational allocation of approximately 15 units.

Training Requirements:
Deputies must successfully complete department-approved training to be authorized to use Chemical Agents handheld grenade devices.

Compliance Protocols:
Use of Chemical Agents handheld grenade devices shall conform to all relevant SO policies, including but not limited to SO Policy 404, 407 and 431.
Must also maintain compliance with local, state and federal storage, transportation and handling regulations and all relevant local, state and federal use of force legislation.

Public complaint procedures:
SO Policy Number 1009 shall apply to all personnel complaints.

DETONATING CORD (DET CORD) (AKA – PRIMACORD) –Various grain weights per linear foot

Description:
PRIMACORD detonating cords (Det Cord) are flexible linear explosives with a core of PETN explosive encased in a textile outer jacket. They are available in various grain weights per linear foot.

Purpose & Use:
PRIMACORD is an energetic material component in explosive breaching charge construction. Explosive breaching is surgical and often offers a safer method of opening doors. Specifically, many commercial doors are unable to be opened by mechanical breaching in a timely manner putting a greater risk to loss of life.

Cost & Quantity Allocation:
This expendable equipment has no unique or temporary funding source. Unit cost of $0.60/linear foot. Annual estimated training and operational allocation of approximately 4000 linear feet across all divisions.

SWAT procedural rules that govern use:
Det Cord shall be handled only by Explosive Breaching trained deputies or under their direct supervision and direction while constructing explosive breaching charges. Grain weights, measurement lengths and all calculations shall be verified by a trained Explosive Breacher. All Det Cord shall be stored in compliance with ATF regulations and handled in accordance with best practices as established by Explosive Breaching training standards.

Training Requirements:
Deputies must successfully complete FETT Basic/Intermediate or higher-level Explosive Breacher Course. Must complete required FETT Explosive Breacher re-certification courses at regularly required intervals.
Must maintain compliance with local, state and federal storage, transportation and handling regulations.

Compliance Protocols:
Use of Det Cord as part of SWAT Operations shall conform to all relevant SO policies, including but not limited to SO Policy 404, 407, 408 as well as all local, state and federal use of force legislation.

Public complaint procedures:
SO Policy Number 1009 shall apply to all personnel complaints.

Exact/Direct Impact 40MM Sponge Munitions

Description:
The Exact Impact 40 MM Sponge Munition is a lightweight, high-speed projectile consisting of a plastic body and sponge nose. The round utilizes smokeless powder as the propellant, and, therefore, have velocities that are extremely consistent.
The Direct Impact 40 MM Foam Munition is a lightweight projectile that consists of a plastic body and a crushable foam nose that contains a powder payload. This payload area can hold inert, marking, OC (Oleoresin Capsicum) or CS (Chlorobenzylidenemalononitrile) powder. The crushable foam nose dissipates energy upon impact while releasing the powder payload. The munition is deployed from a 40mm launcher.

Purpose & Use:
The Exact Impact 40 MM Sponge Munition and the Direct Impact 40 MM Foam Round is a point-of-aim, point-of-impact, direct-fire munition that is most commonly used in situations where greater accuracy and deliverable energy is desired for the incapacitation of an aggressive, non-complaint subject at longer distances. These are considered Less Lethal Impact Munitions (LLIM).

Cost & Quantity Allocation:
This expendable equipment has no unique or temporary funding source. Unit cost of $25. Annual estimated training and operational allocation of approximately 40 units.

Training Requirements:
Deputies must successfully complete department-approved training to be authorized to use the Exact Impact 40 MM Sponge munition and the Direct Impact 40 MM Foam munition.

Compliance Protocols:
Use of the Exact Impact 40 MM Sponge munition and the Direct Impact 40 MM Foam munition shall conform to all relevant SO policies, including but not limited to SO Policy 302.9, 404, 407 and 431.
Must maintain compliance with local, state and federal storage, transportation and handling regulations and all relevant local, state and federal use of force legislation.

Public complaint procedures:
SO Policy Number 1009 shall apply to all personnel complaints.

Ferret Round-40MM

Description:
The Ferret 40mm Round is a frangible projectile filled with chemical agent. It is designed to deliver chemical agents in barricade situations from a 40mm launcher. It is available with either liquid or powder carrier for the agent. The payload can hold OC (Oleoresin Capsicum) or CS (Chlorobenzylidenemalononitrile). Spin stabilization from barrel rifling affords maximum stand-off distance and accuracy for safety.

Purpose & Use:
The Ferret 40mm Round is non-burning and suitable for indoor use. Used primarily by tactical teams, it is designed to penetrate barriers, such as windows, hollow core doors, wallboard and thin plywood. Upon impacting the barrier, the nose cone ruptures and instantaneously delivers a small chemical payload inside of the structure or vehicle. It is primarily used to dislodge barricaded subjects from very small confined areas. Its purpose is to minimize the risks to all parties through pain compliance, temporary discomfort and/or incapacitation of potentially violent or dangerous subjects.

Cost & Quantity Allocation:
This expendable equipment has no unique or temporary funding source. Unit cost of $27. Annual estimated training and operational allocation of approximately 20 units.

Training Requirements:
Deputies must successfully complete department-approved training to be authorized to use the Ferret 40mm Round.

Compliance Protocols:
Use of the Ferret 40mm Round shall conform to all relevant SO policies, including but not limited to SO Policy 404, 407 and 431.
Must also maintain compliance with local, state and federal storage, transportation and handling regulations and all relevant local, state and federal use of force legislation.

Public complaint procedures:
SO Policy Number 1009 shall apply to all personnel complaints.

Noise/Flash Diversionary Device (NFDD AKA – Flashbangs) – 12 gram and 4 gram

Description:
NFDD utilizes an M201A1 type fuze with Hex design steel body. The bodies are reloadable and are reusable up to 25 times. The charges are available in full 12 gram loads, or 4 gram training charges.

Purpose & Use:
NFDD's are used to distract suspects during high risk operations.

Cost & Quantity Allocation:
This expendable equipment has no unique or temporary funding source. Unit cost of $40/ea. Annual estimated training and operational allocation of approximately 50 units.

SWAT procedural rules that govern use:
NFDD's shall only be handled by trained deputies. Charges for the NFDD's will be installed by trained deputies. All devices shall be stored in compliance with ATF regulations and handled in accordance with best practices as established by NFDD training standards.

Training Requirements:
Certified instructors much complete certification every four years. Deputies must complete training to use NFDD from certified instructors prior to deployment, and receive annual instruction on deployment and use.

Compliance Protocols:
Use of NFDD as part of SWAT Operations shall conform to all relevant SO policies, including but not limited to SO Policy 404, 407, 408.
Must also maintain compliance with local, state and federal storage, transportation and handling regulations, as well as all local, state and federal use of force legislation.

Public complaint procedures:
SO Policy Number 1009 shall apply to all personnel complaints.

Infrared laser (IR) designator (various configurations)

Description:
Infrared Laser signaling device.

Purpose & Use:
IR laser is used as a "laser pointer" style pointing device that can be seen through night vision and has the capability of attaching to a weapon system. IR lasers are not visible to the naked human eye. Marking or targeting locations with this system improves communication and lowers confusion.

Cost & Quantity Allocation:
This piece of equipment has no unique or temporary funding source. Unit cost of $2000. Annual estimated training and operational allocation of approximately 4 units. Estimated annual upkeep costs dependent on warranty coverage and routine/preventative maintenance. Estimated lifespan 5+ years.

SWAT procedural rules that govern use:
IR laser device shall be used by SWAT team members under the direction of the SWAT team Commander.
Use of the IR Laser designator shall conform to all relevant local, state and federal use of force legislation.

Training Requirements:
Show proficiency in manipulation and annual qualification.

Compliance Protocols:
Use of the IR laser designator shall conform to all relevant SO policies, including but not limited to SO Policy 305,404

Public complaint procedures:
SO Policy Number 1009 shall apply to all personnel complaints.

LENCO BEARCAT G3 ARMORED VEHICLE

Description
Off road and rural mission armored vehicle, seats 10-12 fully equipped officers, open floor plan that allows for rescue of downed personnel.

Purpose and Use
Armored vehicle system in a rugged off-road platform to provide enhanced off-road performance which allows for emergency response in rural regions and natural disasters scenarios for a variety of missions where standard armored SWAT vehicles would experience challenges. Optionally equipped with ram, "ramcam" that can penetrate a wall to allow live video feed inside a structure, technology meshing to allow the use of advanced technologies on scene, and all steel construction. Having the ability to safely approach areas of concern increases the ability of members of this office to conduct rescues or isolate violent offenders.

Cost & Quantity Allocation:
This equipment has no unique or temporary funding source. Unit cost of $400,000/vehicle. Annual upkeep costs dependent on mileage, fuel, preventative maintenance. Annual estimated training and operational allocation of approximately 1 unit. Estimated effective lifespan approximately 10 years.

SWAT procedural rules that govern use
The Lenco Bearcat G3 is primarily operated by auxiliary drivers whose purpose is to drive and operate equipment on the Bearcat. However, all members of the SWAT team and auxiliary members have been provided in-person hands-on training on the vehicle and its capabilities.

Training Requirements
Every driver must possess a valid driver license, show competency when operating the Lenco Bearcat G3, and be up to date on the POST mandated Emergency Vehicle Operator Course (EVOC).

Compliance Protocols
Use of the Lenco Bearcat shall conform to all relevant SO policies, including but not limited to 308 – Vehicle Operations and Parking Procedures and 703 – Vehicle Use

Public complaint procedures:
SO Policy Number 1009 shall apply to all personnel complaints.

Recon Robotics Throwbot (AKA- Throwbot)

Description:
The Throwbot is a throwable micro-robot platform that enables operators to obtain instantaneous video and audio reconnaissance within indoor or outdoor environments.

Purpose & Use:
The Throwbot is used to gain mission critical information in harsh or hazardous environments. This system allows members of this office to gain information without putting a person in danger.

Cost & Quantity Allocation:
Any repairs or replacements will be through warranty and if it is not covered through warranty, then funding will come from the SWAT budget/funding source; there are no annual fees associated with this device. Annual estimated training and operational allocation of approximately 1 units. Estimated effective lifespan 5+ years.

SWAT procedural rules that govern use:
The Throwbot shall only be handled and controlled by trained deputies.

Training Requirements:
Deputies do not need to complete any formal training to be able to control the Throwbot with its easy-to-use, handheld controller.

Compliance Protocols:
Use of the Throwbot as part of SWAT Operations shall conform to all relevant SO policies, including but not limited to SO Policy 404, 407 and 408.

Public complaint procedures:
SO Policy Number 1009 shall apply to all personnel complaints.

Robotex Avatar Tactical Robot (AKA- Avatar)

Description:
The Avatar is a robot platform that allows the operator the ability to inspect a dangerous situation through instantaneous video and audio reconnaissance (including push-to-talk/ two-way audio capability) without the need to send personnel in to assess the situation. Optionally, the Avatar robot can be fitted with a "claw" that can provide limited lift/move/carry/manipulate of small objects to include opening doors.

Purpose & Use:
The Avatar is used to gain mission critical information in harsh or hazardous environments.

Cost & Quantity Allocation:
Any repairs or replacements will be through warranty and if it is not covered through warranty, then funding will come from the SWAT budget/funding source; there are no annual fees associated with this device. Annual estimated training and operational allocation of approximately 1 unit. Estimated effective lifespan 5+ years.

SWAT procedural rules that govern use:
The Avatar shall only be handled and controlled by trained deputies.

Training Requirements:
Deputies do not need to complete any formal training to be able to control the Avatar with its easy-to-use, handheld controller.

Compliance Protocols:
Use of the Avatar as part of SWAT Operations shall conform to all relevant SO policies, including but not limited to SO Policy 404, 407 and 408.

Public complaint procedures:
SO Policy Number 1009 shall apply to all personnel complaints.

Zistos Under-the-Door Camera (AKA- Under-Door-Camera)

Description:
The Under-the-Door Camera provides a safe and covert way to view into a room.

Purpose & Use:
The Under-the-Door Camera provides operators the ability to gain critical mission information with limited penetration.

Cost & Quantity Allocation:
Any repairs or replacements will be through warranty and if it is not covered through warranty, then funding will come from the SWAT budget/funding source; there are no annual fees associated with this device. Annual estimated training and operational allocation of approximately 1 unit. Estimated effective lifespan 5+ years.

SWAT procedural rules that govern use:
The Under-the-Door Camera shall only be handled by trained deputies.

Training Requirements:
Deputies do not need to complete any formal training to be able to control the Under-the-Door-Camera with its easy-to-use, handheld controller.

Compliance Protocols:
Use of the Under-the-Door Camera as part of SWAT Operations shall conform to all relevant SO policies, including but not limited to SO Policy 404, 407 and 408.

Public complaint procedures:
SO Policy Number 1009 shall apply to all personnel complaints.

Short barreled select fire AR-15 style rifle (various configurations)

Description:
A Short barreled select fire AR-15 style rifle available in a variety of calibers, barrel lengths and configurations.

Purpose & Use:
The short barreled select fire AR-15 style rifle is the type of firearms that SWAT team members are issued and employ for a wide variety of missions. This rifle is used to match the threats of highly violent offenders who are armed with weapons that could overwhelm responding deputies.

Cost & Quantity Allocation:
This piece of equipment has no unique or temporary funding source. Unit cost of $1500. Ongoing costs determined by rounds fired operationally and in training, routine and preventative maintenance. Annual estimated training and operational allocation of approximately 20 units. Estimated effective lifespan 10+ years.

SWAT procedural rules that govern use:
The rifle shall be assigned and used by SWAT team members who meet the department-set rifle qualifications and under the direction of the SWAT commander.

Training Requirements:
Must complete annual SWAT rifle qualification and regular firearms training.

Compliance Protocols:
Use of A Short barreled select fire AR-15 style rifle as part of SWAT Operations shall conform to all relevant SO policies, including but not limited to SO Policy 305, as well as all local, state and federal use of force laws.

Public complaint procedures:
SO Policy Number 1009 shall apply to all personnel complaints.

Smoke- handheld smoke grenade devices

Description:
The handheld smoke grenade devices utilizes an M201A1 Fuze with enclosed canister that come in a variety of sizes, colors, configurations that uses HC (Hexachlorethane) and SAF-Smoke. Smoke is discharged through gas ports located on the canister.

Purpose & Use:
Handheld smoke grenade devices can be used to conceal tactical movement. They can be used in crowd control during riotous behavior. It can be used to detect and/or dislodge a barricaded subject. It can also be used as an emergency signaling device. The different configurations allows for indoor or outdoor deployments.

Cost & Quantity Allocation:
This expendable equipment has no unique or temporary funding source. Unit cost of $43.00. Annual estimated training and operational allocation of approximately 8 units.

Training Requirements:
Deputies must successfully complete department-approved training to be authorized to use handheld smoke grenade devices.

Compliance Protocols:
Use of handheld smoke grenade devices shall conform to all relevant SO policies, including but not limited to SO Policy 404, 407 and 431.
Must also maintain compliance with local, state and federal storage, transportation and handling regulations and all relevant local, state and federal use of force legislation.

Public complaint procedures:
SO Policy Number 1009 shall apply to all personnel complaints.

Spede-Heat 40mm Round

Description:
The Spede-Heat 40mm Round incorporates an aluminum shell and utilizes black powder as the propellant. The Spede-Heat 40mm Round is designed to deliver one dual-ported chemical or smoke canister from a 40mm launcher at various ranges, product dependent. The Spede-Heat 40mm Round is available in OC (Oleoresin Capsicum) or CS (Chlorobenzylidenemalononitrile) and Saf-Smoke. Spede-Heat 40mm round is deployed from a 40mm launcher.

Purpose & Use:
The Spede-Heat 40mm Round can be used to conceal tactical movement. They can be used in crowd control management during riotous behavior. The purpose of the Spede-Heat 40mm Round is to minimize the risks to all parties through pain compliance, temporary discomfort, and/or incapacitation of potentially violent or dangerous subjects. The different configurations allows for different distances and chemical agent or smoke deployments. These rounds are used for area denial both externally and inside structures.

Cost & Quantity Allocation:
This expendable equipment has no unique or temporary funding source. Unit cost of $25. Annual estimated training and operational allocation of approximately 4 units.

Training Requirements:
Deputies must successfully complete department-approved training to be authorized to use the Spede-Heat 40mm Round.

Compliance Protocols:
Use of Spede-Heat 40mm Round shall conform to all relevant NSO policies, including but not limited to NSO Policy 404, 407 and 431.
Must also maintain compliance with local, state and federal storage, transportation and handling regulations and all relevant local, state and federal use of force legislation.

Public complaint procedures:
Napa SO Department Policy Number 1009 shall apply to all personnel complaints.

Stinger Grenade

Description:
The Stinger Grenade with Safety Clip is a combination Less Lethal Impact Munitions (LLIM) and Distraction Device that may incorporate optional CS (Chlorobenzylidenemalononitrile) or OC (Oleoresin Capsicum) laden powder, if desired. The Stinger Grenade is a maximum effect device as it delivers up to four stimuli for psychological and physiological effect: rubber pellets, light, sound, and optional chemical agent or OC.

Purpose & Use:
The Stinger Grenade is most widely used in crowd control management during riotous behavior as well as tactical deployment situations to detect and/or dislodge barricaded subjects. Upon deployment, the blast is sufficient to project the rubber balls (32 cal. /60 cal. Option) and optional chemical agent in a 50 foot radius.

Cost & Quantity Allocation:
This expendable equipment has no unique or temporary funding source. Unit cost of $50. Annual estimated training and operational allocation of approximately 8 units.

Training Requirements:
Deputies must successfully complete department-approved training to be authorized to use the Stinger Grenade.

Compliance Protocols:
Use of the Stinger Grenades shall conform to all relevant SO policies, including but not limited to SO Policy 404, 407 and 431.
Must also maintain compliance with local, state and federal storage, transportation and handling regulations and all relevant local, state and federal use of force legislation.

Public complaint procedures:
SO Policy Number 1009 shall apply to all personnel complaints.

Sub-compact select fire weapon system

Description:
A sub-compact select fire weapon system is a shoulder fired weapon system that varies in calibers.

Purpose & Use:
A more compact, more easily concealed weapon system that can be deployed for appropriate situations.

Cost & Quantity Allocation:
This piece of equipment has no unique or temporary funding source. Unit cost of $0.00 – legacy items already exist in inventory. Estimated annual upkeep determined by rounds fired and routine/preventative maintenance. Estimated effective lifespan 10+ years.

SWAT procedural rules that govern use:
The sub-compact select fire weapon system shall be used by SWAT team members under the direction of the SWAT team Commander.

Training Requirements:
Must complete annual SWAT firearms qualification and regularly required firearms training.

Compliance Protocols:
Use of the sub compact select fire weapon system shall conform to all relevant SO policies, including but not limited to SO Policy 305,404, as well as all local, state and federal use of force laws.

Public complaint procedures:
SO Policy Number 1009 shall apply to all personnel complaints.

Firearms Suppressor (various calibers, lengths, attachment styles)

Description:
A suppressor is a device typically attached at the end of a barrel of a firearm.

Purpose & Use:
A suppressor is used to muffle and distort the sound of a firearm as it is fired. Suppressors can decrease confusion during a violent confrontation by allowing deputies to communicate more effectively. It can also decrease muzzle blast allowing better vision during a violent encounter.

Cost & Quantity Allocation:
This piece of equipment has no unique or temporary funding source. Unit cost of $1000. Annual estimated training and operational allocation of approximately 20 units (up to 1 unit per rifle). Estimated annual upkeep costs determined by rounds fired and routine/preventative maintenance. Estimated effective lifespan 10+ years.

SWAT procedural rules that govern use:
The suppressor shall be used by SWAT team members under the direction of the SWAT Commander.

Training Requirements:
Must complete annual SWAT rifle qualification and regularly required firearms training.

Compliance Protocols:
Use of a suppressor shall conform to all relevant SO policies, including but not limited to SO Policy 305,404

Public complaint procedures:
SO Policy Number 1009 shall apply to all personnel complaints.

40 MM Warning/Signaling Round

Description:
The 40mm Aerial Warning/Signaling Round series are designed to produce 170 dB of sound, and 5 million candelas of light. Each munition is manufactured to deflagrate at a set distance and altitude and has the option of marking or irritant payloads. These distances are 50,100,200 and 300 meters from the point of origin. The munition is deployed from a 40mm launcher.

Purpose & Use:
40mm Aerial Warning/Signaling Round are used to distract/disorientate individuals and provide less lethal response against potential threats. It is also effective in directing the movement of riotous crowds.

Cost & Quantity Allocation:
This expendable equipment has no unique or temporary funding source. Unit cost of $40. Annual estimated training and operational allocation of approximately 5 units.

Training Requirements:
Deputies must successfully complete department-approved training to be authorized to use the 40mm Aerial Warning/Signaling Round.

Compliance Protocols:
Use of the 40mm Aerial Warning/Signaling Round shall conform to all relevant SO policies, including but not limited to SO Policy 302.9, 404, 407 and 431.
Must also maintain compliance with local, state and federal storage, transportation and handling regulations and all relevant local, state and federal use of force legislation.

Public complaint procedures:
SO Policy Number 1009 shall apply to all personnel complaints.

sUAS - Small Unmanned Aircraft System

Description:
DJI Mavic small unmanned aircraft, quadcopter affixed with camera. Registered with the FAA as a small drone, used both commercially and privately for aerial photo / video.
Flight Range; 4.3 miles, Flight time 27 minutes and top speed of 40 MPH.
Expected lifespan; Approx. 5 years. Multiple factors can vary
Manufacturer's description; Powerful flagship camera drone equipped with camera to facilitate professional-level imaging. It also offers omnidirectional obstacle sensing for a smooth flight experience.

Purpose & Use:
The members of the Napa County Sheriff's Office small Unmanned Aerial Systems (sUAS) Team shall provide aerial observation support for the Sheriff's Office and other law enforcement and public safety entities within Napa County. Missions will be accomplished lawfully, safely and professionally, while adhering to our Commitment to Community and respecting the privacy of the citizen's we serve.

Cost and Quantity:
$3800-6000 initial cost; minimal annual maintenance. Quantity 7.

Legal and procedural rules:
Refer to SO policy 606. Refer to sUAS Program Operations and procedures manual and FAA COA's and Regulations.

Required training**:**
Agency-authored Pilot Training Program; FAA Part 107 license. Both are refreshed bi-annually.

Compliance mechanisms:
Operational use under the review of the sUAS Commander or Pilot in Command.

sUAS - Small Unmanned Aircraft System

Description:
Inspired Flight IF1200, small unmanned hexacopter with batteries and remote control. Affixed with camera and registered with FAA. Capabilities; Flight Range 6 miles, Flight time 40 minutes and top speed of 49 MPH. Expected lifespan Approx. 5 years. Multiple factors can vary Manufacturer's description "Designed for the most demanding of industrial applications, the IF1200 supports 8kg payloads and up to 40 minute flight times. With unparalleled ruggedness, flight performance, and an open-system architecture, the IF1200 is a workhorse platform fully designed, manufactured & supported in the USA."

Purpose & Use:
The members of the Napa County Sheriff's Office small Unmanned Aerial Systems (sUAS) Team shall provide aerial observation support for the Sheriff's Office and other law enforcement and public safety entities within Napa County. Missions will be accomplished lawfully, safely and professionally, while adhering to our Commitment to Community and respecting the privacy of the citizen's we serve.

Cost and Quantity:
$54,000 initial purchase; minimal annual expenses. Quatity 1.

Legal and procedural rules:
Refer to SO policy 606. Refer to sUAS Program Operations and procedures manual and FAA COA's and Regulations.

Required training:
Manufacturer Train the trainer course, Agency-authored Pilot Training Program; FAA Part 107 license. Both are refreshed bi-annually. Compliance mechanisms Operational use under the review of the sUAS Commander or Pilot in Command.

Napa County

Board Agenda Letter

Board of Supervisors	**Agenda Date:** 4/19/2022	**File ID #:** 22-762

TO: Board of Supervisors

FROM: Minh C. Tran, County Executive Officer

REPORT BY: David Morrison, Director of Planning, Building, and Environmental Services

Jennifer Palmer, Director of Housing and Homeless Services

SUBJECT: Discussion and Direction on ARPA Investment in Affordable Housing Programs

RECOMMENDATION

SET MATTER 10:30 AM

Directors of Housing & Homeless Services (HHS) and Planning, Building, and Environmental Services (PBES) request discussion and direction regarding the following actions related to the U. S. American Rescue Plan Act (ARPA) standard allowance allocation of $7 million to Affordable Housing Programs which will lead to the construction of more affordable housing through expanded affordable home ownership and the creation of Accessory Dwelling Units (ADUs):

1. Adopt a Resolution updating the Proximity Workforce Housing Assistance Program Guidelines to increase the down payment assistance maximum, and consider increasing the overall program funding using approximately $1 million of ARPA funding and $2 million of Affordable Housing Fund available fund balance to meet the anticipated increased demand;
2. Directly invest in programs that support ADU market-rate development using approximately $1 million of ARPA funding;
3. Expand the existing County ADU loan programs to support affordable housing development through funding and expansion of program guidelines using approximately $5 million of ARPA funding; and
4. Streamline permitting processes and consideration of fee waivers under specific circumstances.

EXECUTIVE SUMMARY

Napa County received a federal grant allocation totaling $26.76 million in May 2021 and continues to evaluate how to provide for its local public health response and economic recovery. On February 8, 2022, the Board received a presentation on affordable housing program investment opportunities and directed staff to return with recommendations supporting modification and expansion of housing opportunities.

This substantive one-time funding allows the County the opportunity to make bold, transformative investments in affordable home ownership opportunities and the creation of a unique public-private partnership in ADU development across Napa County. ADU's are naturally occurring affordable housing that provide badly needed rental housing units, leverage existing residential parcels supporting development within established neighborhoods, help all our jurisdictions meet Regional Housing Needs Allocation (RHNA) goals, and can help families build wealth by providing a low- or fixed-income homeowner with a steady income stream. In short, investments in ADU development provides a constellation of returns to our community that benefits us all.

PROCEDURAL REQUIREMENTS:

1. Staff Report.
2. Public Comment.
3. Motion, second, discussion and vote on Resolution.
4. Direct Staff to develop contracts, programs, and guidelines for ADU development and financing, returning to the Board in Fall 2022.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	No
Is it Mandatory or Discretionary?	Discretionary
Discretionary Justification:	There is no mandate to allocate American Rescue Plan Act funds to increase investments in affordable housing program expansion.
County Strategic Plan pillar addressed:	Healthy, Safe, and Welcoming Place to Live, Work, and Visit

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.

BACKGROUND AND DISCUSSION

On February 8, 2022, the Board received a presentation on affordable housing program investment opportunities and directed staff to return with recommendations supporting modification and expansion of housing opportunities with American Rescue Plan Act (ARPA) grant allocation.

Proximity Workforce Housing Assistance Program Investment

The Proximity Workforce Housing Assistance Program was established in 2011 to address the needs of the local workforce. The purpose of the program is to assist low- and moderate-income households who are part of the Napa County workforce with purchasing a home close to their place of work. The intent of the program is to strengthen the jobs-to-housing nexus for individuals and families working in Napa County by:

1. Increasing housing opportunities affordable to members of the proximity workforce, and
2. Reducing displacement of those members who may otherwise choose to purchase homes outside of the County due to lower home prices.

Staff will provide an overview of proposed updates to the program guidelines as well as an overview of investment needed to support increasing the percentage of down payment assistance from 10% to 16.5% and increasing the number of applications which can be funded annually to 30 with loan fund balance and ARPA funding.

Investments in market-rated development

Accessory Dwelling Units (ADU's) and Junior Accessory Dwelling Units (JADU's) are small living units on existing residential properties. ADU's are small (typically between 400-1000 sq ft) independent homes with their own cooking and sanitation facilities and outside access. JADU's are typically even smaller than ADU's (cannot exceed 500sq ft), are enclosed within a single-family home, have independent cooking facilities and outside access, but can share sanitation facilities with the primary home. Because of their small size, ADU's and JADU's are considered "naturally occurring affordable housing" that helps jurisdictions affirmatively further fair housing (AFFH) and increase equity in housing opportunities in the community.

Bay Area housing costs are at historic highs. Recent California legislation has facilitated policy changes at the local level that encourage ADU development by streamlining permitting processes and shortening approval timelines. State law requires jurisdictions to allow at least one ADU and JADU per residential lot. These legislative and policy changes have supported increased ADU development across many communities in California. Constraints related to access to capital to finance construction and lack of understanding about the permitting process, project costs and site feasibility hinder the market despite these legislative advances.

Locally, innovative new services and programs providing homeowners with education, access to capital and technical assistance with purchasing and installing prefabricated ADU's have been initiated. Today's report includes presentations from two organizations, Napa-Sonoma ADU Center and Homes for Sonoma, providing unique technical assistance and project management services to homeowners.

Napa-Sonoma ADU Center

The Napa Sonoma ADU Center ("Center") is a fiscally sponsored three-year pilot project of Napa Valley Community Foundation with support from Community Foundation Sonoma County and others. The Center began its work in 2019 by conducting a series of surveys, data gathering, and focus groups with city and county staff, builders, and architects, as well as homeowners who have built ADUs or are interested in building one in the future. This information helped shape a website (www.napasonomaadu.org) which now features an ADU Workbook (also available in hard copy), ADU Calculator, and spotlights of Napa and Sonoma County homeowners who have built ADUs. In addition to learning about the process of building and financing an ADU, the Center also provides feasibility consultations which include information on local ADU rules as well as a site visit at the property or virtually. Finally, the Center is preparing to launch the Napa Sonoma Standard ADU Plans Program. The program provides homeowners a gallery of diverse, "pre-reviewed" ADU plans as well as prefabricated ADU plans that have already been reviewed by a 3rd party consultant.

Redwood Credit Union ADU Construction Loan Product

Napa Valley Community Foundation (NVCF) and Redwood Credit Union (RCU) recently entered a first-of-its-kind partnership to accelerate the adoption of ADUs in Napa and Sonoma Counties. The result is an innovative ADU construction loan product that enables more homeowners to borrow the capital they need to construct second units. The product is designed to help homeowners who do not have sufficient income or equity in their existing home to finance building an ADU. RCU is managing all aspects of the ADU lending program. NVCF has set aside reserves that will be available to help defray losses that the credit union may incur under new underwriting standards that take future ADU rental income into account in ways that traditional loan products do not. RCU's product makes up to $300,000 in construction financing available to homeowners who otherwise would likely not be able to finance building an ADU.

Homes for Sonoma

Homes for Sonoma is a nonprofit developer creating quality workforce housing options that support a safe and sustainable community. Founded to create affordable housing options in the immediate aftermath of the 2017 fires, the organization has since expanded its mission to find efficient, scalable solutions to address the housing crisis throughout California with an emphasis on accessory dwelling units (ADUs). The organization partners with homeowners to build and lease ADU's using a ground-lease model. Homes for Sonoma handles all the design, project management, financing, and permitting responsibilities associated with building the ADU. Once the ADU is built, Homes for Sonoma handles the rental agreement, repairs and maintenance on the unit, and any lease enforcement issues. In exchange, homeowners split the rental income with Homes for Sonoma for a defined period. At the end of the ground-lease (or if the homeowner chooses to pay off the remaining balance on the unit sooner via refinancing), the homeowner owns the unit outright. The program is designed to make adding an ADU-to-rent to a property as simple, cost-effective and turn-key as possible.

Recommendations for capacity-building investment in these innovative new services and programs include:

1. Grants for feasibility assessment and "pre-reviewed" plans fees. At this time, the Napa Sonoma ADU Center provides free ADU feasibility consultations with interested homeowners, funded by philanthropic start-up capital. Soon the Center will begin charging a flat fee to cover the cost of the consults, which run around $500, and can be higher depending on the complexity of the site. The Napa Sonoma Standard ADU Plans Program will make plan documents available to homeowners at fixed fees between $1,000 to $2,000, paid directly to the designer, architect or prefabricated manufacturer who owns them. The use of "pre-reviewed plans" may also have the added benefit of saving time and money for both the homeowner and the jurisdiction, reducing staff time spent on ADU permit processing. See further discussion of options to streamline permitting for ADU's and JADU's below.

2. Financial support for long-term continuation of the Napa-Sonoma ADU Center. The Center was funded as a three-year pilot through June 2023. Funding will provide needed capital beyond the pilot period to maintain the ADU website, conduct webinars, update the ADU workbook, calculator tool, Napa Sonoma Standard ADU Plans program, and other ADU services and tools currently offered.

3. Grants to cover costs ancillary to the new Redwood Credit Union ADU loan product. Ancillary costs for the loan include origination and processing fees, lender fees paid to 3rd party (such as tax service

contract or flood zone check), title insurance, notary and recording fees, and appraisals can range from $3,500 - $5,000. Grants to qualified homeowners can ensure access to vital construction financing and support this innovative new loan product.

4. Investment in prefabricated unit production to streamline the pipeline for homeowners interested in the Homes for Sonoma program. The single biggest limiting factor for prefabricated ADU development is production. The pandemic has wreaked havoc on supply chains globally, and manufacturing delays can negate the savings offered by prefab by causing months of lost rental revenue. An upfront investment supporting a pre-order of units will accelerate the pace of installation and support scaling the program in Napa. This investment will allow proceeds from units which are refinanced and paid back after installation to be re-invested into more pre-ordered units, effectively creating a revolving loan fund program for prefabricated units.

5. Grants for professional project management support. Provide grants to homeowners to cover costs related to construction management services by professionals qualified to do project management support, including the creation of construction contracts from the beginning of the ADU or JADU creation process through the completion of the project in return for a one-year deed restriction to rent the unit to an individual or family earning a low- or very-low income.

Expansions of existing County loan and incentive programs to support Affordable Housing

In the last few years, multiple well-intended ADU financing and incentive programs have been launched in California and have not been successful in rapidly changing the pace of ADU development. In June 2018, the Board of Supervisors approved a Junior Accessory Dwelling Unit Loan Program. The program provides a $40,000 no-interest, forgivable loan (plus the cost of permit fees) in exchange for a 10-year deed restriction to rent the unit to an individual or family earning low- or very-low income. Homeowners participating in the pilot program are required to utilize Napa Valley Community Housing's (NVCH) Home Sharing program to select a tenant. NVCH conducts background checks and verifies the tenant meets income requirements. For every year the unit is rented to an income-qualified tenant, 10% of the loan is forgiven. If a homeowner opts to end their participation in the program before the 10-year period expires, forgiveness stops, and the remaining loan and permit fees are due to the County. At this time, the program is only available to homeowners in the unincorporated County, and to-date has not had any applicants.

From the many tried-but-not-successful programs across the State have come an overarching understanding of best practices in ADU incentive program design:

- Avoid long term affordability restrictions. Homeowners do not want to make decade-or-longer commitments.
- Offer an out for homeowners. Ensure loans and grants can be paid back and homeowner can exit the program when desired.
- Match the incentives to the requirements. If more restrictive conditions are desired (for example, limiting tenants to individuals and families with very-low incomes), the incentives need to be large.
- The simpler the better. Confusion around funding conditions or geographic constraints, coupled with

uncertainty about the development process itself, prevents many qualified homeowners from moving forward. Keep the program simple and clear.

- Grants have much more success than loans.

With those best practices in mind, the following are a set of financing and incentive recommendations for loan program expansion and development:

1. Expand the existing County JADU program to include ADU's, extend eligibility to all homeowners in the County, allow homeowners the option of using a tenant screening program or finding a qualified tenant directly, and increase the loan amount to $50,000 in return for a 5-year deed restriction to rent to an individual or family earning a low-or very-low income. Further considerations to increase the loan amount can include loans up to $100,000 for qualified low- and/or fixed-income homeowners for whom a rental income stream could ensure long-term financial security and the ability to age in place.
2. Establish a landlord risk-mitigation program for ADU rentals. One popular incentive used to engage new landlords is a landlord mitigation fund (also called a landlord guarantee or risk reduction fund). A mitigation fund is essentially an added protection for landlords who are willing to rent their ADU to an individual or family earning a low-income. Qualified eligible expenses for risk mitigation reimbursement include unpaid damages, unpaid rent or late-fees, loss of rent due to tenant abandonment, security deposits and housing stability bonuses (at lease-up for the first year-long lease, and each subsequent year for lease renewals.)

Permit Streamlining for ADUs and JADUs

On September 12, 2017, the Board of Supervisors unanimously adopted an ordinance amending the County Code to bring it into conformance with State law to specifically allow for and facilitate Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs). On February 4, 2020, the Board of Supervisors unanimously adopted an ordinance amending the County Code to further encourage ADU and JADU development, in accordance with recent State legislation.

Napa County's support for ADUs and JADUs has been long-standing. Over the past 8 years (2014 to 2021), the County has approved 90 ADUs and JADUs in the unincorporated area. These units have played a key role in the County's efforts to satisfy its Regional Housing Needs Allocation (RHNA) requirements. Since 2019, staff has worked closely with the Napa-Sonoma ADU Center to promote the development of ADUs and JADUs.

When a landowner applies for an ADU permit, the County charges fees to cover the cost of processing, reviewing, and approving the Building Plans, as well as inspecting the construction. Fees are set to recover staff costs and are paid into an enterprise fund, which is independent of the general fund in the budget, as the Building Division is 100% fee supported. For example, assuming the value of a new ADU is $160,000, the County building fees would total approximately $13,000 (including a $4,400 affordable housing fee), or an additional 8% to the cost of construction. If a new well or septic system is required, fees may increase to about $15,000, which is still less than 10% of the construction cost. These fees generally are a small part of the overall project cost to install a new ADU but can act as an unexpected and additional obstacle to developing affordable homes.

One way to potentially reduce this barrier would be for the County to waive all or a portion of the building permit fees. Assuming the County continues to approve 11 new ADUs per year and that the fees for each ADU

are $15,000, the annual cost of the program could be around $165,000. Such a program could be made even more cost effective, if fee waivers were pro-rated based on the owner entering into an agreement with the County to limit tenants of the ADU to families with low- or very-low incomes. These would be agreements similar to those already in use by the County today. As an example, if the owner is willing to enter into a 5-year agreement, 100% of the Building Permit fees would be waived. A 4-year agreement would result in an 80% fee waiver; a 3-year agreement would provide a 60% waiver, and so on.

It should be noted that if a fee waiver plan were to be enacted by the County, the costs to the Building Division would have to be fully reimbursed by the County general fund or other identified ongoing funding source.

In addition to a fee waiver for those owners who choose to enter into a rental agreement, there are other actions that the County can take to reduce costs and expedite the permit review process.

- Building construction involves numerous State and local requirements, which can sometimes conflict resulting in additional time to find a solution that complies with all regulations. The PBES Department can designate a single point of contact, to assist landowners in navigating through the various permit approvals and requirements. The point of contact could also work with individual divisions and departments within the County to ensure that permit roadblocks are identified and resolved early in the process.
- Similar to the success of the County fire rebuild program, the PBES Department could prioritize ADU permits and reduce the initial permit review from the standard 30 calendar days to two weeks.
- The PBES Department could make free pre-application meetings available for owners looking to develop an ADU and/or JADU. The meeting could answer questions about the Building Permit process, identify potential issues, and inform owners of additional development costs such as wells, septic systems, fire protection, and access.

Developing an ADU or JADU involves many different considerations for landowners, including impacts to homeowner's insurance, increase in income and property tax, reduced privacy, renters' rights and eviction limits, availability of contractors, cost of construction materials, and more. Installing a new home on your property can be a challenge. While Building Permit processing time and costs are significant factors, they are not the only concern and may not even be the primary one. Nevertheless, if taking one or more of the steps described above makes a meaningful difference in developing new ADUs or JADUs, it will not only help the landowner but will also help provide homes for people who shop and work in local businesses, send their children to local schools, and participate in local organizations, which benefit us all.

TYPICAL BUILDING PERMIT FEES FOR A $160,000 ACCESSORY DWELLING UNIT

FEE	COST
General Plan Surcharge	$274.23
CASP Fee (goes to State Budget)	$4.00
Plan Review – Energy	$244.45
Electrical Inspection	$198.01
Mechanical Inspection	$217.56
Plumbing Inspection	$303.12
Final Building Inspection	$388.52
Fire Review (Goes to Fire Budget)	$252.54
Affordable Housing Impact Fee	$4,400.00
Building Standards Surcharge (goes to State Budget)	$7.00
Strong Motion Residential (goes to State Budget)	$20.80
Imaging Retention	$15.00
Permit Issuance	$71.00
Building Inspection - Standard	$2,444.53
Plan Review	$1,711.17
Public Works Review (goes to PW Budget)	$93.00
EH Review (goes to EH Budget)	$154.00
Engineering Review (goes to Planning Budget)	$493.00
Planning Review (goes to Planning Budget)	$1,724.00
SUBTOTAL	**$13,015.93**
Septic System Review – Existing	$359.48
New or Expanded Septic System - Conventional	$641.49
New or Expanded Septic System – Alternative	$1,556.73
New Well	$546.46

Accessory Dwelling Unit Housing Element Recommendations

for the Napa Sonoma Collaborative

February 2022

Napa Sonoma ADU



Presented by the Napa Sonoma ADU Center

With thanks to the Casita Coalition, Baird + Driskell Community Planning, for their contributions

The Napa Sonoma ADU Center is a fiscally-sponsored project of Napa Valley Community Foundation with support from Community Foundation Sonoma County and others.

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Introduction

The Napa Sonoma ADU Center is a nonprofit that supports homeowners across all 16 jurisdictions in Napa and Sonoma Counties to build accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs)[1] in order to increase housing affordability in our community. We are a fiscally-sponsored project of Napa Valley Community Foundation with support from Community Foundation Sonoma County as well as the Cities of Napa, Calistoga, and the County of Napa.

About this document

This document provides sample language that Napa and Sonoma County jurisdictions can employ in your Housing Elements to illustrate key ways that ADUs and Junior ADUs will be incorporated into your plans to increase housing affordability in your community. It is designed to support the efforts of the Napa Sonoma Collaborative.

It also outlines a more expansive Menu of ADU Recommendations organized according to a matrix of actionable steps that jurisdictions can take to increase ADU development, categorized by three levels of action as explained in the table below. Appendix B of this document provides additional details to support jurisdictions in how to implement each recommendation.

Categories of recommendations	Level of action to support ADU development
Processes - Internally & externally-facing agency processes at the jurisdiction regarding ADUs	**Getting by** - Baseline steps jurisdictions can take
Public Education - Information & resources helping homeowners through the ADU journey	**Middle steps** - Additional steps jurisdictions can take
Policy - Jurisdiction rules regarding ADUs	**Bold action** - Above & beyond efforts jurisdictions can make

The remainder of the document includes the following Appendices which serve as reference materials for jurisdictions for incorporating these ADU recommendations into their Housing Elements and carrying them out over the course of the Housing Element cycle:

- Guidelines on how ADUs can satisfy RHNA goals
- Additional details further illustrating each element from the Menu of ADU Recommendations
- Insights from a Field Study with Latino/x Homeowners in Napa and Sonoma County about ADUs
- North Bay ADU Affordability Survey Data & Analysis
- Key examples of ADU actions taken by jurisdictions throughout California as an additional reference resource
- A reference table of ADU permits issued and ADUs finaled in all 16 jurisdictions across Napa and Sonoma Counties



About the Napa Sonoma ADU Center

The nonprofit Napa Sonoma ADU Center launched as a pilot in April 2020 to serve as a neutral third party entity working across the public and private sectors to help increase ADU development across all 16 jurisdictions in Napa and Sonoma Counties. Bay Area housing costs are at an all-time high, especially in North Bay counties like Napa and Sonoma. Due to the limitations of available land and agricultural land uses, there are not many opportunities to build housing, especially housing that is affordable to the workers that keep local industries moving forward. Developing ADUs is one important solution that can help meet our housing challenges.

The organization began our ADU work by conducting a series of surveys, data gathering, and focus groups with city and county staff, builders and architects, as well as homeowners who have built ADUs or are interested in building one in the future in Napa and Sonoma Counties. This information helped shape our website (**www.napasonomaadu.org**) and the many ADU tools and resources available on it today, including:

- an ADU Workbook,
- ADU Calculator tool,
- frequent ADU webinars,
- ADU feasibility consults,
- ADU Home Match,
- ADU newsletter & blog,
- spotlights of Napa and Sonoma County neighbors who have built ADUs, forthcoming Napa Sonoma Standard & Permit-Ready ADU Plans program,
- and much more.

Homeowners and jurisdictions can Contact Us for more information or help with ADU questions.

[1] Throughout the remainder of this document for the purposes of brevity we will use the term "ADU" to mean either an ADU or JADU unless a distinction is warranted.

How can ADUs and JADUs help jurisdictions meet their housing goals?

1 **ADUs can significantly help jurisdictions meet their RHNA goals**[2]

2 **ADUs are naturally affordable housing that helps jurisdictions affirmatively further fair housing (AFFH) and increase equity in our community:**[3]



ADUs help diversify neighborhoods and open up more school districts to lower-income households



Can be as large as 1,200 SF so can house families



Can be as small as 150 square feet so can house single individuals including those for whom their lifestyle and financial circumstances have unexpectedly changed



Can help families build wealth by serving as a rental unit that provides a passing income stream

2 See Appendix A: How ADUs & JADUs can be counted towards RHNA goals for more details and guidance from CA HCD.

3 A recent statewide study including data from Napa and Sonoma Counties, conducted by the University of California – Berkeley with analysis by Baird + Driskell Community Planning, found that 85 percent of ADUs rented on the open market were affordable to lower or moderate income households. For more details and information see *Affordability of Accessory Dwelling Units: A report and recommendations prepared by the ABAG Housing Technical Assistance Team with Funding from REAP, available online at this link*.

3 Provides flexible housing as homeowners' and community needs change over time; for example:



Young families just starting off - jurisdictions can't control skyrocketing property prices but you can encourage development of ADUs that are large enough to house a family long term



Multi-generational housing

- Elderly parents can live on adult children's property
- Adult children can live on parents' property
- Meets cultural needs for families that traditionally live multi-generationally



Widows, divorcees, single parents, and other single individuals



Retirees who need to downsize to be able to afford to age-in-place



Independent living for individuals with disabilities



Student housing



4. Few institutional barriers to building. ADUs require only ministerial approval, so aren't met with the same development barriers as other forms of housing

5. Faster form of housing for households that have lost their homes due to natural disaster such as fire or earthquake

6. Financing is available to help eligible homeowners with their ADU projects, including a California Housing Finance Agency (CalHFA) predevelopment grant, the Junior Unit Initiative Program in the City of Napa, an ADU construction loan product launched by the Redwood Credit Union in partnership with the Napa Sonoma ADU Center, and more – with more programs in the pipeline.

How ADUs & JADUs can be counted towards RHNA goals

To calculate ADUs in the housing element, local agencies must generally use a three-part approach:

- development trends,
- anticipated affordability, and
- resources and incentives.

Development trends must consider ADUs permitted in the prior planning period and may also consider more recent trends. Anticipated affordability can use a variety of methods to estimate the affordability by income group. Common approaches include rent surveys of ADUs, using rent surveys and square footage assumptions and data available through the APR pursuant to Government Code section 65400. Resources and incentives include policies and programs to encourage ADUs, such as prototype plans, fee waivers, expedited procedures and affordability monitoring programs. (CA HCD, Accessory Dwelling Unit Handbook, Page 19, December 2020.)

Pursuant to Government Code section 65852.2(m), and section 65583.1(a), ADUs and JADUs may be utilized towards the Regional Housing Need Allocation (RHNA) and Annual Progress Report (APR) pursuant to Government Code section 65400. To credit a unit toward the RHNA, HCD and the Department of Finance (DOF) utilize the census definition of a housing unit. Generally, an ADU, and a JADU with shared sanitation facilities, and any other unit that meets the census definition, and is reported to DOF as part of the DOF annual City and County Housing Unit Change Survey, can be credited toward the RHNA based on the appropriate income level. The housing element or APR must include a reasonable methodology to demonstrate the level of affordability. Local governments can track actual or anticipated affordability to assure ADUs and JADUs are counted towards the appropriate income category. For example, some local governments request and track information such as anticipated affordability as part of the building permit or other applications. (CA HCD, Accessory Dwelling Unit Handbook, Page 19, December 2020.)

For more information, see the Sample Language below and Appendix A: Using ADUs to Satisfy RHNA.

Summary of three key avenues for increasing ADUs AND JADUs

Based on our work with hundreds of homeowners across Napa and Sonoma Counties, three key avenues have emerged as the most important elements to an effective ADU program at the jurisdictional level: **1) Process, 2) Public Education, and 3) Policy.**

1) Process: Concrete steps jurisdictions can take to improve the ADU planning, permitting and building experience for homeowners. For example, jurisdictions should ensure their departments are all coordinated in facilitating the construction of ADUs by speaking with one pro-ADU voice, from the mayor to the counter staff. All relevant agencies/departments at the jurisdiction should coordinate their reviews of ADU applications and return comments quickly. There should be real time review and ADU office hours, along with designated staff people to ensure consistency in the permitting process.

2) Public Education: Information and tools jurisdictions provide that help homeowners understand the value of ADUs and how to build one. For example, jurisdictions can develop clear, consistent, comprehensive, high quality public information for homeowners, designers, builders and others. Have the jurisdiction rules, procedures and process both easy to find and easy to understand. Be proactive about spreading the word to homeowners that they can build ADUs and why doing so benefits them and their neighbors.

3) Policy: Systems and guidelines that ensure the jurisdiction's rules are ADU friendly. For example, the minimum is to ensure local rules meet state law requirements, but jurisdictions can go above and beyond to promote ADU development. Jurisdictions can develop programs like fee waivers, other incentives, ADU density bonuses and pre-approved plans. Such policies will help jurisdictions affirmatively further fair housing in our community.

In the next section, we provide a thorough menu overview of these actionable steps and more that jurisdictions can include in their Housing Element to promote ADUs in their community.

Menu of ADU Recommendations

Click on a bullet point below to be taken to a more detailed explanation of that recommendation outlined in Appendix B

	Getting By	Middle Steps	Bold Actions
Process Improvements	• Directive from jurisdiction leadership to all relevant agencies to promote ADUs (e.g., Fire, Well & Septic, Planning, Building, etc.) • Ensure ADU permit applications are fully processed by all relevant agencies within the 60 day turnaround required by state law – and increase staffing as needed to support this goal	• Have an ADU SWAT team with members from all key departments and offer concurrent ADU permit review by designated ADU reviewers, providing a unified set of comments on ADU permit applications across all agencies. Conduct staff training on customer service to homeowners building ADUs. • Produce a game plan that identifies ADU actions in all departments • Continue to collaborate with neighboring jurisdictions • Conduct outreach to additional stakeholders	• Collaborate with and support the nonprofit Napa Sonoma ADU Center so it can continue to provide ADU technical assistance and information to local homeowners • Designate an ADU ombudsperson • Track your progress and evaluate your success. Set a goal for ADU growth by % increase of permits & final certificates of occupancy each year
Public Education	• Improve jurisdiction website & educational content & link to Napa Sonoma ADU Center website • Message ADU benefits effectively to the community	• Produce comprehensive ADU informational packets • Host ADU information sessions	• Develop ADU homeowner spotlights to promote ADU development • Provide peer-to-peer interactions for local homeowners to support each other's ADU projects

Policy	• Ensure that your code is clear & compliant with state law	• Join the Napa Sonoma Standard ADU Plans Program
		• Adopt pro-ADU policies that go beyond state law (see examples below)
		• Launch ADU amnesty program & code enforcement delay policy for unpermitted ADUs
		• Allow ADUs to be built before the main house in the event of a natural disaster
			• Offer fee waivers (e.g., waived impact fees for ADUs over 750 sf, etc.)
			• Advance equity & affordability:
			  ◦ Density – Allow more units if some of them are affordable
			  ◦ Subsidy – Provide direct financial incentives for ADUs and/or JADUs
			  ◦ Management – Oversee the construction of the ADU, find tenants, or offer property management

Sample ADU Language for your Housing Element

How to use this sample ADU language

To facilitate the ease of the 16 jurisdictions across Napa and Sonoma Counties incorporating ADUs into their Housing Elements, the Napa Sonoma ADU Center has drafted here sample language that you may copy and paste, with revisions as necessary, into your Housing Elements. This sample language reflects some of the key recommendations outlined in the Menu of ADU Recommendations above. However, your jurisdiction can also add or subtract additional recommendations from the Menu above as desired.

The sample language below can be broken up and pasted into the following sections of your Housing Elements: (1) Sites Inventory; (2) Affirmatively furthering fair housing (AFFH); and (3) Policies & Programs.

In addition, if a jurisdiction would like more tailored assistance from the Napa Sonoma ADU Center on recommendations even more specific to your community please contact us for assistance at **info@napasonomaadu.org**.

Sample Housing Element ADU language

Affirmatively furthering fair housing via ADUs & Junior ADUs

This section can be included in your Housing Element under the "Affirmatively Furthering Fair Housing" section:

ADUs and Junior ADUs are naturally occurring affordable housing that represent a significant opportunity for us to affirmatively further fair housing and increase equity in our community. A recent statewide study including data from Napa and Sonoma Counties, conducted by the University of California – Berkeley with analysis conducted by Baird + Driskell Community Planning, found that 85 percent of ADUs rented on the open market were affordable to lower or moderate income households.[4]

ADUs help diversify neighborhoods and open up more school districts to lower-income households. They can be as large as 1,200 square feet, creating a safe and habitable living space for a family – or alternatively, they can be as small as 150 square feet, creating an affordable home for a single individual such as a student or an individual whose lifestyle and financial circumstances have unexpectedly changed. ADUs also meet cultural needs for families that traditionally live multi-generationally: They can house elderly parents, grandparents, or adult children and their families.

Furthermore, building an ADU or Junior ADU can also help lower-income homeowners build their wealth by serving as a rental unit that provides them with a passive income stream.[5]

[4] For more details and information see *Affordability of Accessory Dwelling Units: A report and recommendations prepared by the ABAG Housing Technical Assistance Team with Funding from REAP, available online at this link*.

[5] For example, see the Keys to Equity program that helps Black homeowners build ADUs as a means of wealth-building in the City of Oakland, available online *at this link*.

And finally, ADUs and Junior ADUs are flexible living spaces that can adapt to the ever-shifting needs of our communities by serving as housing for: Retirees who need to downsize to be able to afford to age-in-place; independent living for individuals with disabilities; student housing, and more.

ADU and Junior ADU development trends

This section can be included in your Housing Element under the "Sites Inventory" section. Note that ADUs are not listed in the vacant/nonvacant section of the site inventory, rather they are summarized and tallied in their own subsection. Below is a sample write-up prepared by 21 Elements/Baird + Driskell Community Planning. For a full explanation of how you can estimate production of ADUs and determine the income distribution, refer to Appendix A: Using ADUs to Satisfy RHNA.

Over the course of the prior planning period, [insert #] ADUs and JADUs were permitted and [insert #] were issued final certificates of occupancy in [insert jurisdiction name]. More recently, an additional [insert #] ADUs and JADUs have been permitted and [insert #] are in the process of being permitted.

[Insert table illustrating # ADUs permitted over the past Housing Element cycle; a sample is below]:

Year	Building Permits Issued
2017	2
2018	1
2019	10
2020	15
2021	10
2022	16 (estimate based on first 6 months)

We also anticipate a significant increase in the volume of ADUs and JADUs permitted and built in [insert jurisdiction name] thanks to recent improvements we have made in the past two years to our ADU processes, public education, and policies, including:

- **Processes:**
  - Collaboration with the nonprofit Napa Sonoma ADU Center to which we refer homeowners for free individualized assistance with kickstarting their ADU projects (the organization has a track record of 64% of homeowners they serve moving forward on ADU projects)

- **Public education:**
  - Key tools and resources shared on our jurisdiction website, including:
    - ADU Process Map
    - ADU Building Permit Checklist
    - ADU Calculator Tool
    - ADU Workbook
  - Outreach and community engagement to help local homeowners, including:
    - Advertising free ADU webinars via our city channels educating homeowners about a wide range of ADU topics including financing, design, permits, building, and more
- **Policies:**
  - Adoption of a new ADU ordinance reflecting the January 2020 state laws

In addition, we will be expanding our policies and programs substantially in the coming years to further advance ADU and Junior ADU development (for more information, see the Policies & Programs section of our Housing Element).

Anticipated ADU & Junior ADU affordability

This section can be included in your Housing Element under the "Sites Inventory" section. Note that ADUs are not listed in the vacant/nonvacant section of the site inventory, rather they are summarized and tallied in their own subsection. Below is a sample write-up prepared by 21 Elements/Baird + Driskell Community Planning.

For a full explanation of how you can estimate production of ADUs and determine the income distribution, refer to Appendix A: Using ADUs to Satisfy RHNA, and see also Affordability of Accessory Dwelling Units: A report and recommendations prepared by the ABAG Housing Technical Assistance Team with Funding from REAP, available online at this link.

Sample below:

Based on the annual average of 12.75 ADU permits per year since 2019, the City is projecting 102 ADUs being permitted over the eight year planning period and is using ABAG's survey data to distribute the projected units by income category:

Income Category	Percentages	Totals
Very low	30%	30
Low	30%	31
Moderate	30%	31
Above moderate	10%	10

Based on these calculations, the City is able to meet approximately 1/7 of its RHNA through ADUs, and must accommodate another 598 units on the sites detailed in the sites inventory. See table below for a summary:

	Very Low	Low	Mod	Above Mod	Total
RHNA	200	200	100	200	700
Pipeline / Approval Units	0	0	0	0	0
ADUs	30	31	31	10	102
Remaining RHNA	170	169	69	190	598

ADU & Junior ADU resources & incentives

This section can be included in your Housing Element under the "Policies & Programs" section. This is simply a sample of possible key policies and programs; review the full Menu of ADU Recommendations above for additional options.

In addition to maintaining the improved ADU programs and policies outlined above, beginning in 2022 and through the 2023 - 2031 Housing Elements cycle we will be further promoting ADU and Junior ADU development via the following resources and incentives:

- **Processes:**
  - Track our ADU progress and evaluate our success. Set a goal of increase in ADU permits & final certificates of occupancy each year that includes:
    - Year 1: 15%
    - Year 2: 15%
    - Year 3: 10%
    - Year 4: 10%
    - Year 5: 10%
    - Year 6: 10%
    - Year 7: 10%
    - Year 8: 10%
  - Provide financial support for continuation of ADU services & tools such as those currently offered by local nonprofit the Napa Sonoma ADU Center, including ADU feasibility consults and maintenance of an ADU website, webinars, workbook, and calculator tool
  - Issue a directive from jurisdiction leadership to all relevant agencies to promote ADUs (Fire, Well & Septic, Planning, Building, etc.) and institute an ADU SWAT team with members from all key departments that offer timely concurrent review and provide a unified set of comments on ADU permit applications. Have an ADU@ email address to streamline responses to ADU inquiries and conduct staff training on customer service to homeowners building ADUs.

- **Public education:**
    - Produce a comprehensive ADU informational packet with a universal ADU checklist that outlines ADU requirements across all relevant departments (Fire, Well & Septic, Planning, Building, etc.)
- **Policies:**
    - Adoption of a revised ADU ordinance incorporating the following elements that are less restrictive than the state law requirements, such as:
        - Allowing two-story ADUs (including with minimum setbacks)
        - ADUs on corner lots (or specifically having a four feet setback on street-facing side)
        - Front yard setbacks that match the main house
        - Reduced side or rear yard setbacks
        - No parking replacement required
        - Allowing Junior ADUs in an attached garage and defining “attached” as “connected by a common wall, or by a common roof, covered walkway, carport or garage, not more than twenty feet (20') wide.”
        - Join the Napa Sonoma Standard ADU Plans Program which provides homeowners with low cost, “permit-ready” ADU plans
        - Offer fee waivers (e.g., waived impact fees for ADUs over 750 sf)
        - Explore the possibility of increasing density by allowing more than 1 ADU on single family zoned parcels if some of them are affordable



Conclusion

The 16 jurisdictions across Napa and Sonoma Counties have already taken incredible strides towards advancing ADUs in our community by contributing to the launch of the nonprofit Napa Sonoma ADU Center and developing other innovative ADU policies and programs. The statewide Casita Coalition featured the ADU efforts of Napa and Sonoma County jurisdictions in its ADU Best Practices Webinar Series in 2021 and our work is regularly looked to by jurisdictions across the state as a replicable model for how multiple jurisdictions can collaborate effectively to advance housing affordability via ADUs and Junior ADUs in the midst of California's housing crisis. Our organization is available to the Napa Sonoma Collaborative and individual jurisdictions to support you as you incorporate ADUs and Junior ADUs into your Housing Elements and carry out these recommendations. Thank you for taking the time to consider how ADUs and Junior ADUs – as one piece of the housing puzzle – can help advance our community's crucial need to provide roofs over the heads of our friends, family, workers, and neighbors.

Appendices

Appendix A:

Using ADUs to Satisfy RHNA

Prepared by 21 Elements/Baird + Driskell Community Planning

Background

Jurisdictions are allowed to use ADUs to help satisfy their RHNA requirements; however the process is somewhat different than other aspects of the sites inventory.
The standard method is to estimate the number of ADUs that will be developed in the planning period, and then distribute those estimated units into each of the income categories.

Estimating Production

The estimate should be based on the average number of ADU building permits issued each year, multiplied by eight (because there are eight years in a housing element cycle). Most cities base their determination of annual ADU permits by averaging the building permits approved each year since 2019, when state law made it easier to construct the units.

There is a small amount of flexibility in the calculations. If numbers were low in 2019 but were high in 2020, 2021 and 2022, a jurisdiction could potential use 2020-2022 as the baseline. This rationale would be bolstered if there was a logical explanation for the change, e.g., the jurisdiction further loosened regulations in 2020.
Projecting a higher number of ADUs than what has been demonstrated through permit approvals in recent years may be possible, but more challenging. A slightly larger number may be warranted if a robust, funded, and clear plan to increase production has been put in place. However, you are strongly encouraged to coordinate with HCD before deviating from the standard methodology.

ADUs are not listed in the vacant/nonvacant section of the site inventory, rather they are summarized and tallied in their own subsection.

Determining the Income Distribution

ABAG conducted an analysis of ADU affordability and concluded that in most jurisdictions, the following assumptions are generally applicable. Many jurisdictions are choosing to use these numbers in lieu of conducting their own affordability analysis.

Table 1. Percent of ADUs Affordable to Different Income Categories

Percent	Income Category
30%	Very low income
30%	Low income
30%	Moderate income
10%	Above moderate

Please contact your County Collaborative Technical Assistance Provider for more information on affordability.
A few key points are summarized below:

- Use building permits issued for the estimate
- Jurisdictions do not need to list the addresses for potential ADUs.
- Make sure the assumptions in your Housing Element match the numbers reported in past year APRs.

Please visit the ABAG Housing Technical Assistance page for more information, including a webinar that covers this topic.

Sample Housing Element Write Up

The following is what a jurisdiction might include in their sites inventory section of the housing element.

Since City amended its ordinance in 2019, the numbers of ADUs permitted has significantly increased. City's ordinance goes beyond state law and allows 1200 square foot ADUs. Additionally, the City website has an entire section devoted to ADUs with clear information about the standards and approval process. On average, the building department provides comments to completed ADU applications in 10 days.

Since 2019, the City has issued an average of 12.75 ADU permits per year, as listed below.

Year	Building Permits Issued
2017	2
2018	1
2019	10
2020	15
2021	10
2022	16 (estimate based on first 6 months)

Based on the annual average of 12.75 ADU permits per year since 2019, the City is projecting 102 ADUs being permitted over the eight year planning period and is using ABAG's survey data to distribute the projected units by income category:

Income Category	Percentages	Totals
Very low	30%	30
Low	30%	31
Moderate	30%	31
Above moderate	10%	10

Based on these calculations, the City is able to meet approximately 1/7 of its RHNA through ADUs, and must accommodate another 598 units on the sites detailed in the sites inventory. See table below for a summary:

	Very Low	Low	Mod	Above Mod	Total
RHNA	200	200	100	200	700
Pipeline / Approved Units	0	0	0	0	0
ADUs	30	31	31	10	102
Remaining RHNA	170	169	69	190	598

For more information reference Affordability of Accessory Dwelling Units, a report and recommendations prepared by the ABAG Housing Technical Assistance Team with Funding from REAP, available online *at this link*.



Appendix B: Explanations & Background for ADU Recommendation Implementation

Homeowners need to interact with many parts of a jurisdiction to get permission to build ADUs. It is important to ensure that all departments are committed to the work. What often happens is that some departments, like Planning, are quicker to make changes, while other departments, like Fire and Building, may have other priorities. However, homeowners do not differentiate between different departments and a road block at any point may stop their progress.

Process Improvements

Homeowners need to interact with many parts of a jurisdiction to get permission to build ADUs. It is important to ensure that all departments are committed to the work. What often happens is that some departments, like Planning, are quicker to make changes, while other departments, like Fire and Building, may have other priorities. However, homeowners do not differentiate between different departments and a road block at any point may stop their progress.

Getting By

Directive from jurisdiction leadership to all relevant departments on finding ways to promote ADUs

Because so many departments need to collaborate to promote ADUs, it is important to have the city manager or elected officials direct all involved departments to prioritize ADU production. We frequently see for example that an ADU permit is processed rapidly via the Planning or Building Department but gets stuck at the Well & Septic Department. Or we see that the Building Department says one thing to a homeowner about the city's ADU guidelines but then later the Fire Department interprets the policy differently, surprising a homeowner later on in the process. Ensuring there is a directive from government leadership to all relevant departments about the importance of ADUs will also help reluctant staff members at all levels make it a priority. Beyond a simple proclamation, all jurisdiction departments should identify specific action steps they can take to address barriers and proactively support ADU development.

For example, the cities of both Los Angeles and San Jose issued a directive from their mayors to accelerate ADUs as a housing source. This ensured it was a high priority work item for all the necessary departments.

Ensure ADU permit applications are fully processed by all relevant agencies within the 60 day turnaround required by state law

Multiple jurisdictions are struggling with a dearth of staffing, leading to significant ADU permit application processing delays. Our recommendation is that ADU permit applications be prioritized as a matter of policy by jurisdictions to ensure that they are processed at a minimum within the 60 day timeline required by state law – and preferably sooner. Hand-in-hand with implementation of this policy is the importance of ensuring that homeowners are provided with clear information upfront on your website about what is required for a full, complete ADU permit application in order to reduce the amount of time and resources required by jurisdiction staff to process applications.

Jurisdictions can share the following information with homeowners to aid them in submitting a full, complete ADU permit application:

- ADU Process Map [6]
- ADU Building Permit Checklist
- Webinar Recording - How to Create an ADU Permit

In addition, jurisdictions can join the Napa Sonoma Standard ADU Plans Program which will help streamline the ADU permit application process for staff and will also provide an easy option to overcome agency staffing shortages by engaging a third party plan check consultant to process ADU permit applications, as desired, by the individual jurisdiction.

And finally, we recommend that jurisdictions prioritize funding as available to increase staffing at relevant agencies to ensure that processing ADU permit applications and supporting ADU housing development can be a realistic and reasonable priority for jurisdiction staff.

For more related information, refer to the recommendation immediately below, “Have an ADU SWAT team with members from all key departments & offer concurrent permit review with a unified set of comments.”

For example, the City of Napa prioritizes ADU permit applications and has a policy of processing them within 21 days.

The City of San Jose provides a unified set of comments on preapproved ADU permit applications, ensuring a timely response.

[6] See Appendix G for samples and reach out to the Napa Sonoma ADU Center at info@napasonomaadu.org for support with revising editable versions of these templates to reflect your specific jurisdiction processes and requirements.

Middle steps

Have an ADU SWAT team with members from all key departments & offer concurrent permit review with a unified set of comments

Have regular check-ins with planning, building, fire, public works and other key departments to evaluate ADU progress and address barriers. Ensure there are designated representatives at each department who are charged with helping reduce barriers.
When reviewing ADU permit applications, have all relevant departments meet and produce a unified set of comments. Have various departments review proposals at the same time rather than sequentially. Homeowners and designers also benefit from receiving ADU comments in real time during designated ADU Office Hours. In particular homeowners, who often lack expertise, appreciate having designated time to ask an ADU specialist their questions.

For example, Healdsburg has a "One-Stop Shop" program for ADUs, where representatives from all the relevant departments gather with a homeowner to provide their comments to homeowners collectively. This both speeds up the process and avoids conflicting instructions to homeowners from the various agencies at the jurisdiction. It also saves the jurisdiction staff time in the long run, since homeowners are educated prior to submitting a permit application on what obstacles their ADU project could face as well as what must be in the submittal package.

A designated ADU@ email address at the jurisdiction is also a useful best practice to employ to ensure clearer communication between the jurisdiction and homeowners. Homeowners and designers/architects appreciate having a designated point of contact and having an ADU@city/county.org can help reassure homeowners that the jurisdiction is committed to ADUs and ensure clearer communication between all relevant government departments and the homeowner.

For example, the City of San Jose has an "ADU Ally" who helps homeowners through the ADU process at the city to keep communication clear and supportive.

> *"I understand that the Department is overwhelmed. Hiring qualified plan examiners must be a challenge but hiring a communicator that keeps everyone updated would [be helpful]. "* – Local homeowner feedback on their jurisdiction's ADU process

Having a small set of designated ADU reviewers that handle all ADU applications and answer homeowner questions also ensures consistency and a friendly face for applicants. This will also help you meet the state law requirement that a complete ADU permit application be approved or denied within 60 days. Ideally, this process would be completed sooner than that; however in order for this timeline to be feasible jurisdictions must have sufficient staffing and, importantly, staff who are familiar with the local ADU rules.

For example, the City of Napa prioritizes ADU permit applications over other permit applications and as a result they turn around ADU permit applications in 21 days.

In addition, consider conducting staff training on customer service. One of the most persistent challenges for ADU development is staff that have a punitive mentality, rather than a problem-solving attitude. Jurisdictions can avoid this issue by ensuring that staff are not overwhelmed by their workload, educating staff on why ADUs are crucial to meeting our local housing needs, and ensuring staff have access to clear information and resources regarding the most recent ADU rules in the jurisdiction.

> *"Move the permits along quicker. When I called the permitting office I received info, but had to ask lots of questions to get clarity about what was going on. It's hard to know what to ask when you don't know the process."*
> – Local homeowner feedback on their jurisdiction's ADU process

Produce an ADU game plan that identifies actions in all departments

This does not need to be an extensive effort, but it is important to commit explicitly both internally and to the community what steps the jurisdiction is going to take to support ADU development. The plan should lay out a multiyear ADU promotion strategy that looks at the obstacles and opportunities. The most successful jurisdictions have looked comprehensively at near term and longer term programs. This plan should address what each relevant department can do – including the Planning, Building, Well & Septic and Fire Departments.

Continue to collaborate with neighboring jurisdictions

Small and midsized jurisdictions often do not have the resources to take action on all ADU best practices by themselves. Some things, like an ADU website and other public education materials – or even a preapproved ADU plans program – can be shared. Supporting and collaborating with a central entity such as the Napa Sonoma ADU Center is an efficient way to accomplish this goal.

Conduct outreach to additional stakeholders
Appraisers, realtors, bankers, housing professionals, and other stakeholders all are important parts of the system that supports and promotes ADU development.

For example, San Diego has worked with their assessor to ensure valuations are fair. The city also has had their homeowner taxpayer advocate participate in their ADU outreach events.

Bold Action

Continue to collaborate with & support the nonprofit Napa Sonoma ADU Center
Nonprofits can be more nimble than jurisdictions and once formed can help reduce the number of hours expended by jurisdiction staff on educating homeowners about local rules and the ADU permitting and building process. Nonprofits can also be beneficial in that they serve as a neutral third party resource for local homeowners who may be mistrustful of local government agencies and housing professionals alike. Napa Valley Community Foundation and Community Foundation Sonoma County, along with many of the 16 jurisdictions across Napa and Sonoma Counties, pooled their resources, time and energy to found the nonprofit Napa Sonoma ADU Center which launched in April 2020. In addition, the Cities of Napa and Calistoga and the County of Napa provided financial support to help launch the organization.

Funding from Napa Valley Community Foundation and Community Foundation Sonoma County currently is slated through June 2023. Sustainability of the organization and its services to the community will be dependent upon annual funding from jurisdictions. If each jurisdiction committed support annually, the organization could be funded to continue providing support to local homeowners to build ADUs.

The Napa Sonoma ADU Center provides technical assistance to homeowners on their ADU projects and also does significant community outreach and education to ensure that local homeowners across all 16 jurisdictions in Napa and Sonoma Counties are aware of their local ADU rules, processes, and resources. It also serves as an innovative public/private partnership that bridges the government, philanthropic, nonprofit and private sectors in order to advance ADUs.

The organization has a comprehensive ADU website including an ADU calculator tool, Address Lookup Tool, ADU Workbook, frequent ADU webinars and a newsletter and blog that highlight recent developments in ADU policies and innovations. In collaboration with multiple Napa and Sonoma County jurisdictions, in 2022 it will launch a comprehensive Napa Sonoma Standard ADU Plans Program (“pre-approved” plans program) with a gallery of diverse ADU plan sets available at low cost to homeowners. This program will reduce jurisdiction time and resources expended on ADU permitting. For more information on the Napa Sonoma Standard ADU Plans program, see below.

Designate an ADU ombudsperson

In addition to deputizing ADU representatives in each department, designate one person who is in charge of advocating for ADU applicants across all departments. Their position should, ideally, be located in the manager's office so they can more effectively work between departments.

Track your ADU progress and evaluate your success

It is important to have a goal and to evaluate progress towards the goal. This could be a numeric target (e.g. 500 ADUs produced) or a percent increase. It is also important to have specific, measurable actions to evaluate department progress. Set up a framework for each department to report on their progress and a goal for ADU growth by % increase of permits & final certificates of occupancy each year. For example:

- Year 1: 15%
- Year 2: 15%
- Year 3: 10%
- Year 4: 10%
- Year 5: 10%
- Year 6: 10%
- Year 7: 10%
- Year 8: 10%

For reference, see Appendix F: ADUs permitted & built in Napa & Sonoma County jurisdictions.

For example, San Mateo ran a digital campaign and saw 1,000 more people visit their website. They knew the campaign was effective because one of the metrics they monitor is traffic on the ADU website.

Public Education

The simplest, most straightforward step that jurisdictions can take to promote ADUs is to improve their information resources and promote ADUs proactively in the community. Homeowners often do not know what to do and get stuck thinking instead of taking action on an ADU project because they do not understand where to begin. Additionally, the public is often convinced that jurisdictions will play gotcha – and good information provided proactively by the jurisdiction itself will help alleviate that concern. Whenever you are producing resources, be sure to remember that the primary audience is homeowners with little to no experience in construction. Architects and designers are a secondary audience, and they will benefit from clear, concise information as well.

Getting By

Improve your website & educational content

Conduct a review of your jurisdiction resources to ensure they are answering common ADU questions. It is important to involve a regular homeowner in your evaluation process. You can ask family or friends what they would want to know if they were considering building an ADU. Then ask them to go on the jurisdiction webpage to find the answers to those questions. Watch them and throughout the process ask them why they clicked somewhere or what they are thinking. As you develop material, you can regularly engage non-experts to review your materials to ensure they are clear to the layperson.

After identifying areas for improvement in their public education resources, jurisdictions should make whatever changes are necessary. Homeowners and contractors rely on the jurisdiction's webpage as their first point of information, so a strong ADU website is a high priority. Many jurisdictions choose to have a free-standing ADU website to provide more design flexibility and easier access to information.

We also recommend that each jurisdiction clearly link to the Napa Sonoma ADU Center webpage, along with our nonprofit's ADU tools & resources, including:

- Napa Sonoma ADU Webpage
- ADU Calculator Tool
- ADU Workbook
- ADU Webinars
- ADU Feasibility Consults

Local examples of helpful ADU public education include:

- *City of Napa Accessory Dwelling Unit How-To Permit Guide for Homeowners - includes process overview, ADU regulations, plan review submittal checklists, detailed sample fees, & instructions on how to legalize an unpermitted unit*
- *Permit Sonoma ADU Webpage - includes explanations of ADUs vs. JADUs, ADU regulations, FAQs, a comprehensive ADU checklist, and more*
- *City of Calistoga ADU Webpage - links to Napa Sonoma ADU Center resources and also uses the ADU Process Map and Building Permit Checklist developed by the Napa Sonoma ADU Center*

Message ADU benefits effectively

Jurisdictions often struggle to explain the benefits of ADUs and instead fall back on jargon that may not be accessible to homeowners unfamiliar with permitting and construction processes. Key themes to highlight about the benefits of ADUs for homeowners are flexibility of the space over time and their efficacy as a long-term financial investment.

It's also key to message the benefits of new ADU rules for multi-family zoned parcels and consider stakeholders that may not otherwise recognize the benefits of ADUs, such as HOAs that can use unused land to build ADUs.

Middle steps

Produce comprehensive ADU information packets
It is helpful for homeowners and designers to know all the steps involved in getting jurisdiction approval on their ADU before starting the process. Identifying all the potential hurdles can actually help reassure applicants upfront. It is important to make sure there are comprehensive information packets for homeowners on ADUs.

For example:

- Explanations of zoning standards and other jurisdiction-specific ADU programs, resources, and processes
- List of required studies and reports before construction can begin
- Easement information
- Contact info and next steps for major agencies like PG&E, water and sewer districts, along with how to find out which sanitation district/water district they are a part of
- Information about special inspections required for most ADU builds
- More granular fee examples for different kinds of projects, e.g. school district fee listings
- ADU Process Map & Submittal Checklist (as needed, you may develop separate checklists for new construction, conversion and multifamily ADUs)

As a key starting point, use the template documents created by the Napa Sonoma ADU Center in order to support all 16 jurisdictions, including an ADU Process Map and ADU Permit Submittal Checklist (see links above as well as Appendix G for templates, and email info@napasonomaadu.org for editable templates for your jurisdiction). These can be on the jurisdiction's homepage and the webpages for the Planning & Building Departments and other relevant departments as appropriate. They should be easy to find – for example, a side bar that says "Thinking about an ADU or Junior ADU? Click here!"

For example, San Jose was one of the first cities to develop an ADU submittal checklist. This step, while simple, is a key resource for homeowners. As of publication, the Cities of Napa, Santa Rosa, Calistoga and Cotati have put the ADU Process Map and Submittal Checklist developed by the Napa Sonoma ADU Center on their websites and we hope more jurisdictions will do the same.

Host information sessions
Meeting jurisdiction staff and having their questions answered is often a key first step for many homeowners, as it alleviates barriers of fear and mistrust that many homeowners have of their local government agencies. The Napa Sonoma ADU Center is available to collaborate with all 16 jurisdictions to host webinars focused on the unique ADU rules and processes at each jurisdiction.

For example, the Cities of Napa, Santa Rosa, Calistoga, Sebastopol, Healdsburg, and Sonoma County have all partnered with the Napa Sonoma ADU Center to host webinars geared towards homeowners in their jurisdictions to educate them about their local ADU rules and processes. These webinars are recorded and available for local homeowners to view on demand at any time.

Bold Action

Develop homeowner spotlights

Real-world local ADU case studies, either in print or video, help homeowners imagine themselves building an ADU and build trust and excitement about the process. Jurisdictions can help ADUs gain traction among local residents by spotlighting these stories in their e-newsletters, social media, website, and other forums.

For example, the Napa Sonoma ADU Center has a "Get Inspired" webpage dedicated to stories, pictures, videos, and interviews with local residents who have successfully built ADUs in our community. Local jurisdictions can spotlight these stories in your promotional materials for local homeowners, and help the Napa Sonoma ADU Center continue to update these resources with more real-world ADU stories – or create them on your own.

Provide forums for peer-to-peer interactions

Find opportunities for homeowners to talk to others who have already built ADUs in your jurisdiction so they can ask questions and see real-world success stories. This is routinely requested by homeowners who are just starting out and want inspiration, reassurance, and support from neighbors through the ADU process.

Policies

While state law relaxed many zoning standards, there is more that can be done proactively by local jurisdictions to promote ADUs. This is an element that is within the jurisdiction's control to improve. It is also key to affirmatively furthering fair housing via ADUs.

Getting By

Ensure that your ADU code is clear & compliant with state law
Some local jurisdictions have code requirements that are out of compliance with the Department of Housing and Community Development's interpretation of ADU law. For example:

- Requiring fire sprinklers where they should not be required
- Limiting ADU builds to the lesser of 50% of the main house or 850-1000 square feet
- Applying 4 foot setback rules to conversions of existing legal structures
- Misapplying the ADU rules for multifamily
- Failing to mention Junior ADUs in the local code
- Defining Junior ADUs as limited to conversion of an existing bedroom
- Requiring design review of ADUs by the jurisdiction
- Misinterpreting parking requirements

Many jurisdictions also have code sections that are not clear and lead to inconsistent advice from planners, causing stress for homeowners. For example, the definition of "efficiency kitchen" for Junior ADUs is often vague. Additionally, be sure to have clear, objective standards about windows, stairs and balconies.

The Napa Sonoma ADU Center has provided individualized recommendations to each of the 16 jurisdictions across Napa and Sonoma Counties regarding how their ADU ordinances could be updated where necessary to ensure compliance with state law, and if these have not been implemented yet our organization is available to help jurisdictions understand the requirements in order to effectively do so.

Jurisdictions can also refer to HCD's Technical Assistance Memo on ADUs, available online here.

For example, when San Diego reviewed their code they realized there were a number of provisions that were not clear. Even worse, different planners were making different interpretations, a huge source of frustration for homeowners. One of the first steps the city took to promote ADUs was to write clearer rules and standardize interpretations.

Middle steps

Join Napa Sonoma ADU's Standard ADU Plans Program

Co-created by planning & building staff across Napa and Sonoma Counties in collaboration with the Napa Sonoma ADU Center, the Standard ADU Plans Program is a new initiative launching in 2022 to help make it easier for homeowners in Napa and Sonoma Counties to find ADU designs that work for them and to increase the efficiency of the development review process for jurisdiction staff. It aims to make it easier for homeowners to find ADU designs that work for them, and save them time and money along the way; help connect ADU architects with potential customers; and help local jurisdictions support development of more ADUs in response to community housing needs.

The program consists of an onsite gallery featuring:

- Permit-ready plans that have been "pre-approved" for compliance with local building codes, and
- Other "off the shelf" ADU designs available to homeowners at reduced cost but which still need to be reviewed for code compliance.

Plans were selected with multiple criteria in mind, including cost, privacy, compatibility, adaptability, accessibility, and sustainability. The gallery represents a wide diversity of ADU plans that span various aesthetic sensibilities as well as multiple size and layout options. There are plans that are all-electric, energy efficient, net zero, ADA-accessible, and that incorporate universal design elements.

A "preapproved," "permit-ready" or "standard" ADU plans program can remove significant barriers to building ADUs for homeowners. The most successful programs incorporate a one-stop ADU permit approval meeting where all relevant departments concurrently review the permit application, ensuring uniformity and clear communication across all agencies and a smoother, faster, and clearer process for homeowners. Successful programs also have architects/designers own their plans and cities or nonprofits manage a marketplace of plans.

Other jurisdictions in California have developed successful "pre-approved" ADU plans programs, including San Jose, which gives homeowners access to multiple pre-approved design options from various different designers, architects, and prefab companies – prioritizing diversity of design options in order to maximize likelihood that a homeowner will find a plan that fits their needs. By choosing from one of the pre-approved layouts, homeowners can reduce the plan check review process from multiple weeks to as little as one day - saving their own time, and the time of jurisdiction staff.

Adopt pro-ADU policies that go beyond state law

State law sets the minimum standards, but many homeowners do not build ADUs because local standards are still too restrictive. In fact, the State's original intent was that jurisdictions go above and beyond the bare minimum that the state law sets out and enact local ADU ordinances that are more permissive than the state mandates. Successful options for adopting pro-ADU policies include:

- Allowing two-story ADUs (including with minimum setbacks)
- ADUs on corner lots (or specifically having a four feet setback on street-facing side)
- Front yard setbacks that match the main house
- Reduced side or rear yard setbacks
- No parking replacement required
- Larger ADUs
- Greater FAR
- Allow JADUs in an attached garage and define "attached" as "connected by a common wall, or by a common roof, covered walkway, carport or garage, not more than twenty feet (20') wide."
- Allow more ADUs than permitted by state law

Some successful local examples of pro-ADU local ordinances include:

- *Cloverdale - allows 2 ADUs per parcel*
- *Rohnert Park - no parking replacement is required*
- *American Canyon - allows 3 foot setbacks*
- *Sonoma County offers a Cottage Housing Development program that allows multiple detached units clustered around a common open space. These proposals can be approved by staff with no hearings if they meet the relevant standards.*
- *Sonoma County defines Junior ADUs as being allowed as a conversion of existing space in the primary home or an attached garage and defines "attached" as "connected by a common wall, or by a common roof, covered walkway, carport or garage, not more than twenty feet (20') wide."*
- *Multiple local jurisdictions (but not all) allow electronic submissions & payment of fees electronically*
- *Multiple local jurisdictions (but not all) don't charge homeowners for time meeting with the planning department or other agencies regarding ADU rules and processes*

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Similarly, jurisdictions may want to eliminate other barriers where appropriate by reconsidering costly and/or challenging obstacles to building an ADU that may not need to be applied to every single project. For example, many homeowners struggle with the cost and logistics of having a soils report completed for their ADU build. Consider whether this or other requirements are necessary for all projects. In addition, soils waivers still generally cost over $1,000 and are challenging for some homeowners to obtain as few professionals are willing to complete a soils waiver. To that end, jurisdictions may want to consider whether there is a soils waiver process that does not require the expense of hiring an outside professional.

Similarly, sewer connection fees, while generally waived for ADUs of less than 500 square feet, remain a significant financial impediment to some homeowners on ADU projects over 500 square feet.

Launch ADU Amnesty Program & Code Enforcement Delay

When our systems fail to adequately meet the baseline housing needs of our community, it is inevitable that homeowners will work outside of the existing system in order to develop homes for themselves, friends, family and neighbors. Unpermitted ADUs are a manifestation of inequity that exists in our community, and unpermitted ADUs remain a challenge for jurisdictions that want to support housing affordability yet simultaneously face concerns regarding habitability and safety of unpermitted units. Creating an ADU amnesty program and/or appropriately implementing the January 2020 state law that encourages local jurisdictions to give

homeowners a 5 year delay in code enforcement can help encourage homeowners to address important health & safety concerns while not eliminating much-needed housing unnecessarily.

For example, Permit Sonoma recently launched an ADU Rescue Program that allows qualifying ADU owners to ask for an enforcement postponement of up to five (5) years after passing a habitability inspection from a licensed professional.

Allow ADUs to be built before the main house in the event of a natural disaster

A small but important policy change is to allow ADUs to be built before the main home in the event of a natural disaster, such as wildfire or earthquake. This allows homeowners to complete construction quickly and live in the ADU until their main house is complete. Workarounds, such as having the homeowner permit the first unit built as the primary residence first, then submit a separate permit application to build a primary residence and change the first unit built to an ADU, adds unnecessary time, cost, stress and complications for both the homeowner and jurisdiction staff.

For example, Sonoma County allows homeowners affected by wildfires to build ADUs before the main home.

Bold Action

Offer fee waivers

Fee waivers can make ADUs more financially viable and help induce homeowners to act quickly to build their ADU. Fee waivers can take many forms, including allowing homeowners to waive or at least defer impact fees regardless of the size of their ADU. Financial incentives are the most helpful way for jurisdictions to support the development of ADUs. A key lesson learned by jurisdictions on these financial incentives is that any affordability requirements imposed on the ADU by the jurisdiction in exchange for the incentive must be commensurate with the benefits provided, and be short-term.

Adopt policies that advance affordability and equity

Before launching an affordable ADU program, it is helpful to remember that generally ADUs are naturally affordable. Many are available for free to family, friends or domestic help, but even those rented on the open market tend to be moderately affordable. A recent statewide study including data from Napa and Sonoma Counties, conducted by the University of California – Berkeley, found

that 85 percent of ADUs rented on the open market were affordable to lower or moderate income households and here in Napa and Sonoma Counties the rate is even higher.[7] There are simple steps jurisdictions can take to promote equity, such as offering ADU material in multiple languages, and much more as detailed below.[8]

Additionally, it is important to remember that homeowners are skittish about building an ADU before adding in restrictions associated with affordability. Adding rent stabilization or other controls may convince single family home owners not to build.

Homeowners are also reluctant to sign long-term affordability controls. They worry about not being able to choose or change their tenant if there is a problem. They want flexibility so they can use their ADU for family or other purposes. Additionally, it can be very difficult to monitor and income-verify tenants in a scattered site program where the landlords are ordinary homeowners.

Finally, it is important for cities to complete the best practices identified in the rest of this set of recommendations before launching an affordable ADU program. This is because those same hurdles that prevent homeowners from completing ADUs for family or open market rentals will stop people from building affordable ADUs as well.

With these caveats in mind, there have been several cities that have started successful affordable ADU programs. Generally, successful jurisdictions provide one of three incentives:

- **Density** – Allow more units on a parcel if some of them are affordable
- **Subsidy** – Provide direct financial incentives
    - *For example, both the County and City of Napa have programs that commit grants to local homeowners who agree to build an interior conversion ADU or JADU and rent them to lower income tenants. Learn more about the City of Napa's Junior Unit Initiative Program which also provides construction management and more.*
    - *The City of Pasadena provides homeowners with a loan that can be paid back anytime, as well as project management for the ADU build, in exchange for the homeowner agreeing to rent the unit to a tenant with a Section 8 voucher. Section 8 status is easy to verify and in most regions, it is hard to find landlords willing to accept tenants with vouchers. See Pasadena's program for more information.*

[7] See Appendix D: North Bay ADU Affordability Survey Data & Analysis for more information.
[8] See Appendix C: Insights from a Field Study with Latino/x Homeowners in Napa and Sonoma County about ADUs for more information.

- **Management** – Overseeing the construction of the ADU, finding tenants or providing property management to ADU landlords in exchange for the unit being rented to a lower income tenant.
    - *For example, the Napa Sonoma ADU center has an ADU Home Match program that jurisdictions can help promote to local ADU landlords which provides free tenant matching, landlord support services, and more in exchange for landlords to rent their ADU to a lower income tenant.*

Crucial best practices to keep in mind when developing these programs include:

- Avoid long term affordability restrictions – Homeowners do not want to make long-term, particularly multi-decade, commitments
- Offer an out for homeowners – Ensure they can pay back the loan and exit the system when desired
- Match the incentives to the requirements – If a jurisdiction wants to offer more restrictive conditions, the incentives need to be large



Appendix C:
Insights from a Field Study with Latino/x Homeowners in Napa and Sonoma County about ADUs

Prepared for the Napa Sonoma ADU Center
By by Jesús Guzmán, MPP, Principal, Los Arroyos Consulting

January 2022

Introduction

The information presented within this report was completed by the Napa Sonoma ADU Center to better understand the specific barriers, opportunities, and needs of Latino/x homeowners in Napa and Sonoma Counties in order to better serve them with respect to accessory dwelling units. The report employed a mixed-method approach in which Latino/x homeowners were engaged through interviews and focus groups to better assess their perspectives and experiences, and complemented with market research that leverages quantitative data from publicly available data sources.

Key Findings

Comprehensive one-stop shop

- **Findings**
  - Interview respondents across the board expressed trepidation and concerns about managing the financing and city planning processes en route to building an ADU. Where and how to access financing was a big question mark along with working with their local municipality to secure the appropriate building permits.
  - Despite the worries associated with financing and permitting, construction was rated as less of a challenge by respondents with many sharing that they had close ties or relationships with local construction firms capable of building an ADU.

Managing expectations

- **Findings**
  - Vast majority of homeowners bought their homes ready-made, and nearly all interviewed haven't been involved in a design and construction project of this scale or magnitude. With so much money on the line, project management creates a huge amount of anxiety and stress on homeowners and may function as a deterrent and barrier to those interested in building an ADU.
  - Despite there being a measure of excitement about the outcome of owning an ADU, a lot of dread about the process exists largely due to the high investment and large degree of uncertainty associated with the investment. Overcoming that dread about the process can make a measurable difference in a homeowners' willingness to pursue an ADU. Interviewed homeowners expressed a strong desire to have clarity about the various ADU models available to them that connected the blueprints with timelines and costs.

Financial Education

- **Finding**
  - Nearly all homeowners interviewed intend to leverage their largest asset, their home, as a source of capital to finance their ADU project. However, a common pattern emerged with many expressing significant uncertainty about the kind of financial product most appropriate for their current position. For example, questions about how a cash-out refinance for a young homeowner, for example, differed as opposed to a HELOC for a homeowner who recently finished paying off their mortgage. Some respondents also expressed interest in tapping their retirement accounts for a construction loan. In general, homeowners expressed a desire to better understand the implications of building an ADU within their overall financial position with many also acknowledging a need to have assistance better understanding their own financial picture.

Trust within Community Networks

- **Findings**
  - Interview respondents expressed appreciation for Napa Sonoma ADU Center existing as a resource available to the community. There was a strong desire to work in community and with others throughout the ADU building process, including seeking other homeowners interested in building an ADU in order to work together and provide each other technical and emotional support.
  - Several respondents shared that negative past experiences working with city planning departments had curtailed their trust in the planning process and deepened their reservations about pursuing an ADU. Many expressed uncertainty overall about the planning process.

Digital Assets

- **Findings**
  - Respondents expressed a strong appreciation for the bevy of educational resources available to homeowners on the Napa Sonoma ADU Center website. The website layout was found to be intuitive and clearly delineated between the three stages: I'm Thinking, I'm Ready, and I've Built.
  - Individuals found it helpful and comforting to have a vendor list, which allowed them to have some measure of confidence about starting from a place that has been vetted and trustworthy.
  - The floor plans included on the website were interesting to many and helped offer inspiration about the kinds of possible ADUs they could consider for their homes. There were questions about whether these were floor plans that they could select off the shelf and share with a contractor to build, or if they needed to have further design executed by an architect. If the latter, respondents wondered if Napa Sonoma ADU or their local municipality might offer such a service.

Methodology

Market Research

This report leverages publicly available data sources like the American Community Survey (ACS) and derivative products like the Integrated Public Use Microdata Series (IPUMS) facilitated by the University of Minnesota. We use an indicator-based framework to analyze quantitative data sets and describe market conditions to identify potential trends, opportunities, or barriers for the construction of ADUs in Sonoma and Napa County among Latino homeowners.

Interviews

As part of this research, we conducted interviews over the course of 2021 with homeowners interested in building an ADU. The purpose of the individual interviews was to assess the motivations, barriers, and opportunities experienced by homeowners who were interested in adding an ADU to their home. Interviews were conducted virtually over Zoom lasting 40-60 minutes each. Qualitative data collected from the interviews was coded and analyzed to identify common themes and patterns across the data.

We conducted 15 individual interviews with half of the participants preferring to conduct the interview in Spanish. When asked how they identified, 14 out of 15 identified as Hispanic or Latino/x. Eight homeowners resided in Napa County with seven residing in Sonoma County. Nearly all of the respondents in Napa County lived within the City of Napa with only one in Angwin, an unincorporated community of Napa County. Sonoma County respondents showed greater geographic diversity with homeowners residing in cities like Healdsburg, Sonoma, Petaluma, and Santa Rosa.

Respondents shared a few additional demographic or home data points, which included the average homeownership tenure being 10 years with respondents ranging from having owned their home for one year to 20 years. When asked about estimating their home equity, respondent answers revealed an average of $436,000, and their home equity ranged from $120,000 to over $1M. The average age of respondents was 48 with an age range from 27 to 62.

Focus Groups

Focus Groups were held to offer additional texture to the qualitative data collected from the interviews. In particular, the focus groups reviewed the digital assets offered by Napa Sonoma ADU Center, along with programs and services. Two focus groups were facilitated with one being held in English while the other was facilitated in Spanish. Both focus groups, like the interviews, were conducted virtually and lasted about an hour.

Market Conditions

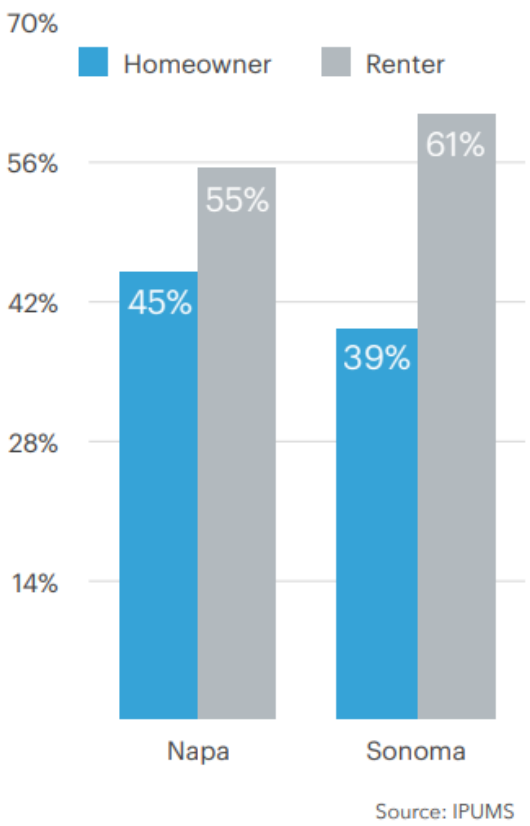
Introduction

We start by zooming in on owner-occupied single-family homes with the potential to build an ADU. It is also the case that the vast majority of owner-occupied units are also detached single-family homes.

We estimate the universe of homeowners in both Sonoma and Napa County. As Table 1 shows, we estimate nearly 95,000 White homeowners and 13,000 Latino homeowners in Sonoma County. In Napa County, about 45 percent of Latino households are homeowners at nearly 5,200 homeowners. White homeowners constitute 71 percent of all white households at 23,000.
Latinos are slightly less likely to be homeowners in Sonoma County where 39 percent of all Latino households are owner-occupied as compared to Napa (45%). Homeownership rates overall are higher in Napa compared to Sonoma County.

Figure 1 illustrates the differences in tenure for Latinos for both counties. Overall, Latino households are more likely to rent in either Sonoma or Napa County.

Figure 1: Share of Latino Homeowners and Renters



In Sonoma County, for example, Latino households increased by 37 percent from 2005 to 2019, but homeownership rates did not keep pace with overall household growth as they lagged behind during those years. From 2005 to 2019, homeownership rates for Latinos in Napa County increased by 24 percent and 10 percent in Sonoma County. This indicates that new household formation for Latinos remains skewed towards renting rather than homeownership despite Latinos composing a growing segment of both counties' populations.

Table 1: Tenure by Race/Ethnicity and County

County	Race/Ethnicity	Own	Rent	Homeownership Rate
Sonoma	Latino	13,093	20,239	**39%**
	White	94,804	46,554	**67%**
Napa	Latino	5,167	6,347	**45%**
	White	23,060	9,309	**71%**

Source: American Community Survey

Table 2 shows significant variation in homeownership rates by city for both counties. American Canyon by far has the highest homeownership rate for Latinos as they own nearly 1 in 4 homes in American Canyon. Conversely, Calistoga has a much smaller rate of Latino homeowners at nearly 6 percent. Windsor posts Sonoma County's largest Latino homeownership rate at almost 19 percent with Sonoma and Sebastopol at the lower rung.

Table 2: Percent of Latino Homeowners by City

County	City or Town	Total Owner-Occupied Homes	Latino Homeowners	Percent
Sonoma	Windsor	6,997	1,301	18.6%
	Healdsburg	2,803	397	14.2%
	Cloverdale	2,144	289	13.5%
	Santa Rosa	35,821	4,749	13.3%
	Rohnert Park	8,971	1,187	13.2%
	Petaluma	14,931	1,598	10.7%
	Cotati	1,563	115	7.4%
	Sonoma	3,124	165	5.3%
	Sebastopol	1,661	75	4.5%
Napa	American Canyon	4,103	963	23.5%
	Napa	16,446	3,154	19.2%
	St. Helena	1,590	161	10.1%
	Yountville	865	86	9.9%
	Calistoga	1,292	77	6.0%

Source: American Community Survey

Extra Space

Excess Bedrooms

The trend of homebuilding over the last fifty years has led to larger and larger homes despite household sizes decreasing. These countervailing forces have created a surplus in additional bedrooms. As researchers at the Joint Center for Housing Studies of Harvard University found, about 3 in 5 American owner-occupied households have an additional spare bedroom (The State of the Nation's Housing g 2020).

In Table 3, we tabulate the number of excess bedrooms, which we define as a household with more bedrooms than people. We find that Latino homeowners account for about 8,200 single-family homes with at least one excess bedroom. Across both counties, Latino owner-occupied homes have a significantly smaller share of homes (51%) that include excess bedrooms compared to White owner-occupied households (80-83%). Excess bedrooms in the home open up the possibility for interior conversion ADUs or Junior ADUs.

Table 3: Count of Homes with More Bedrooms than Inhabitants

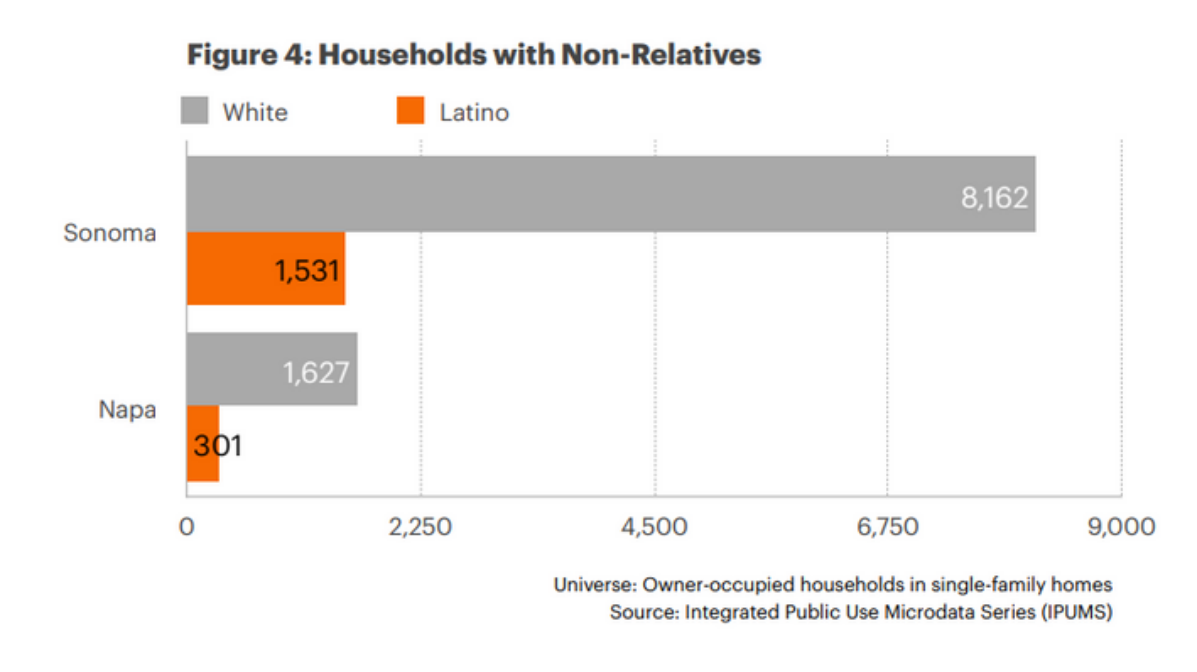
County	Race/ Ethnicity	Total Homes with Excess Bedrooms	Percent of All Owner-Occupied SFH	+1 Bedroom	+2 Bedrooms	3 or More Bedrooms
Napa	Latino	2,184	51%	747	772	665
	White	17,172	83%	4,399	6,491	6,282
Sonoma	Latino	5,660	51%	2,547	1,810	1,303
	White	68,484	80%	17,972	27,684	22,828
Total	Both	93,500	77%	25,665	36,757	31,078

Universe: Owner-occupied households in single-family homes
Source: Integrated Public Use Microdata Series (IPUMS)

Income-Seeking Households

Non-Relatives

Owner-occupied households with roommates, boarders, or non-relatives may be in a financial position in which they are seeking additional income. These households may be potentially motivated to pursue an ADU as part of reconfiguring their home in such a manner that optimizes their ability to accrue income. Figure 4 presents the results showing that there are 1,531 Latino owner-occupied homes in Sonoma County and 301 in Napa County include non-relatives, or 15% and 7% respectively.



Household Income

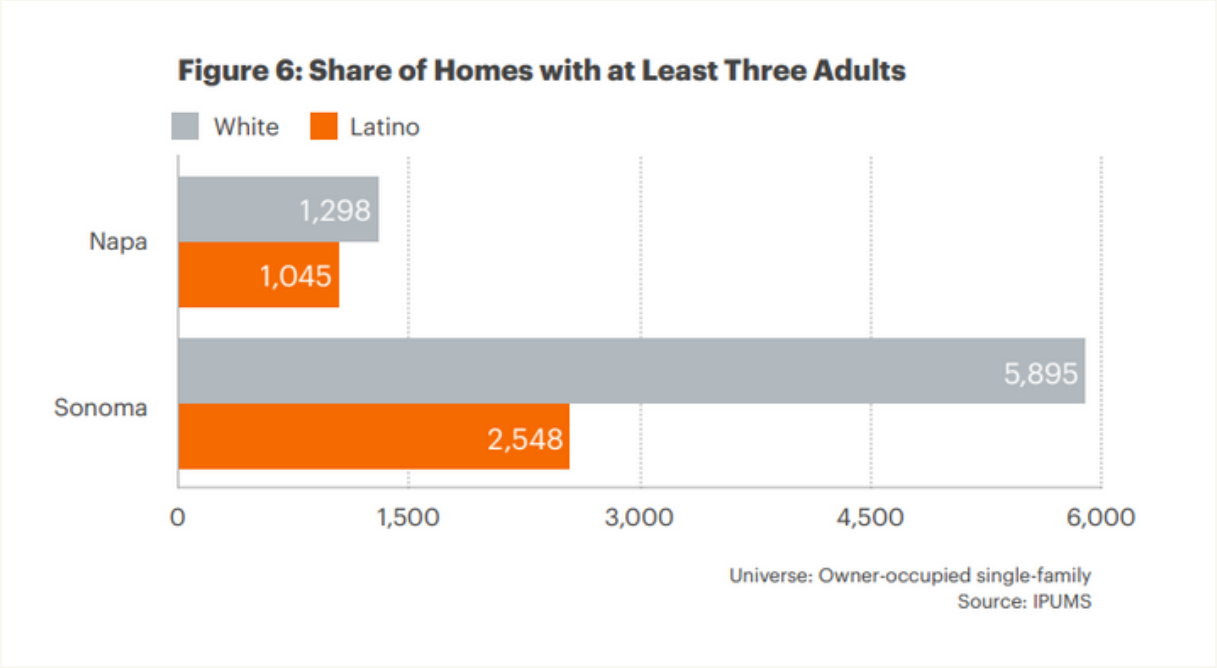
Household income offers an insight into the potential desire for homeowners to pursue an ADU, especially in cases where their income is below levels that could offer financial stability. Figure 5 suggests that the household income of Latino homeowners trails behind the household income of white homeowners.

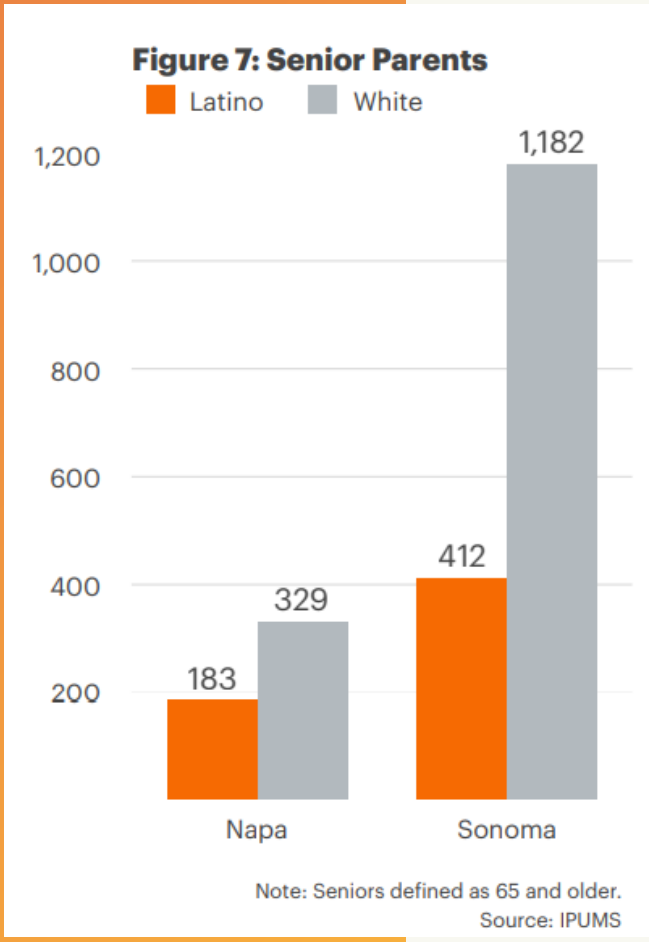
The recent report by Karen Chapple, Dori Ganetsos, and Emmanuel Lopez included findings from the first ever statewide ADU owner survey where the sample demographics reported 1 in 3 respondents earned above $200,000 and 3 in 4 earned above $100,000. Comparatively, Latinx homeowners earn below the predominant income brackets typical for an ADU owner in the state, which may indicate an additional barrier to saving or accessing sufficient capital for financing an ADU (Implementing the Backyard Revolution: Perspectives of California's ADU Owners, 2021). Conversely, that same financial precocity may generate interest in exploring an ADU for rents to garner additional supplemental income.

Extended Families

At least three adults

We estimate about 10,800 households with at least three adults between both counties. In Napa County, we find that 1,045 Latino households and 1,298 white households include at least three adults. In Sonoma County, we estimate 5,895 Latino households and 2,548 white households include at least three adults. For Latino households, roughly 1 in 4 households in both Sonoma and Napa County have 3 adults or more. For white households, that's 1 in 13 and 1 in 15 for Sonoma and Napa, respectively. This data indicates that Latino households may stand to benefit most from building an ADU, in order to house adults independently.





Senior Parents

Households with senior parents living with them could be a motivating factor to persuade a homeowner to seek additional space. Such accommodations could be achieved by building an ADU on their property.

Proportionally, we estimate about 4% and 4.4% of Latino homeowners and 1.5% and 1.7% of white homeowners have senior parents living in the home in Sonoma and Napa County respectively. But comparatively between Latino and white homeowners in Napa and Sonoma Counties, Latinos are nearly three times more likely to have senior parents in the households than white homeowners.

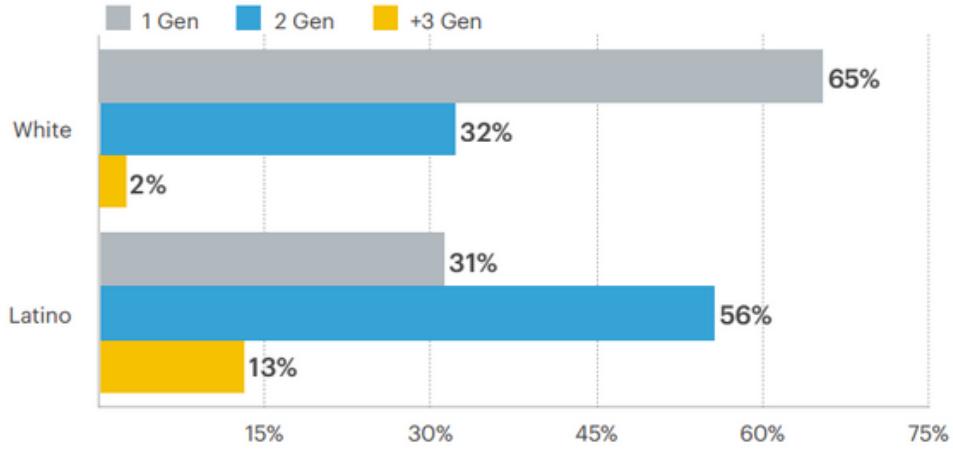
Multigenerational

Families wanting to care for their loved ones may want to have aging relatives join their household. But having the space necessary to accommodate all generations, from young children to grandparents, under the same roof may be a serious challenge. That's why adding space through the construction of an ADU may be desirable (Nichols et al, 2015).

Figures 8 and 9 show the tabulations of homeowner households in Sonoma and Napa Counties with significant divergent multigenerational arrangements among white and Latino households. The data is categorized to reflect the number of generations within a given household. With the same pattern appearing across both counties, Latino homeowner households are far more likely to live in multigenerational households than white homeowners. For example, 65 to 66 percent of white owner-occupied households in Sonoma and Napa County respectively are single-generation households. Conversely, 30 to 31 percent of Latino households in Napa and Sonoma County respectively are single-generation.

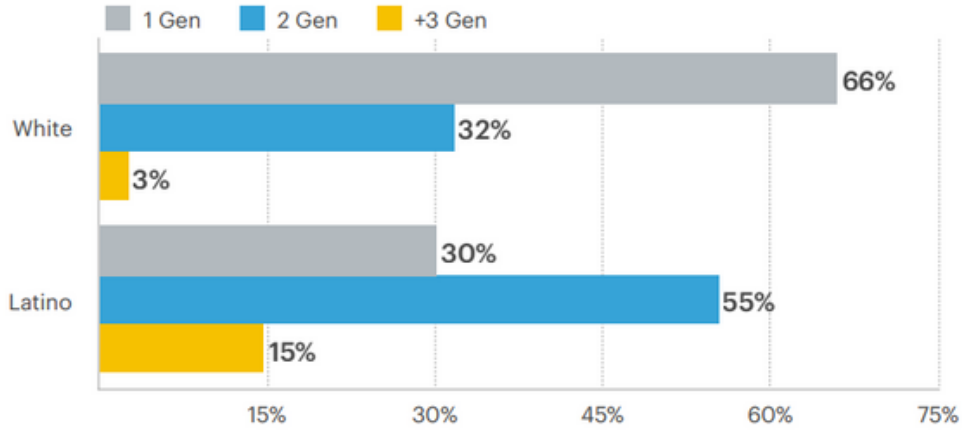
The starkest difference is among three-plus generations, which we define as having three or more generations within a given household (e.g. child, parent, and grandparent). Latino homeowners are five to six times more likely to have at least three or more generations within the same households compared to white households. It's these households, about 1,300 in Sonoma and 600 in Napa Counties, that could be significantly interested in pursuing additional space through an ADU.

Figure 8: Multigenerational Households, Sonoma County



Universe: Owner-occupied single-family
Source: IPUMS

Figure 9: Multigenerational Households, Napa County



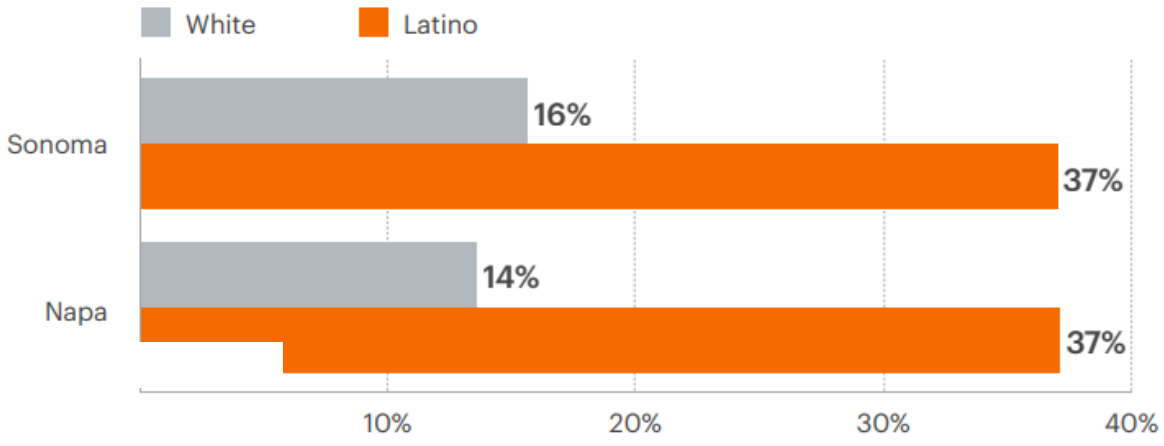
Universe: Owner-occupied single-family
Source: IPUMS

Households with Adult Children

Families with adult children may consider housing arrangements in which parents choose to downsize to an ADU or welcome adult children back home to a new ADU. Especially given the high cost of living in the Bay Area, adult children may be more inclined to find more affordable options with family through an ADU offering.

Figure 10 shows significantly higher percentages of Latino homeowner households with adult children, in which more than 1 in 3 adult children live at home with their family. Comparatively, about 14 to 16 percent of white homeowners have adult children at home — less than half the rate of Latino homeowners.

Figure 10: Homeowner Households with Adult Children

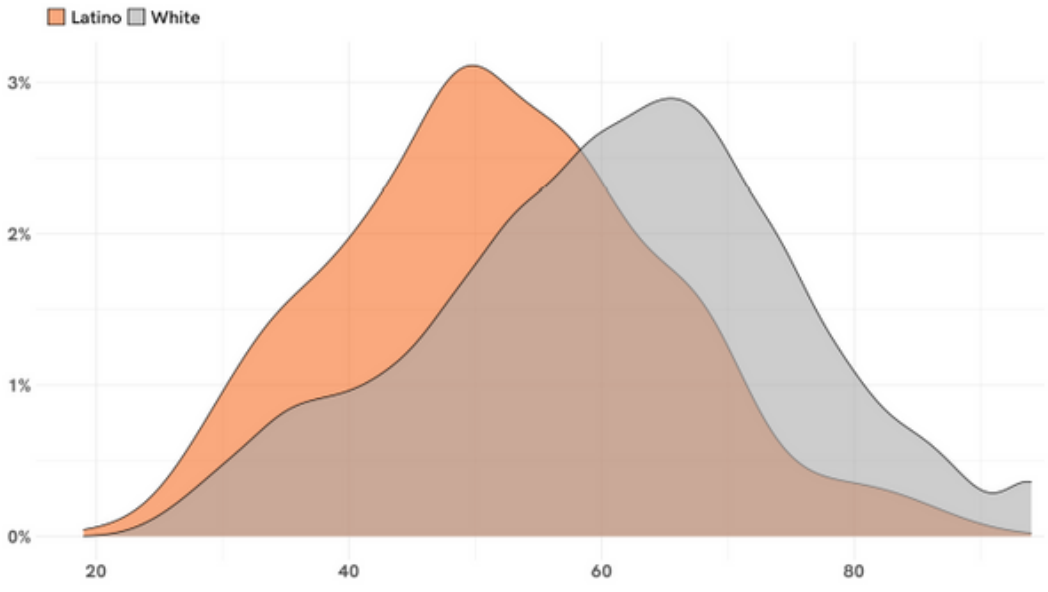


Universe: Owner-occupied single-family with adult children aged 18 and over
Source: IPUMS

Householder Age

Figure 11 demonstrates the divergence in the average householder age between Latino and white homeowners in both counties. Latino homeowners are younger on average than white homeowners, which reinforces the prior figures as Latino households trend towards multigenerational households, including being more likely to have adult children and senior parents at home — motivating factors for ADU construction.

Figure 11: Age of Householder



Note: Owner-occupied single-family homes | Includes both counties
Source: IPUMS

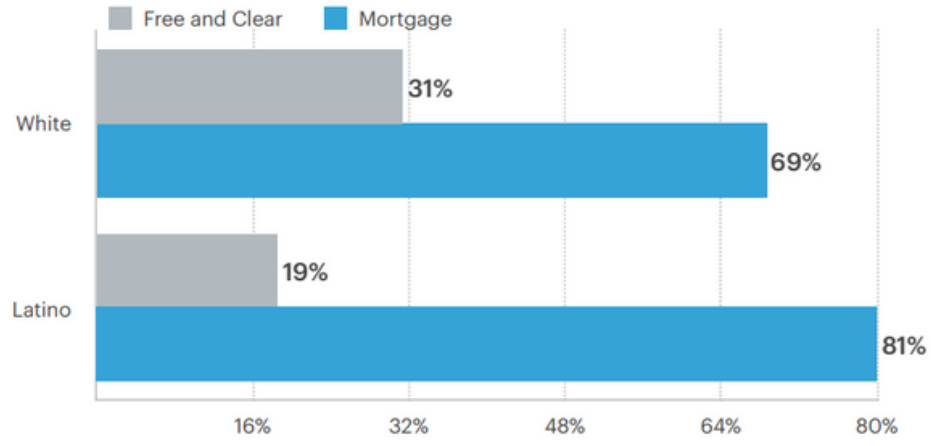
Homeowners and their equity

Homes owned free and clear

Families who own their home free and clear are in a strong position to leverage their existing home equity as an instrument to finance an accessory dwelling unit. In Figures 12 and 13, the data suggests that the majority of homeowners in Sonoma County own their home with a current and active mortgage. Sonoma and Napa County exhibit similar patterns in terms of mortgage status.

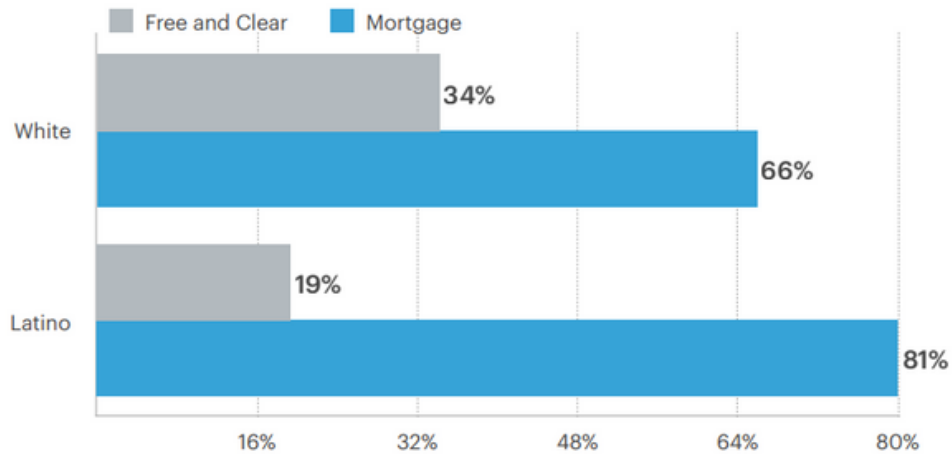
About 1 in 3 white homeowners in both counties own their home free and clear, which is likely a function of white homeowners also being older on average as indicated in Figure 11. By comparison, about 81 percent of Latino homeowners own a home with a mortgage with only about 1 in 5 owning their home free and clear. That finding, too, is largely explained by age with the average Latino homeowner being younger.

Figure 12: Mortgage Status, Sonoma County



Universe: Owner-occupied single-family
Source: IPUMS

Figure 13: Mortgage Status, Napa County



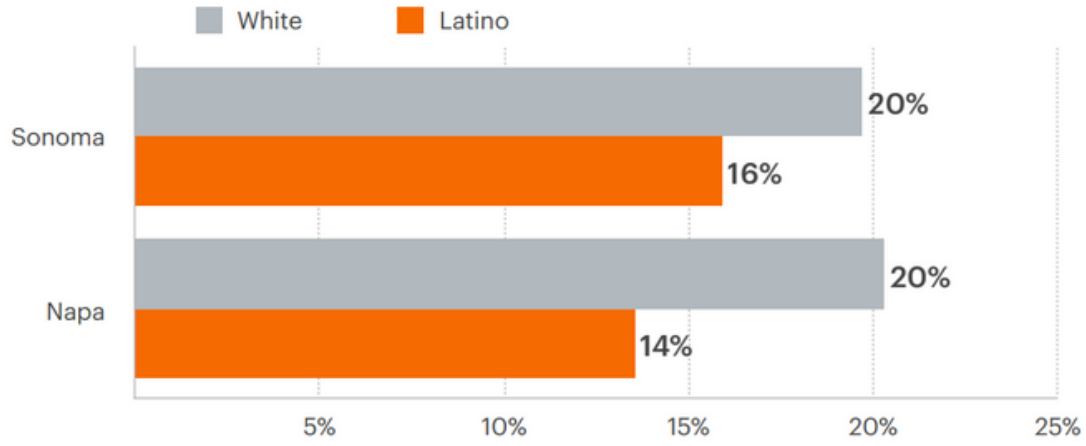
Universe: Owner-occupied single-family
Source: IPUMS

With a second mortgage or equity loan

Homeowners with a second mortgage or equity loan may be in a more challenged financial position to access additional capital to finance an accessory dwelling unit. Figure 14 reveals the comparative rates for owner-occupied housing units with a first mortgage and whether they are encumbered by a second mortgage or home equity loan.

About 1 in 5 white homeowners with a first were also encumbered with a second or equity loan. For Latino homeowners, 1 in 6 in Sonoma and 1 in 7 in Napa County had a second or equity loan along with a first mortgage. This finding suggests that Latino homeowners with a first are less likely than white homeowners to have a second or equity loan - opening up the possibility to access accrued home equity for an ADU.

Figure 14: Second Mortgage Status, Sonoma County



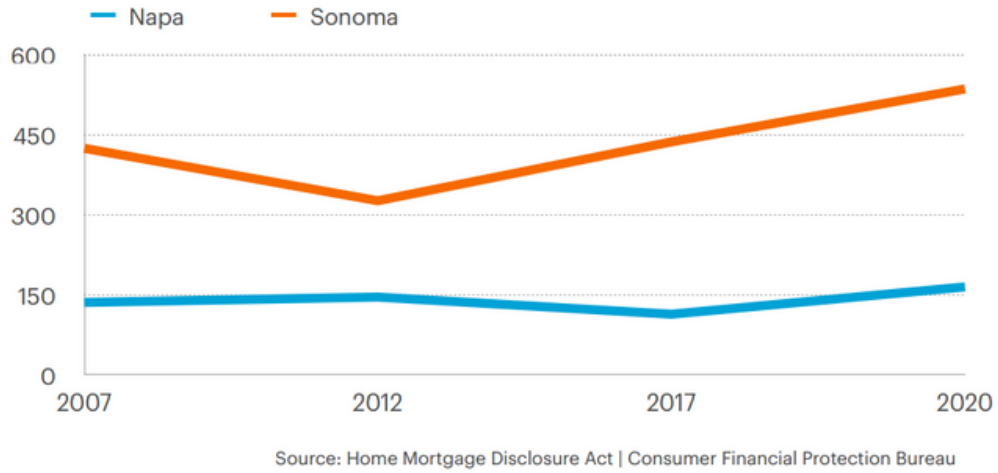
Universe: Owner-occupied single-family
Source: IPUMS

New mortgages and refinancing

New homeownership trends over the last few years may indicate shifts in the demographics of owner-occupied units in the market. Though newly purchased homes will likely mean homeowners are in a less favorable position to have savings or access home equity to build an ADU, the region's strong home prices may upend that commonly held belief as property values continue to steadily rise year over year. In Figure 15, data from the Consumer Financial Protection Bureau's Home Mortgage Disclosure Act finds a steady flow of new Latino homeowners in Napa at a clip of 150 annually. In Sonoma County, a dip after the Great Recession appears to have worn off as home loan purchases picked up to 535 in 2020 - the highest rate yet.

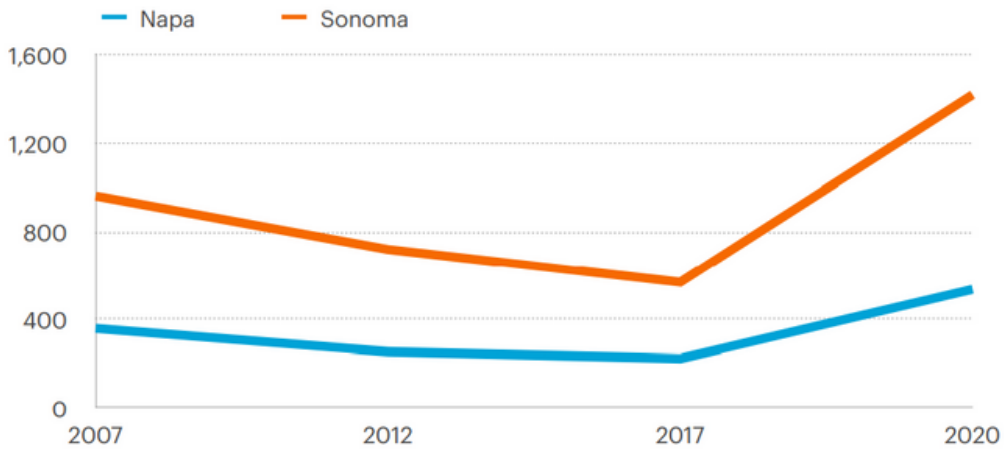
Refinancing can be a powerful tool to help homeowners take advantage of strong market conditions and generous interest rates. As the Joint Center for Housing Studies at Harvard University notes, 2.8 million borrowers with mortgages refinanced their home in the first half of 2020 as interest rates fell, more than triple the rate of the prior year in 2019 (The State of the Nation's Housing 2020). Figure 16 shows a stark increase from 2017 to 2020 with interest rates dipping over a percentage point during that period. The result was a sharp increase in refinances in 2020 compared to 2017 with nearly 2.5 times as many Latino homeowners refinancing their homes in Sonoma County. In Napa County, Latino homeowners also saw a two-fold increase during the same period. As Chapple, Ganetsos, and López found in their statewide survey, more than 2 in 5 homeowners financed their ADU by refinancing their primary residence.

Figure 15: Home Loan Purchases by Latino Applicants



Source: Home Mortgage Disclosure Act | Consumer Financial Protection Bureau

Figure 16: Refinances by Latino Applicants



Source: Home Mortgage Disclosure Act | Consumer Financial Protection Bureau

Insights from Homeowners on Building

Based on the interviews conducted during the research for this report, we provide the following expanded data points that were curated in the Key Findings section at the beginning. The interviews focused on the permitting and building process and assessed interested homeowners' motivations and concerns with original quotes from respondents.

Understanding permitting process

Interviews reflected several themes generally centered around the uncertainty about the overall permitting process. There was an understanding that respondents needed to hire an architect and a general contractor, and to have the city approve the plans for the ADU. Many homeowners expressed anxiety about the overall scale of the project and their uncertainty about the process contributed to their feeling of being intimidated in having to secure permits from the city. They expressed a sense of needing to have all of the key pieces in place before going to the city. The general view from respondents was that they did not see the city as a partner in helping them build the project, but rather as a gatekeeper. In other words, they did not view local jurisdictions as resource centers, but arbiters, which only serves to heighten the stakes in anticipation of seeking approval.

Some have had prior experiences remodeling their homes where a permit was required, and they felt they at least had an entry point to figure out how to secure permits for an ADU. For example, multiple homeowners shared that COVID-19 interrupted conversations that they were having with city planners about building. Yet, after a period of time and restarting the process, some of the contacts with city staff are no longer there and they are unsure about any rule changes and how to resume conversations with the city.

Concerns about building process

For those who have had prior experiences with a local planning department, prior negative experiences even with minor items may influence their willingness to pursue this route which is far more involved given the greater uncertainty and higher risk due to being a larger financial investment. One homeowner shared, "I had tried to make a minor adjustment to my home regarding my fireplace. It took me 3 months for a project that should've taken 3 weeks." This left them with a poor taste in their mouth and little faith about the city's ability to manage a more complicated project, like permitting and building an ADU.

Several respondents cited concerns about their neighbors. They shared concerns about how to talk to neighbors because their neighbors have expressed reservations with them about having any more housing in the neighborhood. A neighbor even retold their experience of a neighbor who pushed back against their proposal to build an ADU with concerns about noise and traffic - leaving them moribund about how to broach the conversation again so as to not alienate their neighbors in their pursuit of an ADU.

All of the interviewees expressed trepidation about the high cost to build housing. One homeowner remarked, “It’s like I'm expected to be a developer with zero experience and it's my first day on the job.” Many worried about delving into a process with so much uncertainty about what process is, not knowing how long the building process might take, and having concerns about project overruns while struggling to save and budget. The experience was described as being “isolating”, but some found mutual support in the process. Two homeowners interviewed had “buddied up” and decided to go it together after they organically created their own support system to build their ADUs, which they described as a form of mutual aid of sorts.

Excitement about the process

When asked about their excitement for building an ADU, there was a sharp divergence between the process and the outcome. Most expressed anxiety and even used words like “horrified” by the process of building an ADU. That “nothing about the process seemed exciting to them”, but rather worried and gave them anxiety. Those who expressed positive feelings about the process, though with strong reservations as well, mentioned their interest in designing a new addition to their homes, to express their creativity. Most focused on the outcome and the impact of having an ADU.

Financing an ADU

Nearly all respondents indicated a financing approach that included some mix of using their savings from cash on hand and obtaining a home equity line of credit. This was based on research they had done and conversations with friends. Some expressed interest in learning more about a cash-out refinance, but all had little to no information about the pros and cons of such a measure.



Sources

Articles

- Karen Chapple, Dori Ganetsos, and Emmanuel Lopez, “Implementing the Backyard Revolution: Perspectives of California’s ADU Owners,” UC Berkeley Center for Community Innovation, April 22, 2021.
- Joint Center for Housing Studies at Harvard University, “The State of our Nation’s Housing 2020”, Harvard University, 2020.
- Snowden L.R., “Explaining mental health treatment disparities: Ethnic and cultural differences in family involvement,” Culture, Medicine and Psychiatry, 2007.
- Oscar Contreras and Joseph Bindex, “Financial Literacy in the United States,” The Milken Institute, 2021.
- Jane Louise Nichols and Erin Adams, “The Flex-Nest: The Accessory Dwelling Unit as Adaptable Housing for the Life Span,” Interiors, 2015.

Data

- Steven Ruggles, Sarah Flood, Sophia Foster, Ronald Goeken, Jose Pacas, Megan Schouweiler and Matthew Sobek. IPUMS USA: Version 11.0 [dataset]. Minneapolis, MN: IPUMS, 2021. https://doi.org/10.18128/D010.V11.0
- U.S. Census Bureau. (2021). 2005 American Community Survey 1-year Public Use Microdata Samples and 2015-2019 American Community Survey 5-year Public Use Microdata Samples.
- Consumer Financial Protection Bureau. (2021). 2007-2017 and 2019 Home Mortgage Disclosure Act.

Appendix D:
North Bay ADU Affordability Survey Data & Analysis

Prepared for the Napa Sonoma ADU Center
by Baird + Driskell Community Planning

April 2021

During the winter of 2020/2021, we completed a survey of ADU owners. This memo captures some key points about affordability specific to the North Bay region. (Note: The North Bay refers to Napa, Sonoma and Marin. Marin is combined in the analysis to increase the sample size. The affordability analysis excludes ADUs not in the residential market – e.g., those used for home offices.
For more information reference Affordability of Accessory Dwelling Units, a report and recommendations prepared by the ABAG Housing Technical Assistance Team with Funding from REAP, available online *at this link*.

- **Many units are made available at no rent** – Statewide, 28% of ADUs are made available at subsidized or no rent for friends or relatives. (25% in the North Bay.)
- **Most ADUs rent for low or moderate prices** – Of those ADUs rented at market prices statewide, 42% of ADUs rented for low or moderate prices. The number is higher in the North Bay (84%). Few units are rented for very low income prices (2% statewide and 7% North Bay). 18% of units were available at above moderate prices. 9% in the North Bay.

Table 4. Affordability of Market Rate Units

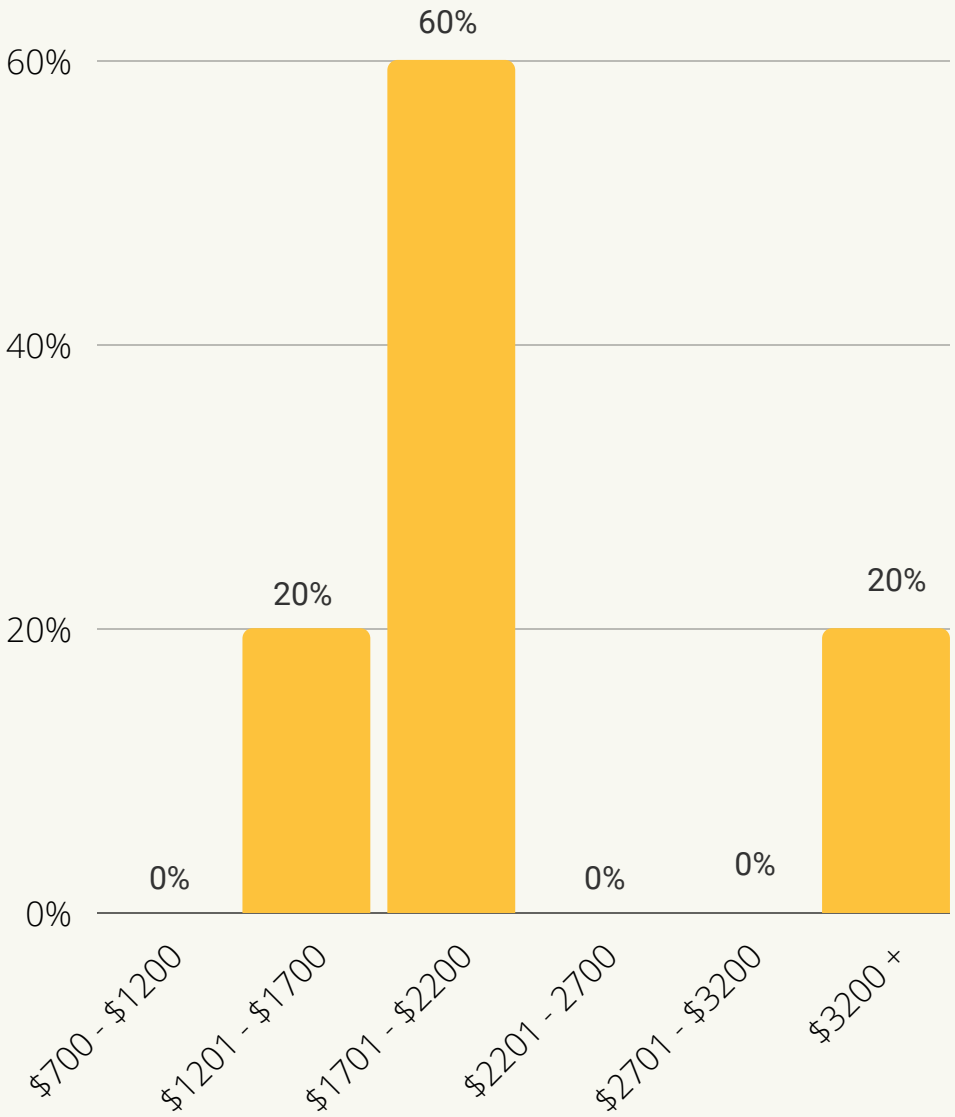
	Very Low	Low	Moderate	Above Moderate
East Bay	0%	15%	70%	15%
Peninsula	66%	31%	48%	15%
North Bay	7%	44%	40%	9%

This chart only shows ADUs rented on the open market. The response rate in San Francisco was too low for meaningful comparison so it is excluded from this analysis.

- **Average rent is moderate** – The average rent in the North Bay was $2072. While the relevant data has not been analyzed, it is likely the rent of Marin County increased this average. Rents in Napa were cheaper, but this may be an artifact of a low sample size.
- **Most rentals are long term** – 93% of units in the North Bay were rented for more than a month.
- **Many seniors live in ADUs** – Approximately one quarter of residents are seniors.
- **Most ADUs are in the rental market** - Approximately 62% of ADUs were being rented or used by family members at the time of the survey. Of those not being rented out, 16% were not rented because they need a renovation to be habitable. This implies an opportunity where grants or loans could get more units on the rental market, potentially at affordable prices.

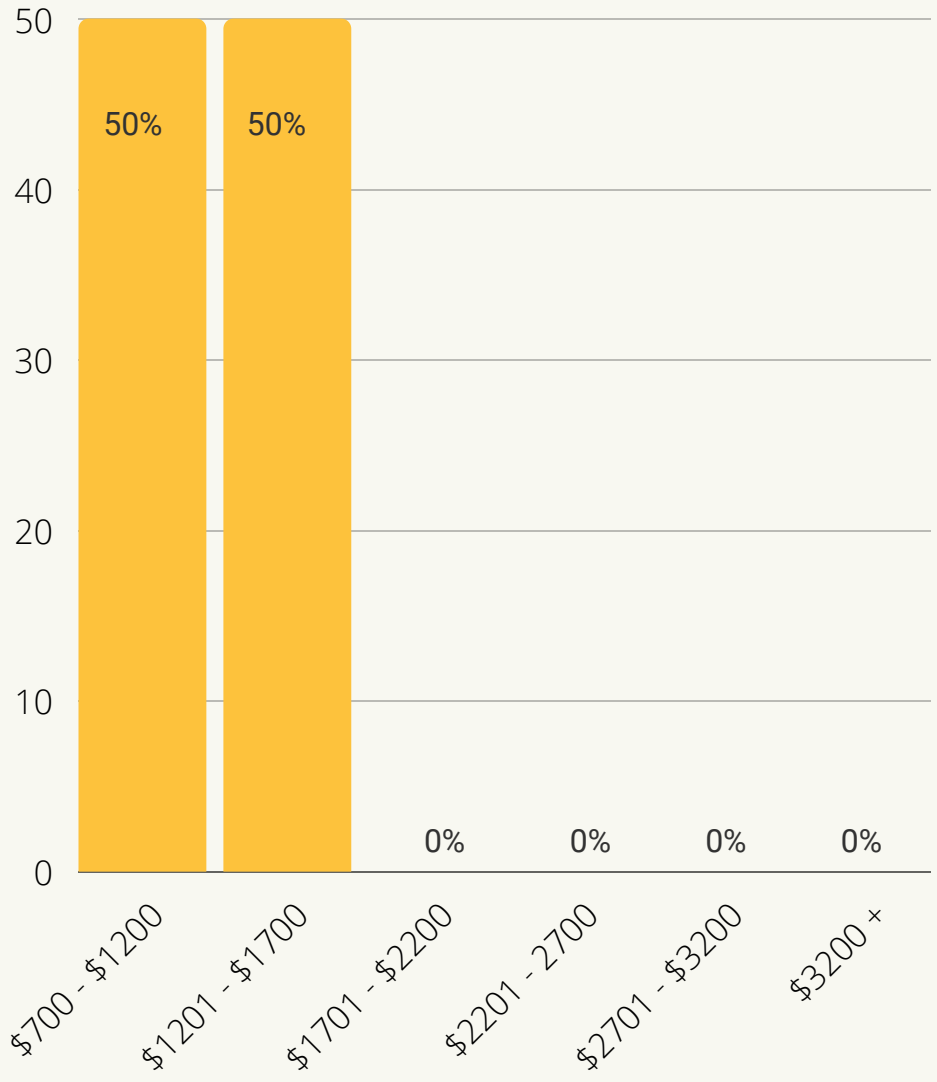
Average Monthly Rent

Average rent Sonoma County (based on 28 responses, 5 with rent data)



Average Monthly Rent

Average rent data in Napa (based on seven responses, two with rental data)



Methodology: Up to three postcards were mailed to all households that built ADUs in the past two years as well as select additional households that built ADUs in previous years. The postcards directed homeowners to an online survey. A Spanish language postcard was mailed to neighborhoods with large numbers of Spanish speakers. Approximately 800 people responded to the survey, half from the Bay Area. Sonoma County had 28 responses and Napa County had nine.

Appendix E:
Sample ADU best practices in California jurisdictions

For more information to support your own jurisdiction in advancing ADU development, check out the information below which is based on the Casita Coalition's ADU 2021 Best Practices Webinar Series.

San Diego

The City of San Diego offers a density bonus program that allows developers to build a bonus ADU if they also provide an affordable ADU. Near transit, owners can add as many density bonus ADUs as will fit on the lot. The ADU has a 15 year deed restriction.

San Diego attributes their success building ADUs to five key strategies:

- **Outreach** – The outreach program not only included homeowners in general, but focused on underrepresented communities, bankers, real estate professionals, and others.
- **Reduced fees** – This saves homeowners between $25,000 and $50,000. They also have clear information about what fees are likely to be.
- **More permissive standards** – Specifically, they allow ADUs up to 1,200, 0 foot setbacks and three stories in height,
- **Clean code** – San Diego staff found the state law too confusing and worked to simplify their rules. They also made sure all staff had the same understanding of the regulations.
- **Better processing** – San Diego has designated ADU staff and office hour where they answer questions or provide real time review.

Napa and Sonoma Counties

The jurisdictions in Napa and Sonoma Counties have been working together for the past three years to promote ADUs via collaboration with the nonprofit Napa Sonoma ADU Center. The Napa Sonoma ADU Center is a nonprofit fiscally sponsored project of Napa Valley Community Foundation with support from Community Foundation Sonoma County as well as the Cities of Napa and Calistoga and the County of Napa. They have created a high-profile shared website, an ADU workbook, adapted an ADU calculator and offer free site assessments to homeowners to help get more ADUs on the ground. Some details regarding the services offered by the Napa Sonoma ADU Center include:

- **ADU Feasibility Consults** - Any homeowner can get a 1:1 consult with an ADU Expert about their ADU project, followed up by an ADU Feasibility Report and the ability to join biweekly ADU Office Hours for help throughout their ADU project.
- **Preapproved designs** - In collaboration with local jurisdictions, the Napa Sonoma ADU Center is also rolling out a comprehensive multijurisdictional preapproved/standard ADU plans program.
- **Affordable ADU program** - The Napa Sonoma ADU Center is also launching an affordable ADU program called ADU Home Match, offering tenant screening, help with leases, security deposit guarantee, and more for homeowners who rent to people at 65% of area median income or below.
- **Webinars, newsletter & informational blog posts** – The Napa Sonoma Sonoma ADU Center partners with local government agencies to hold educational webinars for local homeowners on ADUs with great success in terms of attendance and learning outcomes. The nonprofit also regularly publishes informative newsletters and blog posts for local homeowners regarding ADUs.

San Jose

San Jose was one of the first cities in the Bay Area to focus on promoting ADUs, starting to ease regulations even before state law changed. Their efforts touched on all three P's 1) Public education, 2) Policies and, 3) Processes. Some of their key accomplishments include:

- **More permissive standards** - They allow two story ADUs and zero foot setbacks for the first floor. They also allow JADUs in garages.
- **Interdepartmental meetings** – City staff have regular meetings with planning, fire, public works and others.
- **Checklist and Ombudsperson** - They also developed a much-copied ADU checklist and designated an ADU ombudsperson.

Los Angeles

There are few places that have been as successful at promoting ADUs as Los Angeles. They have over one million square feet of ADUs in the pipeline and ADUs make up almost a quarter of new housing units. All this without significant community pushback. One of the programs that Los Angeles implemented was a Standard Plan (or preapproved design) program. Key details include:

- Started in 2020
- 20 designs by 10 firms, highlighting a variety of different sizes and configurations.
- Review still conducted site-specific factors for the property, including compliance with the Zoning Code and foundation requirements.
- Approvals are often ready in a day, as opposed to more than a month for the typical process.

The initial response to the program has been very positive and the city is planning on allowing more architects to participate soon.

Pasadena

Affordable ADU programs are difficult to manage and Pasadena found a unique angle by tying their affordability program to section 8. This solved several challenges including making it easier to verify renter income. They also chose to avoid deed restrictions and long term requirements. They offer one program for new ADUs and one for unpermitted units:

New ADUs:

- 3 year loan, up to $150,000, 1% simple interest deferred
- Unit must be rented to Section 8 recipient for seven years
- Priority for low income census tracks, homes below median value and long term occupant

Unpermitted ADUs:

- 20 year, $75,000 loan, 1% simple interest, 5+ year deferral
- Homeowner income limited to 80% of area median income
- Homeowner chooses the tenant
- You can see more details on their FAQ page.

East Palo Alto

Like many cities, East Palo Alto was struggling with unpermitted ADUs. They first tried an enforcement approach, but met significant pushback. They then readjusted and began a conversation with the community. With grant funding, they engaged the community in an extended conversation about what could be done. They focused on several aspects:

- **Cooperation between nonprofits –** Their plan allowed several different nonprofits to work together rather than competing.
- **Outreach** – They conducted extensive outreach in churches, community centers and community events.
- **Assistance** – EPA CanDo has funding to meet with homeowners and walk them through the process.

San Francisco

For many years, San Francisco treated ADUs like other developments, meaning lots of process and a thorough, but not fast, review. More recently, Mayor Breed directed the city to "clear the backlog." In response, the city staff implemented a number of changes, including:

- **Assistance for applicants** - The Permit Center has a designated ADU team that will meet with homeowners during ADU specific office hours. The also published a checklist and step by step ADU guide.
- **Concurrent review and unified comments** – After reviewing an application, city staff meet to discuss their comments. They then provide one set of comments to the applicant.

They also created a program to encourage multifamily ADU owners to build more ADUs in exchange for volunteering for rent restrictions. (They don't recommend a similar program for single family homeowners.) Specially, owners are exempt from certain zoning standards and can build more ADUs if they agree to limits on future rent increases.

San Mateo

San Mateo County was one of the first places in the state to embrace ADUs. In 2018, they launched a number of tools for homeowners, including:

- **ADU workbook** – This comprehensive guide walks homeowners through each step in the ADU process from setting goals to design and to construction, to renting the unit.
- **Website** – The San Mateo Second Unit Center website offers information such as jurisdiction standards, as well as spotlights from homeowners.
- **Events** – The county has reached over 1000 people through their in person and online events including a resource fair, where they had 40 ADU design, construction and lending professionals available to talk to homeowners.
- **Fast processing** – By contracting with a third part, the County responds to applications in ten days.

They also have an ADU Amnesty program to offer homeowners a path to legalize units built without permits. Equally importantly, they have partnered with the nonprofit Hello Housing to offer 100 hours of one on one technical assistance to homeowners who agree to rent their units at or below 100% of the Area Median Income for three years.

Oakland

Oakland has taken a thoughtful approach to understanding ADU challenges. Looking at census data and original research, they confirmed the unique issues people of color face when building ADUs. Challenges include:

- Limited access to capital
- Lack of awareness of the government rules
- Fears about tenant protection rules
- Unfamiliarity with the development process

The city addressed these by producing an ADU handbook and a guide for landlords. Equally important, they are partnering with a local community development organization to provide a high level of assistance to guide homeowners through the ADU process. Specifically, the program focuses on these areas:

- **Funding** – There is some predevelopment funding costs;
- **Training** – Homeowners take part in a six-part training series;
- **Financing** – Loans are available from a local credit union;
- **Preapproved designs** – Homeowners can choose one of three designs to cut down on cost and speed up the process; and
- **Construction management** – The nonprofit provides a general contractor to oversee the work.

Sacramento

Sacramento has embraced housing. They are working on a number of projects, large and small, to speed up the approval process and provide more certainty. For ADUs, they have relaxed many of their standards, including:

- Allowing two ADUs, including two detached;
- Tying the height limits to the main structure; and
- Requiring no side or rear setbacks

They are working on a website, brochure and three pre-inspected (permit ready) ADU plans. They have taken to the road, hosting tours, information sessions and even an ADU bootcamp.

Appendix F:
ADUs permitted & built in Napa & Sonoma County jurisdictions

ADUs permitted

Jurisdiction	2014	2015	2016	2017	2018	2019	2020
American Canyon	1	1	0	0	3	1	3
Calistoga	0	0	0	2	5	2	4
Napa City	10	3	3	17	20	33	44
Napa County (Unincopr)	8	7	13	15	15	10	8
St. Helena	5	2	1	6	7	3	11
Yountville	2	1	1	1	3	0	1
Cloverdale	N/A	N/A	N/A	N/A	5	5	2
Cotati	N/A	N/A	N/A	N/A	2	4	3
Healdsburg	1	6	4	12	9	17	16
Petaluma	9	7	17	14	19	30	20
Rohnert Park	0	0	0	5	3	0	4
Santa Rosa	4	6	12	14	68	47	63
Sebastopol	0	0	1	3	12	4	8
Sonoma City (Unincorp)	N/A	N/A	N/A	N/A	7	0	0
Sonoma County (Unincorp)	37	52	52	50	88	62	68
Windsor	1	0	2	5	9	6	3
Napa County Total	**26**	**14**	**18**	**41**	**53**	**49**	**71**
Sonoma County Total	**52**	**71**	**88**	**103**	**222**	**175**	**187**
Total Total	**78**	**85**	**106**	**144**	**275**	**224**	**258**

Notes:

- Building permit issued = Homeowner has paid fees and been given permission to start construction
- Data reporting requirements changed starting in 2018, increasing the reliability and comprehensiveness of the data
- If a permit is listed in multiple years, we just count it in the final year.

ADUs Built

Jurisdiction	2018	2019	2020
American Canyon		2	2
Calistoga	2	2	2
Napa City	16	21	13
Napa County (Unincopr)	2		
St. Helena	3	5	4
Yountville		3	1
Cloverdale	6		2
Cotati	1	5	3
Healdsburg	1		4
Petaluma	5	3	7
Rohnert Park		1	
Santa Rosa	15	37	47
Sebastopol	7	8	4
Sonoma City (Unincorp)	3		
Sonoma County (Unincorp)	44	65	65
Windsor	2		4
Napa County Total	**23**	**33**	**22**
Sonoma County Total	**84**	**119**	**136**
Total Total	**107**	**152**	**158**

Notes:

- ADU built = Certificate of Occupancy or Other Final Form of Inspection issued



Appendix G:
Template ADU Process Map &
Building Permit Submittal Checklist for Jurisdictions

The Napa Sonoma ADU Center developed these sample documents to help support local jurisdictions to provide clear, comprehensive information to local homeowners about local ADU processes. Reach out to the organization for assistance with using these templates to develop information specific to your jurisdiction's local ADU rules and processes.

ADU Process Map

Click on the image to download the file.



The ADU Process

We are here to help you through your ADU building process. For the most accurate and up to date information, please contact your local Planning Department to discuss your project.

1 Think about what you want
Visit Napa Sonoma ADU to look at floorplans, hear from neighbors on what they built and look at photos for inspiration. You can also learn about your local ADU rules, use the Address Look-Up Tool to find out what you are eligible to build and estimate costs or rents using the ADU Calculator.

2 Talk to a Professional
Get a free ADU Feasibility Consult or contact your local planning department to find out in advance about any special issues with your property.

3 Make a Sketch
Make a sketch of your property, including existing home, any other structures and proposed ADU. Use the exercises on Napa Sonoma ADU to complete.

4 Get a Planner's Advice
Now that you have a better idea of what you want to build, bring your sketch in. A planner will advise you on what rules might apply to your proposed ADU and what to consider.

5 Hire Experienced Professionals
Although you can build an ADU as an owner builder, we recommend hiring a licensed architect or designer to design your ADU and a licensed builder to construct it, or a design/build team for the entire process. Whoever you hire will help with the application process. Look at the free ADU Workbook for more information on this step and the entire process & see the Vendor Registry.

6 Prepare Application Package
Your professional team will be instrumental in preparing the Permit Application. We've included a general checklist in the Appendix to see what will likely be included. We also recommend asking for a pre-application meeting with your planning & building dept before formally submitting plans.

7 Submit Application Package and Pay Check your local ADU rules & processes to learn how your city or county fees are assessed, how and where to submit/pay, and any documents that need to be submitted like other agency permits.

8 Get Permit Issued
Jurisdictions have up to 60 days to review your **complete** application. They may have comments for you and your team to respond to. Once your application is approved and fees are paid, you can collect your building permit.

9 Construct ADU
Check-in regularly with your builders or design/build team and make decisions about materials as needed. Timelines for construction vary, but 12-18 months is fairly common.

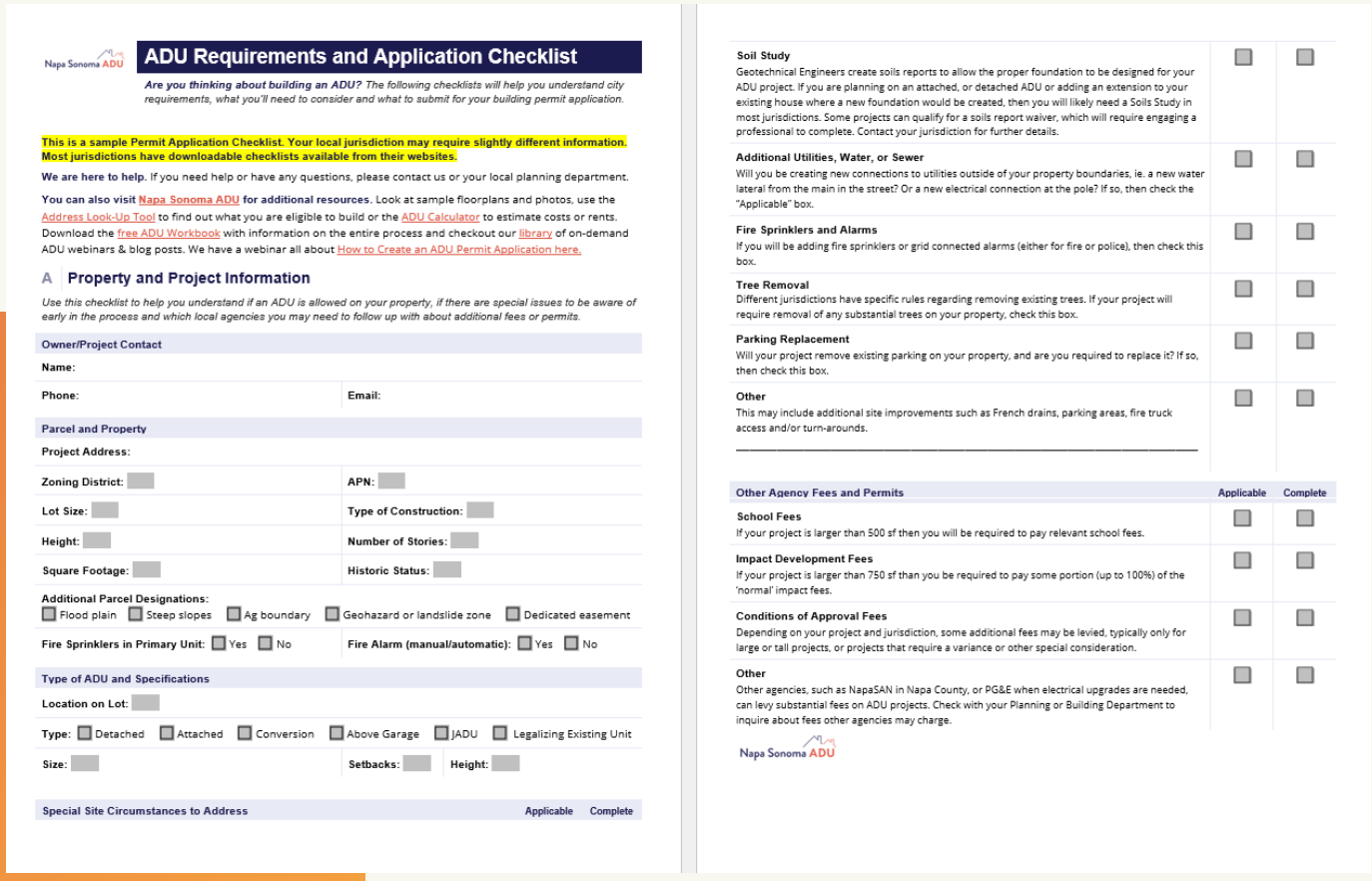
10 Schedule and Pass Inspection
Your builder will schedule a final inspection as construction concludes. Once your ADU has passed, your ADU is ready for move-in!

MOVE-IN!

Napa Sonoma ADU
www.NapaSonomaADU.org

ADU Building Permit Checklist

Click on the image to download the checklist



Napa Sonoma ADU

ADU Requirements and Application Checklist

Are you thinking about building an ADU? *The following checklists will help you understand city requirements, what you'll need to consider and what to submit for your building permit application.*

This is a sample Permit Application Checklist. Your local jurisdiction may require slightly different information. Most jurisdictions have downloadable checklists available from their websites.

We are here to help. If you need help or have any questions, please contact us or your local planning department.

You can also visit Napa Sonoma ADU for additional resources. Look at sample floorplans and photos, use the Address Look-Up Tool to find out what you are eligible to build or the ADU Calculator to estimate costs or rents. Download the free ADU Workbook with information on the entire process and checkout our library of on-demand ADU webinars & blog posts. We have a webinar all about How to Create an ADU Permit Application here.

A Property and Project Information

Use this checklist to help you understand if an ADU is allowed on your property, if there are special issues to be aware of early in the process and which local agencies you may need to follow up with about additional fees or permits.

Owner/Project Contact

Name:

Phone: | **Email:**

Parcel and Property

Project Address:

Zoning District: | **APN:**

Lot Size: | **Type of Construction:**

Height: | **Number of Stories:**

Square Footage: | **Historic Status:**

Additional Parcel Designations:
☐ Flood plain ☐ Steep slopes ☐ Ag boundary ☐ Geohazard or landslide zone ☐ Dedicated easement

Fire Sprinklers in Primary Unit: ☐ Yes ☐ No | **Fire Alarm (manual/automatic):** ☐ Yes ☐ No

Type of ADU and Specifications

Location on Lot:

Type: ☐ Detached ☐ Attached ☐ Conversion ☐ Above Garage ☐ JADU ☐ Legalizing Existing Unit

Size: | **Setbacks:** | **Height:**

Special Site Circumstances to Address	Applicable	Complete
Soil Study Geotechnical Engineers create soils reports to allow the proper foundation to be designed for your ADU project. If you are planning on an attached, or detached ADU or adding an extension to your existing house where a new foundation would be created, then you will likely need a Soils Study in most jurisdictions. Some projects can qualify for a soils report waiver, which will require engaging a professional to complete. Contact your jurisdiction for further details.	☐	☐
Additional Utilities, Water, or Sewer Will you be creating new connections to utilities outside of your property boundaries, ie. a new water lateral from the main in the street? Or a new electrical connection at the pole? If so, then check the "Applicable" box.	☐	☐
Fire Sprinklers and Alarms If you will be adding fire sprinklers or grid connected alarms (either for fire or police), then check this box.	☐	☐
Tree Removal Different jurisdictions have specific rules regarding removing existing trees. If your project will require removal of any substantial trees on your property, check this box.	☐	☐
Parking Replacement Will your project remove existing parking on your property, and are you required to replace it? If so, then check this box.	☐	☐
Other This may include additional site improvements such as French drains, parking areas, fire truck access and/or turn-arounds. _____	☐	☐

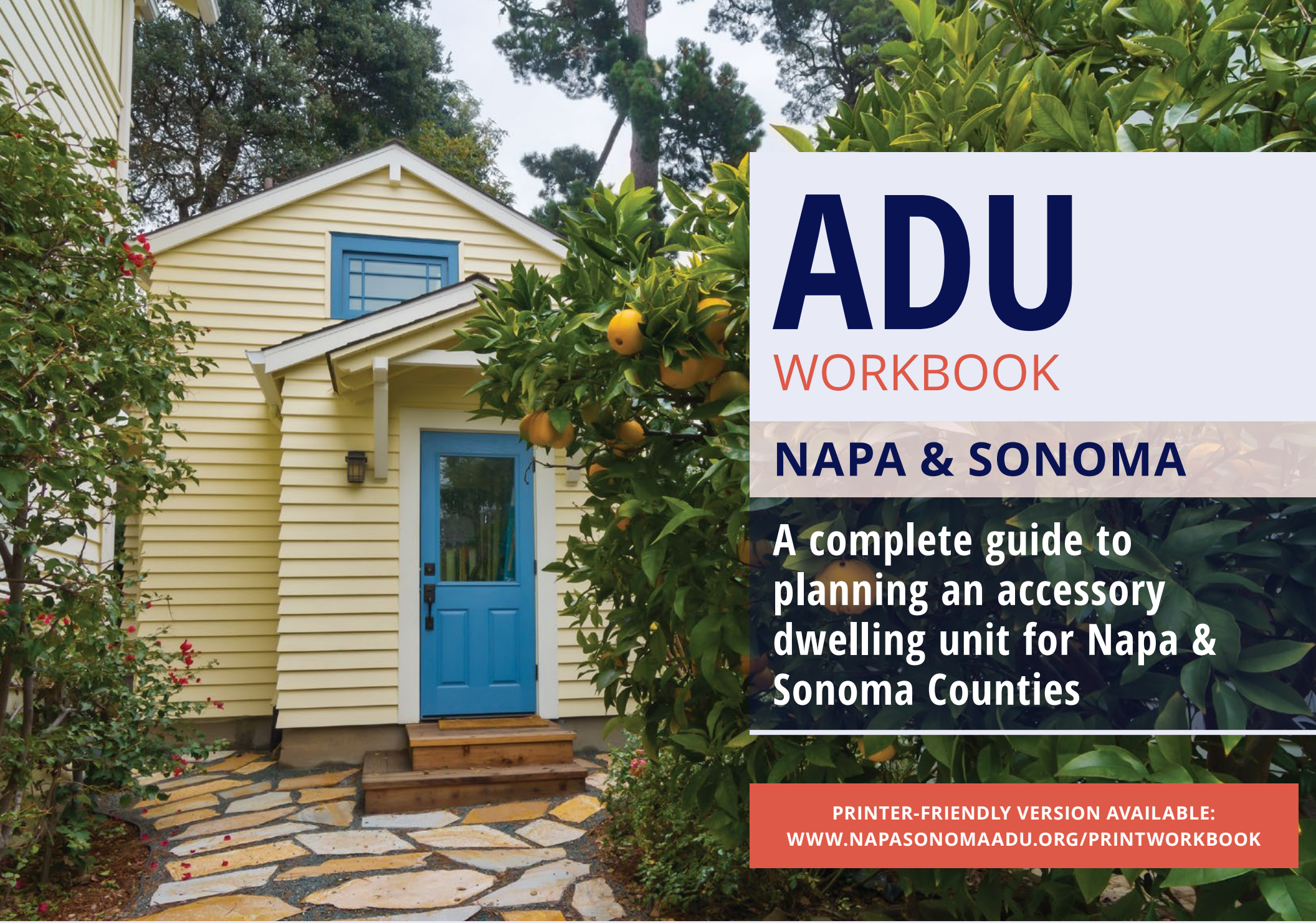
Other Agency Fees and Permits	Applicable	Complete
School Fees If your project is larger than 500 sf then you will be required to pay relevant school fees.	☐	☐
Impact Development Fees If your project is larger than 750 sf than you be required to pay some portion (up to 100%) of the 'normal' impact fees.	☐	☐
Conditions of Approval Fees Depending on your project and jurisdiction, some additional fees may be levied, typically only for large or tall projects, or projects that require a variance or other special consideration.	☐	☐
Other Other agencies, such as NapaSAN in Napa County, or PG&E when electrical upgrades are needed, can levy substantial fees on ADU projects. Check with your Planning or Building Department to inquire about fees other agencies may charge.	☐	☐

Napa Sonoma ADU

B Building Permit Application Checklist

This checklist will help you know what to submit for your building application. Homeowners are encouraged to hire a licensed architect, designer or builder to draw up plans and prepare the application. For more information on hiring a team, download the free Napa Sonoma ADU Workbook.

What to Submit	Complete
Multiple Sets of Plans (typically 6 sets) Plan sets need to be certain minimum size (often 24"x36") and include such things as a north arrow, building and setback dimensions, scale of plans, size of project, owner name and contact info, designer's name and contact info, etc.	☐
Site Plan	☐
Floor Plan	☐
Building and Exterior Elevations	☐
Foundation Plan	☐
Plumbing, Electrical, and Mechanical Plans	☐
Energy Requirements	☐
Tree Replacement Plan (if required)	☐
Calculations (if required) ☐ Title 24 State Energy Compliance Documents ☐ Structural Calculations ☐ Geotechnical or Soils Reports	☐
Other Agency Permits and Fees Paid (if required)	☐



ADU
WORKBOOK

NAPA & SONOMA

A complete guide to planning an accessory dwelling unit for Napa & Sonoma Counties

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WWW.NAPASONOMAADU.ORG/PRINTWORKBOOK



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Cover photo: New Avenue Homes
Photo, left: Timbre Architecture

Napa Sonoma ADU

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Graphic: Smallworks





Introduction

From providing housing for relatives to helping pay the mortgage, many Napa and Sonoma County homeowners are interested in adding Accessory Dwelling Units (ADUs) to their homes. ADUs, also called granny flats or converted garages, can help meet the changing needs of Napa and Sonoma County households, while helping to address broader housing needs and challenges in our counties.

Although the process to build an ADU takes an investment in time and resources, many ADU owners in Napa and Sonoma Counties have expressed feeling a sense of empowerment and accomplishment after achieving their goal of building their "little dream house."

An ADU, once completed, provides a family with the flexibility of "aging in place." Whether it provides a close but separate home for immediate family, a personal space for extended family or friends, a private home for parents or grandparents, downsizing, a return to home for grown children, or rental income from tenants, an ADU can suit and meet the needs of a variety of family situations.

This workbook was created as a resource to help residents of Napa and Sonoma Counties build an ADU, and the process included focus groups and interviews with local homeowners. This guide provides a detailed, step-by-step approach to the entire project—from getting started to becoming a landlord—and assists homeowners in the process of building an ADU. The workbook was designed to provide useful information and reduce the uncertainty in what can feel like a complicated process.

Sections include:

- Getting Started
- Budgeting and Finance
- Design
- Permitting
- Construction
- Move-In (including resources on how to rent successfully)

More information is available online at the companion website for this workbook: www.NapaSonomaADU.org. The site includes stories from homeowners, examples of ADUs, a calculator to estimate costs, and summaries of ADU standards for each city in Napa and Sonoma Counties.

Accuracy and Changing Laws

ADU laws are changing frequently, including several new state laws that went into effect in January 2020. Some information in this book may change after its 2020 printing. All information should be verified with your city. You can also check www.NapaSonomaADU.org for updated information.

Photo: NODE

How to Use This Workbook

Every homeowner who wants to develop an ADU will have different needs and a different approach to the project. This workbook is designed to assist a range of homeowners, but this means different people will use the workbook differently. Some will read the workbook from cover to cover, while others will use it as a reference to learn about specific topics. Generally, homeowners fall into one of the following three groups: Outsourcer, Project Manager, or Do-It-Yourselfer.

We recommend identifying which group fits you best, then following the recommendations listed for that group.



Outsourcer

Most homeowners fall in this group. They plan to hire professionals to manage the project and will provide their professionals with top-level direction, review, and approval. This group is for everyone without prior design and construction experience or for anyone who does not have the time or inclination to take on a major project. This group will have the lowest time and energy commitment but the most expensive professional fees. Construction costs will not necessarily be the highest, because professionals can help save time and money in effective project management and can also recommend low-cost delivery methods.

How to use this workbook

- Read this entire introduction.
- Determine if you can build an ADU by reading Section One: Getting Started (page 13).
- Figure out how to finance your ADU in Section Two: Budgeting & Finance (page 33).
- Decide what kind of design professional you want to hire in Section Three: Design (page 43).
- Figure out what kind of builder you want to work with in Section Five: Construction (page 77).
- Learn how to successfully rent your unit in Section Six: Move-In (page 93).



Project Manager

Homeowners who have the time, interest, and experience to handle parts of the project themselves and hire others to do the rest fall into this category. This approach is recommended only for those who have previous design and/or construction management experience. The time and energy commitment will vary depending on how much of the process the homeowner takes on. There is potential for savings on professional fees, but project costs may be higher depending on the homeowner's ability to effectively and efficiently manage the project, how well the team works together, and how much the homeowner takes on.

How to use this workbook

We recommend that you review the entire workbook, skipping any sections about work you plan to outsource or in which you already have expertise.



Do-It-Yourselfer

Homeowners with significant prior experience (e.g., an architect or a construction manager) may choose to undertake the project themselves, hiring people for specific tasks as needed. This group will have the highest time and energy commitment and the lowest professional fees. However, costs may be higher due to lost potential earnings and/or higher costs resulting from errors and delays.

How to use this workbook

Use this workbook as needed to learn the specifics of ADU development and to brush up on any particular needs.

GIVE US FEEDBACK **www.NapaSonomaADU.org/workbook-feedback**

ADU Types

ADUs come in many shapes and sizes, but are always a self-contained home that is smaller than the main house and legally part of the same property. ADUs always contain a kitchen, bathroom, and place to sleep. ADUs typically range from 220-square-foot studios to over 800-square-foot homes with multiple bedrooms. There are many different types of ADUs, but they generally fall into one of the following categories: interior conversions and garage apartments are always made by converting existing space; detached, attached, and above garage ADUs can be either new construction or converted space.



Detached: Freestanding structure, such as a backyard cottage



Attached: Shares at least one wall with the primary home



Interior conversion: Built from existing converted space (e.g., an attic or a basement)



Garage apartment: Converted former garage space



Above garage: Unit built above garage

Other Options: JADUs and Home Sharing

There are other ways to create a second living area at a much lower cost than building an ADU. For some homeowners, a solution that requires little to no construction is a better fit.

Junior Accessory Dwelling Units (JADUs)

Junior accessory dwelling units (JADUs) are very small dwelling units constructed from part of a single-family residence. They can be up to 500 square feet in size and must include an efficiency kitchen (sink, stove, fridge, and counter). Some JADUs have their own bathroom, while others share with the main house. Homeowners can now have both a JADU and a regular ADU. JADUs are a lower-cost way to add an ADU because the construction costs are much lower.

Home Sharing

Home sharing is a great option for homeowners who have a spare bedroom they want to rent out but do not want to take on a construction project. Home sharing can be a mutually beneficial arrangement that can help save money (rent and sharing of utility costs), reduce financial stress, increase independence and security, and provide mutual assistance. Some homeowners provide reduced rent in exchange for household chores. Two local organizations to contact regarding home sharing are Napa Valley Community Housing and SHARE Sonoma County.

NVCH
NAPA VALLEY COMMUNITY HOUSING

SHARE
SONOMA COUNTY



Photo: San Mateo County Second Unit Center



"My ADU is an immediate home for grandma, future rental income if need be, future home for my returning children, and future downsized home for me if needed."

– ADU owner, Sonoma County

Photo: San Mateo County Second Unit Center

Benefits for Owners and Community

ADUs not only benefit homeowners, but help the community as well. Building ADUs helps to address housing challenges in Napa and Sonoma Counties, and ADUs often provide homes for school teachers, firefighters, and other community members who otherwise may have to commute long distances from outside Napa and Sonoma Counties to find a home they can afford. With many people still displaced from the fires, building and renting an ADU is a community service.

For homeowners there are lots of reasons to build ADUs; the two most common are rental income or to provide safe housing for relatives. ADUs are relatively affordable to build because they do not require purchasing land. As a homeowner's needs change over time, ADUs can allow flexibility for nannies, renters, kids returning from college, caretakers, and more. Here are some of the reasons to build an ADU:

Rental income Renting out an ADU can provide a steady source of income to help pay a mortgage, supplement social security, save for a rainy day, or just add flexibility to the household budget.

Housing friends and relatives ADUs are a great way for adult children, aging relatives, or people with special needs to stay together yet also maintain separate lives and privacy.

Aging in place An ADU can be a lifelong home with easily accessible entries, showers, appliances, fixtures, and many more comforts built for aging adults. Or it can house an in-home caregiver.

Downsizing Some homeowners move into their ADU themselves, while other family or renters live in the main house.

Community benefits ADUs can help address housing challenges in Napa and Sonoma Counties by adding homes that are generally more affordable, which helps provide workforce housing and preserves diversity and community character.

Environmental benefits The most effective way to reduce the environmental footprint of a home is small-scale living. Further, ADUs often reduce commute distances by providing local workers with an affordable place to live near where they work.

ADU Process

Throughout this workbook, whenever you see "your city" or "the city," this also refers to unincorporated areas of the county. If you live outside city lines, you will follow the county's standards.

The following is a general overview of the steps you can expect to undertake as you develop your ADU. Many homeowners find that their project does not follow a linear path, but rather involves a learning and revision process.



Getting started To begin, you'll need to figure out what you want, what you are allowed to build, and what your working budget should be. You will identify your goals, learn about the standards and requirements in your city, and estimate costs. You should also discuss your project and your property with city staff to understand regulations and requirements that will apply and to avoid surprises later in the process.



Your project team Often people hire an architect or designer to design an ADU, and then a builder to provide additional cost information and to ultimately construct the unit. Some homeowners hire a design/build team that handles the entire project, including both the design and the construction, while others work with a modular home company. Selecting your team involves looking at their past work of a similar scale and checking references. It can also be helpful if they have worked in your community and know the local permitting process.



Initial design Once you have your team in place, you will start to design your ADU. You will consider size, use, layout, specific project needs (storage, laundry room, etc.), architectural style, and privacy.



Meet with the city Once you have a preliminary design, it's a good idea for you and your designer to have a pre-application meeting with the local planning (and possibly building) staff. At that meeting, you can ask questions and address any critical issues prior to submitting your permit application. You will also review all requirements, fees, and other considerations specific to your property and project, and any unique requirements not previously considered.



Plan refinement Based on your meeting with city staff, you should have a checklist of submittal requirements plus information on fees. With the help of your project team, you will work through any required modifications of the initial ADU plans and prepare the permit application.

Application To apply for permits, you and your project team will need to complete the forms required by your jurisdiction and provide detailed drawings and other documentation. There are two main types of approval: planning and building. Planning (which includes zoning) regulates how big the unit can be, where on the property it can be located, the maximum height, etc. Building approvals make sure the proposed design is safe and meets all building code requirements. The procedure for submitting plans varies by jurisdiction; some places require one application while others first require a planning application and then a building application. It is very, very rare that the city will hold a hearing before approving your ADU.

Review(s) The city will provide comments on your application, and you will need to address them and resubmit for approval. They have up to 60 days but often act more quickly. You and your project team will work through the city's comments and adjust your project to meet the standards and regulations for your property. Depending on the completeness of the submittal, most projects require one to three rounds of revisions working with city staff. Most likely, this review will happen at a staff level (no hearings).

Photo: San Mateo County Second Unit Center



Permits Once your application is approved and all fees are paid, you will be issued permits to start construction. The number and types of permits needed for an ADU varies by community, but all will require a building permit and, as needed, a "will serve" letter from local service agencies to prove you have the right to connect to water and sewer services. Additional permits may also be needed, such as a grading permit if you are doing a lot of excavation, a public works permit if you are impacting street access, and a tree removal permit if you plan to remove trees.

Construction Now that you have your building permits, you can start construction of your ADU. The builder you hire will lead this step. Communicate frequently with your builder and verify progress before making payments. During construction, your ADU will be inspected multiple times to ensure it is being built according to the permitted plans. When all the work is complete, a building inspector will conduct a final inspection. Upon approval, you will receive a Certificate of Occupancy and possibly a registration letter for your new ADU.

Move-in Construction is complete, and now it's time for someone to move in. This may be you, a friend, a family member, or a renter. If it is a tenant, there are plenty of resources to help you if you are a new landlord, including organizations that can match you with a renter and help you manage your unit. You may want to consider pricing the unit so a community member can afford to move in.

Project Timing

FAQ

How long does it take?

Building an ADU is not only a financial investment, but an investment of time as well. Typically it takes homeowners one to three months to get started and assemble their team. It then takes the project team another one to six months to develop plans, meet with the city, and submit the application. Depending on how many rounds of review are required and how quickly a homeowner and their project team can respond to comments, make changes, and resubmit plans, it will likely take one to six months to get permits. Construction usually takes six to twelve months. In total, most projects take one to two years to complete.

Photo: Abodu





SECTION ONE

Getting Started

This section will help you get started. By the end of this chapter, you will:

- Clarify your goals
- Learn if you can build an ADU on your property
- Understand the basic rules and regulations for your city

If you have not done so already, download the ADU standards for your city at www.NapaSonomaADU.org.

Photo: Josh To, https://soup.is/

Goals and Concerns

Before you begin, it is important to know why you are building an ADU. It's helpful to think about both your short-term needs and your long-term goals. One of the benefits of an ADU is that it can adapt to your living situation as it changes over time. At first, it might be rented for income, then it might turn into a children's playroom, and eventually it might house aging parents or yourself.

It is also important to think about your concerns. Ways to address these potential challenges are explored in this workbook. It is good to list concerns early in the process to make sure they are addressed sufficiently.

What are some of your overall goals for building an ADU?

Goals

SHORT-TERM	LONG-TERM	
☐	☐	Rental income
☐	☐	Housing for a family member
☐	☐	Helping out the community (e.g., housing a teacher)
☐	☐	Housing for someone with special needs
☐	☐	Planning for retirement
☐	☐	Increased resale value
☐	☐	Downsizing/moving into the ADU
☐	☐	Housing domestic help (e.g., an au pair)
☐	☐	Help with chores or to watch over things when you are away
☐	☐	Housing an in-home caregiver

Concerns

SHORT-TERM	LONG-TERM	
☐	☐	Cost
☐	☐	Difficulty of approval and/or construction management
☐	☐	Privacy
☐	☐	Site constraints
☐	☐	Challenges of renting and managing the ADU
☐	☐	Conflict with neighbors
☐	☐	Scrutiny from planning & permitting department

ADU Vision

There will likely be challenges along the way. To stay motivated, some people find it helpful to write down what building their ADU will allow them to do, such as "take the kids to Disneyland every year," or "make sure my mom has a safe place to live." If you think it would be helpful, use this space to write a sentence or two to express your goals. Feel free to cut it out and keep it somewhere you will see it.

"As a kid, I played Monopoly, and it was always better to have two houses rather than one. The land cost is already built in; I might as well capitalize on it."

– ADU owner, Sonoma County

My ADU will allow me to:



Can I Build an ADU?

FAQ

Am I allowed to build an ADU?

New ADUs In almost all cases, the answer is yes! All single-family property owners can build an ADU and a junior ADU on their property. Duplex and even multi-family property owners in California are also allowed to build ADUs. If residential buildings are allowed, ADUs are almost always allowed as well. A quick summary is that everyone is allowed to build an ADU up to 800 square feet, and many homeowners will be allowed to build larger ADUs if they meet local city rules. Rules are different in each city but are often based on the size of the main house and the yard.

Converting existing space Generally, any homeowner can convert a legally built structure such as a garage, barn, or art studio to an ADU.

We recommend contacting your city at the beginning of this process to get some basic information (see page 18), then scheduling a meeting once you've done some basic work. Your designer can help with this. This information and the exercises in this section will help you to identify if you are likely to be allowed to build an ADU on your property. However, you will need to meet with your local planning staff to confirm your conclusions and review any other standards or regulations that may apply.

A word of advice Even if an ADU is permitted on a site in theory, there may be other limitations based on what has already been built. For example, many cities limit the area of your lot that you can build on. Many cities require a certain amount of space between the main house and freestanding ADUs for fire prevention. The good news is that many of these don't apply to ADUs smaller than 800 square feet or to conversions of interior space. Also look at other options, such as home sharing.

Photo: www.buildinganADU.com

New Rights Under State Law

New laws make it easier than ever to build an ADU. *These state rules take priority over local rules.*

Building a New ADU

New state laws have made it easier than ever for homeowners to build an ADU. In most cases, parking requirements have been reduced or waived entirely, and homeowners are allowed to convert existing buildings to ADUs. ADUs are allowed in all residential zones with limited exceptions for public safety, traffic, and water. Home Owners Associations cannot ban ADUs. Most recently, state law has created an opportunity for homeowners to bring ADUs built without permits into compliance, including allowing building officials to apply building standards that were in place during the time the ADUs were constructed and a five-year amnesty period.

Converting Existing Space into an ADU

State law allows homeowners the right to convert many types of existing space into ADUs. The state law covers garages, other accessory buildings (like art studios), or even part of the main house, including attics and basements. To qualify, your property must meet the following criteria:

- The house must be located in a single-family zone.
- The house must have been built legally initially.
- The ADU must have a door that provides direct access to the outside. (This door can be added during construction if it is not there in the existing building.)
- The existing house must be far enough away from the property line to not be a fire hazard. Discuss specifics with your city.

Fees

Cities cannot charge impact fees for ADUs under 750 square feet, and must charge reduced fees for larger ones. (They still can charge inspection fees, but these are usually less.) In addition, water or sewer providers are not allowed to charge a connection fee when converting existing space into an ADU.

Owner Occupancy

In the past, some cities had rules that required owners to live on a property if there was an ADU. These rules have been banned for any ADUs built between 2020 and 2025; however, this requirement still applies to JADUs.



Photo: www.buildinganADU.com



Photo: Adam Long

It may feel scary to contact the city, but remember: city staff are there to help you. The city is not going to inspect your property or look for code violations if you inquire about building an ADU.

Gathering Information

One of the first steps when building an ADU is to gather important information about your property. It's easiest and most accurate to collect this information by contacting your city. City contact information is on the ADU standards sheet for your specific city (which can be found at www.NapaSonomaADU.org). Before you contact the city, you should first read through this section to familiarize yourself with the concepts. Alternatively, you can gather the information yourself as described on the following pages and on the ADU standards sheet.

Property Information Summary

My APN

Minimum lot size for an ADU

Maximum permitted FAR

Floor area ratio

My lot size

My zone's maximum permitted lot coverage

Other information

Basic Information

It will be helpful to know the assessor's parcel number (APN) of your property. Every site or lot in California is assigned a unique APN, which is like a social security number but for your property. The city can probably tell you the number, and that is often the easiest way. You can also find your APN on your property deed or tax bill, or you can look it up using your address on the county assessor's website, or do a web search for Napa or Sonoma County APN. Make sure to select "Number, Street, City" to search by address.

In some places, the Napa County Assessor calls the APN the Assessor ID Number. When using this system, the APN appears before the hyphen. Some addresses have maps linked to them—if they do, you should download and print out the map.

Real estate websites like Zillow® or Trulia® often list APN numbers as well, sometimes calling them parcel numbers. While on the assessor's website, you can also collect information like the lot size and the building and garage size (square footage).

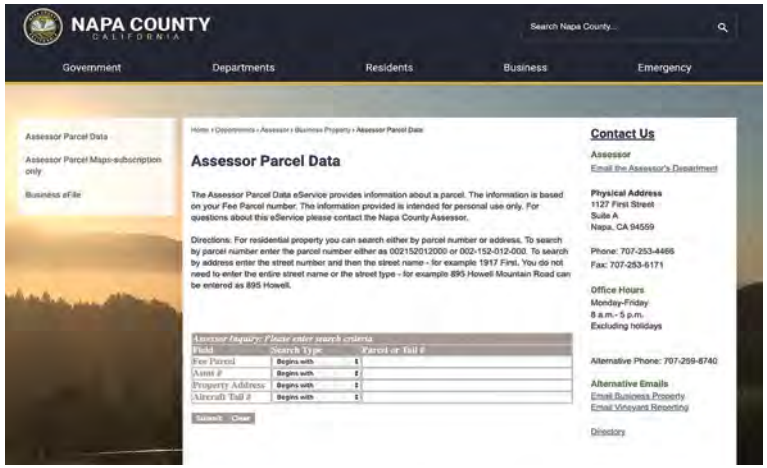
Napa County Assessor
www.countyofnapa.org/150/Assessor-Parcel-Data

Sonoma County Assessor
www.sonomacounty.ca.gov/CRA/Assessor

Click on Search Parcel Info in the menu on the left. You will find one link for maps and another for general information.

Parcel Map Search

The website to look up your APN number will look like the picture below.



Lot Size

If using unofficial records like real estate websites, be sure to confirm the information before getting too far in the process.

The next step is to find out your lot size. You will need the total square footage initially, but later you will draw a site plan that has all the measurements. There are several options to find this information:

County assessor website's maps One good option is to use the county assessor's website, listed in the *Zoning* section. Generally, the assessor's website estimates the size of your lot. After finding your property, it is also possible there will be a map that you can download by clicking on your property address.

City records Some cities list the lot size and have maps on their website where you can look up the zoning. You can also ask the city when you contact them.

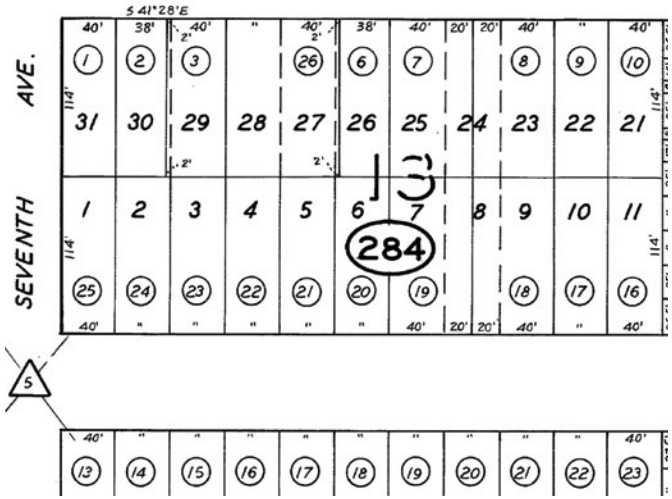
Property survey or property deed Your property survey or deed may include your lot size.

Real estate websites These websites often list lot size, but you will need to verify accuracy.

Measure it Assuming your lot is rectangular, lot size is the width times the depth. For example, a lot that is 40 feet wide by 60 feet deep is 2,400 square feet. This should be used as a rough estimate and will need to be verified.

County Assessor Maps

The map you download from the county assessor's website will look similar to the one to the right. You can use the map to determine your lot size. For example, lot 17 is 40 feet by 114 feet, or 4,560 square feet.



What Exactly Can I Build?

The following pages will help familiarize you with some common zoning terms and concepts. After reading this and gathering some basic information on your property, you will be ready to meet with the city. State law says all homeowners in California are allowed to build an 800-square-foot freestanding ADU. Some cities allow you to build more, but cities cannot be more restrictive.

Two key concepts that many cities use to regulate the size and intensity of development are floor area ratio (FAR) and lot coverage. Both of these regulations compare what is already built on your particular lot to a standard in the zoning code for what is allowed to be built. Sometimes different parts of the zoning code will indicate different standards. For example, FAR may allow a 1,200-square-foot ADU while other standards limit the size of an ADU to 850 square feet. You must meet all the rules, with the more restrictive rules always taking precedence.

When it is time to submit an application, some cities will rely on official records to determine your existing FAR, lot coverage, or other existing conditions, while some will ask you to provide the calculations.

Floor area ratio (FAR) limits how many square feet of building are allowed on a lot by establishing maximum FAR or using other formulas. FAR is a ratio of the number of square feet of built space (the floor area) compared to the size of the lot. For example, a 2,000-square-foot home on a 4,000-square-foot lot would have a FAR of 0.5 (2,000 divided by 4,000). In this example, if your site's zoning permits a FAR greater than 0.5 and you meet all the other rules, you can build an ADU. If your site's permitted FAR is 0.5 or less, the only option would be to convert existing space to an ADU. FAR is not a simple yes/no calculation; it may also limit the maximum size of your ADU. In the above example, if the maximum permitted FAR were 0.7, your ADU could not be more than 800 square feet.

Every city stipulates how to calculate floor area. Some measure from interior walls and some measure from exterior walls. Most include all living space and finished basements and attics. Some include garages, porches, unfinished attics and basements, and sheds.

Initially, it is simplest to ask your city if they have an official record of your existing floor area. If they do not, ask them what spaces to include in your calculations.

FAR permitted by city
x **Lot size**
= **Max. building square feet allowed**
0.7 x 4,000 SF = 2,800 SF

Max. building square feet allowed
- **Existing square feet**
= **Allowable ADU size**
2,800 SF - 2,000 SF = 800 SF



Lot coverage means how much of your lot is covered by a building. As with floor area ratio, it compares your current building footprint with the maximum that is allowed according to the zoning code. Most cities include garages in the lot coverage calculations, and some include overhangs and porches.

For example, if your home is 40 feet wide and 50 feet long, it has a footprint of 2,000 square feet. If your lot is 4,000 square feet, your lot coverage would be 50% (2,000 square feet divided by 4,000 square feet). In this example, if zoning allows a lot coverage of greater than 50% and you meet all the other rules, you could build a new ADU. If not, you might be limited to converting existing space or building a second story, although some cities do not allow new additions for sites over their lot coverage. Lot coverage, like FAR, is not a simple yes/no calculation but may also limit how much you can build. For example, if the lot coverage limit for your lot is 60%, your ADU would be limited to 400 square feet.

Lot Size Recently passed state ADU laws have made it so cities can no longer consider lot size when deciding if an ADU is approved for construction.

Speaking to neighbors It is a good idea to talk to your neighbors early in the ADU development process to keep them informed of your intentions to build. ADU state law does not require neighbors to sign off on the construction of an ADU and generally cannot stop an allowed ADU project, but you will need to live next to your neighbors for many years, and the development and construction process will be much smoother if your neighbors are kept informed throughout the process, especially in the beginning.

Photo: San Mateo County Second Unit Center

Early Considerations

FAQ

How do I get started?

Based on the location of your home and the current considerations on your property, there are circumstances that should be evaluated earlier due to their larger impacts down the road. Some early consideration items may include whether there is available sewer or septic capacity.

Being a Landlord

As you get ready to build an ADU, it's also important to consider what it will be like to be a landlord. There are some positives—many owners become friends with their tenants, and often homeowners like having someone who can look over the property when they are out of town. But renting an ADU comes with many responsibilities, including understanding local and state housing laws, executing a lease, finding and managing a tenant, and maintaining a rental unit. It's also important to understand the laws as they may affect things like future rent increases, changing use over time, evicting tenants, and eventually moving family into the unit.

If you live on the property, being a landlord to a tenant in an ADU results in a more intimate relationship than a typical landlord-to-tenant relationship, due to the proximity. The tenant may share a backyard or wall, and many times shares utilities, trash, and recycling. This means planning for the impacts of a potential tenant: soundproofing walls, providing a ventilation system for cooking smells, setting appropriate costs for utilities, and sharing tasks such as taking out the recycling bin.

There are more helpful resources for landlords available in Section Six of this workbook (page 93).



Photo: Valley Home Development

Review the parking requirements on the ADU standards sheet for your city online at www.NapaSonomaADU.com/standards and/or talk to your city.

Parking

Adding parking is much less of a concern than it used to be. At most, you will need to add one spot for the ADU, and it can be tandem (directly behind another spot in the driveway).

You will not need to add any parking for your ADU if it meets any of the following conditions:

- A studio apartment
- Within ½ mile of public transit
- Within an existing structure (e.g., garage)
- In a designated historic district
- Within one block of car share locations

If you convert a garage to an ADU (or demolish a garage and build an ADU), you do not need to make up the lost parking spot.

Other Standards

There are other standards or regulations for ADUs that apply. These are listed on the ADU standards sheet for your city (which can be found at www.NapaSonomaADU.org). Several cities may have additional rules near the coast. City staff will be able to tell you if there are additional standards or regulations that apply to your lot.

Meeting With the City

Use the following page to take notes from your meeting with the city planner. One of the best things you can do is to talk to your city's planning department early in the process about the potential for and restrictions on an ADU.

Most cities have a planning/zoning counter where you can ask questions without an appointment. Some cities might require appointments. Many cities use the term ADU (or accessory dwelling unit), so in this section, the workbook uses that acronym.

Be sure to bring this workbook.

Questions to Ask the City Planner

1. Am I allowed to build an ADU on my property?
2. Does the city have handouts or additional information? Are ADU resources on the city's website?
3. Are there common pitfalls or mistakes to watch out for?
4. Can you explain the ADU approval process for this city?
5. How long does it usually take to obtain approval, and how many times do applicants typically need to resubmit plans?
6. What is the FAR for my zone and does lot coverage apply to the ADU I hope to build?
7. What other important development standards should I know about, such as setbacks?
8. Does the city have an estimate of my current floor area?
9. Does the city have information on my lot coverage?
10. Will I need to add parking? Does my existing home meet parking requirements? Do state law parking exemptions apply to my situation?
11. (If converting an existing garage or accessory building) How do I know if my garage was built legally?
12. Are there restrictions on how I can use my ADU?

Notes

Use this section to take notes from your meeting with the city planner.

Putting Pen to Paper: Drawing a Rough Sketch of Your Property

The site plan needs to be drawn to scale eventually, but to start you should use scratch paper.

If the site plan is feeling too stressful, you can skip it for now or go outside and do a really rough sketch on a napkin. It's better to meet with the city earlier than to get everything right.

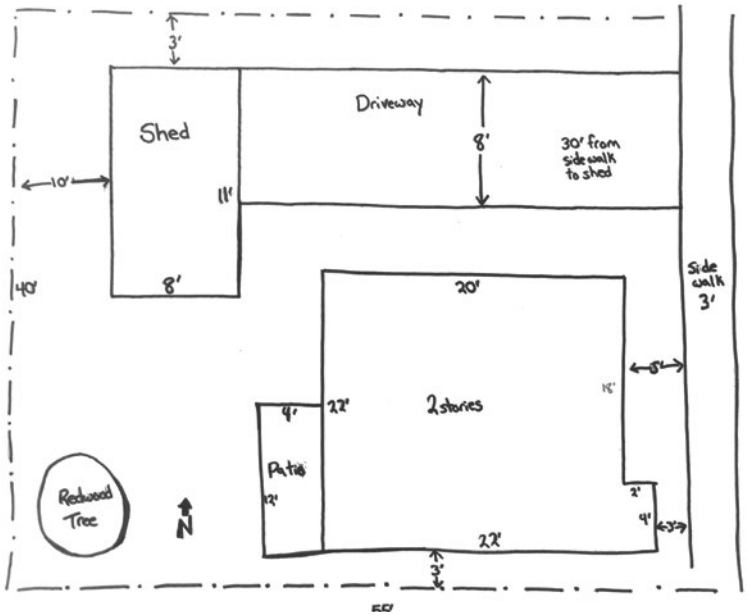
Drawing a site plan is an essential step, both for your own planning and to get city approvals. A site plan shows your property line and key information such as buildings, setbacks, lot line, etc. Most homeowners hire a professional to produce the final version, but it is often helpful to have a rough sketch to start. At this stage, you are going to draw major elements like building footprints, driveways, trees, etc.

Start by sketching out your property lines, measuring and marking them accordingly. (You can use fences to estimate property lines, but you may need to get a professional survey.) Add any existing structures. Focus on the basic shape. You don't need to worry about inside floor plans, you just need to capture the footprint and whether it is one or two stories. Note special features like porches, trellises, and exterior stairways.

Next, add in the driveway. Be sure to measure the length and width of the driveway. Pay attention to other significant features like trees, drainage ways, steep slopes, etc. When you are done, you will have something that looks like the sketch to the right.

Now, try doing a drawing to scale. Depending on your lot size, a good scale might be one inch equals ten feet. If possible, try to have your north arrow direction pointing upwards on the page. Besides drawing the lines, be sure to make notes about the exact length as well. Be sure to use a pencil.

You'll want to copy your site plan or take a photo with your phone, because you will probably end up drawing on it several times as you explore ideas.







Important ADU Vocabulary

Building code Standards that ensure buildings are built safely. Building codes are made up of various sections (plumbing, electrical, etc.). These are established by the State of California and are often amended by cities.

Deed restrictions Conditions or rules that are added to a deed for a house. For example, some cities require homeowners to add language specifying that the main house and the second unit will not both be rented at the same time.

Discretionary permit Permission to build a second unit or take other action that requires a public hearing. Generally, second units do not need discretionary permits. The opposite of a discretionary permit is a use that is allowed by right, meaning a homeowner can build their second unit as long as it meets all the standards.

Floor area ratio (FAR) FAR is the number of built square feet divided by the size of a lot. FAR includes built area on all floors. The zoning code will specify the maximum FAR for your property if this applies.

Lot coverage The area of a property that is allowed to have buildings on it in relation to the total lot area, generally expressed as a percentage. Zoning code will specify the maximum lot coverage for your lot.

Ministerial review Review by the city to make sure an application meets all requirements. There is no discretion or judgment involved on the reviewer's part and no public hearings.

Open space requirements Rules that require a certain amount of yard area to be suitable for active or passive recreation (e.g., kids playing ball or a family having dinner). This requirement is identified in the zoning code.

Setbacks The minimum distance a building must be located from front, side, or back property lines. A five-foot side setback means any building must be at least five feet from the side property line. State law requires a four-foot side or rear setback for new construction that is 800 square feet or less, and no setbacks for conversions.

Single-family/multi-family Single-family zoning refers to one home on a property. Multi-family zoning refers to more than one home located on a property (e.g., apartments).

Zoning/zoning code City standards that determine what can be built on a site. All lots in the city will be assigned a zone (e.g., R-1, a typical single-family zone), and each zone has different regulations. The zoning code governs many aspects of development, including how tall buildings can be, where buildings can be located on a lot, etc. Most cities only allow second units in certain zoning areas.



Photo, left: Abodu Photo, right: Blokable

Marian



"The fires we had in 2017, where we lost 6,000 homes, led to an insanely tight housing market, and got me thinking about creating an accessory dwelling unit to move into my own self and to be able to rent out my house."

Marian's junior ADU (JADU) project started when three different friends asked to rent space in her three-bedroom house. But she knew it was not for her. "It's really hard to say, 'I'm sorry, no,' but I tried having a roommate before and it did not work," she said.

However, especially after the fires, Marian wanted to help the community. Plus, she wanted to downsize and have more money to travel. "I fantasized about reinventing myself as a traveling teacher of beadwork. It turns out there is a market for that."

She considered a bigger project, a two-car garage with a unit on top. Instead she went small and split her existing house in two. "Close off one door, add another, small kitchen and bang, you're done, for $10,000," Marian explained. "I went from applications to permits in hand in eight days." Her message to others is simple: "It does not have to be daunting. Sometimes it's really not that hard."



Location Sebastopol
ADU type Junior/Conversion
Price $10,000
Year completed 2019
Size 418 SF






BUILT
1915
7135
7135
PEACETOWN
SEBASTOPOL CA



SECTION TWO

Budgeting & Finance

This section will take you through the initial financial considerations and options for your ADU project. By the end of this chapter, you will:

- Have an overview of the types of financing available for ADUs
- Understand how an ADU might impact your property tax assessment and home value
- Start the budgeting process for your project

Photo: Mighty Buildings

Budgeting

Your budget is one of the most important parts of your ADU project. The finances of your project are fundamental in determining what is possible. An early assessment of your current finances is recommended before you proceed to other steps. You will need to balance the design of your ADU with what you can afford. For example, a larger or higher-end unit will likely command higher rent, which will allow you to afford a larger loan. This chapter will take you through the important things to consider as you begin to develop your budget.



Types of Financing

There are five main options available to homeowners to finance their ADU. Many homeowners use a mix of these options. As you're doing financial planning for your ADU, remember to include the rental income you'll receive in your calculations. Some lenders will not consider this income when evaluating you for a loan, but it's important for you to consider it in your calculations.

Cash savings or other liquid assets Homeowners with cash savings or other assets that are easily converted to cash often use these to pay for some or all of the construction costs. Examples include cash, stock, or other assets that can be liquidated. Some homeowners have withdrawn retirement savings and usually pay a penalty. This can be a viable option but should be undertaken with caution.

Cash-out refinance Homeowners with more than approximately 15% equity in their property can refinance their mortgage to pull cash out and finance their ADU. Refinancing is best done when mortgage rates are lower or comparable to the homeowner's current rate. Refinancing typically incurs fees.

Photo: Propel Studios

Loans from friends or family Some homeowners are able to borrow from friends and family to finance their ADU. These loans should be formalized with a contract prepared by a lawyer and not simply with a handshake. These types of loans can be mutually beneficial if the lender gets a higher interest rate than they are currently getting and the borrower pays less than they would on the commercial market. This can work especially well when a friend or family member is going to live in the ADU.

Home equity loans or home equity lines of credit (HELOC) Homeowners with sufficient equity in their home (typically at least 15-20%) can take out a second loan or line of credit to finance their ADU. These types of loans are preferable for homeowners who do not want to refinance their first mortgage at a higher interest rate and instead take out a second, smaller mortgage. Banks will typically offer a loan that is 90% of the equity a person has in their house. So if you have a $1 million home and have a $600,000 mortgage, you own $400,000, and the bank can offer you $360,000 (.90 x $400,000). Typically these loans are variable rate mortgages that have no initiation fees. To qualify for a home equity loan, you'll need to show you make sufficient income to cover the cost of your current debts plus the additional debt you'll be taking on. One advantage of a HELOC is that the homeowner does not start paying interest until the money is used. Check with your tax advisor regarding the impact of choosing a HELOC versus refinancing.

Renovation loans Homeowners who do not have enough equity in their home for a cash-out refinance or a home equity loan can consider a renovation loan. These loans typically rely on a homeowner's income to quality for the loan, so a steady (and usually high) salary is necessary.

Company rent share A number of companies have started offering free ADU construction in exchange for a share of the rental income.



Photo: McDunn ADUs

Financing Options to Consider

	HIGH INCOME	LOW INCOME
HIGH HOME EQUITY	• Cash savings • Cash-out refinance • Home equity loan/HELOC	• Cash-out refinance • Home equity loan/HELOC
LOW HOME EQUITY	• Cash savings • Renovation loan	• Financing typically unavailable • Loans from friends or family • Rent share/company rent share

Financing FAQs

What is equity? Your equity in your home is the portion of your home's value that you own outright, which is calculated by looking at the value of your home and subtracting your current mortgage balance(s).

What are fixed- vs. variable-rate mortgages? A fixed-rate mortgage charges a set interest rate for the life of the loan. A variable- (or adjustable-) rate mortgage has a changing interest rate that varies based on market rates after an initial period.

How do I find a lender? Talk to your current mortgage company and see what options they can provide. It's also a good idea to shop around and see who can offer you the best rates and services. Don't forget to consider local banks and credit unions, which are often more familiar with the local benefits of developing ADUs.

How do I structure loans with friends and family? While some people structure these as typical loans paid back over a certain period, sometimes a family member will pay for part of the ADU in exchange for living there. Make sure everyone is clear on the terms and agrees about contingencies (i.e., someone moves or passes away).

What are peer-to-peer loans? This is the practice of lending money to individuals or businesses through online services that match lenders with borrowers. These services are typically cheaper than conventional financing but also come with greater risk. For ADUs, some people structure these loans to include shared equity.

Estimate Project Cost

FAQ

What will it cost?

While getting an accurate estimate for your project is quite tricky and dependent on many factors, the ADU calculator is a great place to get a rough estimate of costs and income for your project and a general idea of how the choices you make will impact your budget over time.

www.NapaSonomaADU.org/calculator

Each subsequent section of this workbook will include a more detailed discussion of costs for that specific phase of the project.

The assessed value of your ADU will vary, so it is best to call the assessor and a real estate agent early to know what to expect.

Taxes and Resale

FAQ

How will it affect my taxes?

Adding an ADU will likely affect your property taxes and the resale value of your home. However, your primary house will not be reassessed, and your property taxes will only increase based on the added value of your ADU. Said another way, the existing Proposition 13 base year value of your primary residence and your land will not be impacted. This is good news for people who have owned their home for many years and have low taxes. Once you know the size and construction quality of the detached ADU in mind, you should contact your local assessor for a rough estimate of the assessed value for the proposed ADU. There are no negatives to making this call.

Depending on the size and construction quality of the ADU, the assessor will determine how much more your property would sell for with an ADU. For example, if you build an ADU that adds $150,000 to your property value, and your tax rate is 1.1%, your taxes will increase by 1.1% x $150,000, or $1,650 per year.

Other options, such as creating a junior ADU (JADU) within the existing structure, will have a significantly smaller impact on assessed value. In some cases, your taxes will not increase at all. Additionally, home sharing will not increase the assessed value of your home at all. Generally, garage conversions will not raise your tax bill as much as new construction, but they will also not add as much value to your house.

Adding an ADU may impact your income taxes as well. This can be rather complicated, and it's best to discuss these with a tax advisor. The rental income you receive for your ADU is taxable, but you can deduct the cost of maintenance and depreciate the cost of construction, which can often reduce or eliminate the tax increase. You may also have capital gains tax related to the increased value when you sell your property. Note that your unit could be assessed different ways for different purposes. If you are trying to get a loan, the bank might be more conservative and assume the value of your home will increase less.

For more timely information on the potential tax implications of building an ADU, please contact your county's tax assessor's office:

Napa County
www.countyofnapa.org/149/Assessor
1127 First Street, Suite A,
Napa, CA 94559
(707) 253-4466

Sonoma County
www.sonomacounty.ca.gov/CRA/Assessor
585 Fiscal Drive, Room
104F, Santa Rosa, CA 95403
(707) 565-1888

Budgeting Exercise

These questions will help you think through and get started with financial planning for your ADU.

1. What are my estimated construction costs? (Use the ADU calculator at www.NapaSonomaADU.org/calculator.)

2. How much cash (or other liquid assets) can I put into the project?

3. How am I planning to finance the project?

4. How much equity do I have in my home (market value of home - mortgage balance)?

5. If a family member or friend is going to live there, can they contribute by paying rent?

6. Will my income support a loan?

7. Which loan(s) best suit my situation?

8. Do I expect to qualify for a loan?

9. Do I prefer a bank, credit union, or non-traditional financing?

10. What banks do I want to reach out to? (Make sure to include your current lender.)

11. What do I expect to rent my ADU for? (The ADU calculator at www.NapaSonomaADU.org/calculator can estimate.)

12. Is my priority to maximize income or to help meet the housing needs of the community?

13. What other financial considerations do I have and/or what ideas do I want to explore?

Carl and BB

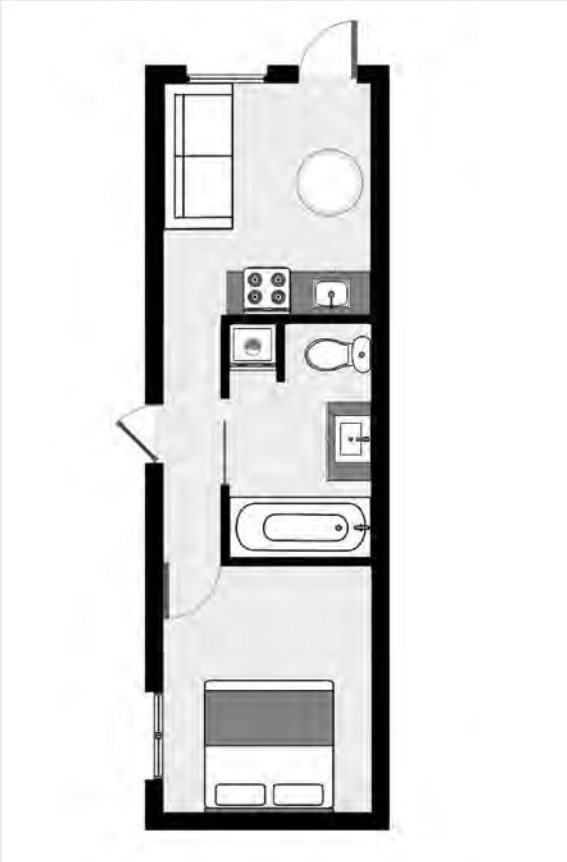


"Not only does an ADU add value to your house, it also provides long-term affordable housing for someone else."

"Since the tenants will be living right beside us in the tiny house, developing a close relationship is important because they'll be our closest neighbor."

Chasing warmer weather and better wine, Carl and BB moved to Yountville in 2016. "It's one of the greatest places you can live. We park our car and walk everywhere," they said. As local shoppers, over time they began making friends with the restaurant owners and staff near their home. But they noticed a problem: every year, too many people moved away. People who worked at the stores, no matter how hard they tried, could not afford to live nearby. Carl and BB had a solution. They built an ADU not only for additional income, but specifically to support employees at nearby Yountville restaurants, from sous chefs to bussers. And it worked! "There's been lots of interest in renting it. We're particular about who we rent it to because we share the backyard, but there has been no problem finding people."

It's small—300 square feet—but has everything someone needs. It is also beautiful, with cathedral ceilings and a little patio to make it feel much bigger. The ADU fits in well with their yard and matches the design of the main house. Best of all, it is a five-minute commute by foot through the beautiful streets of Yountville to some of the best restaurants in the United States that they love.



Location	Yountville
ADU type	New detached
Price	$100,000
Year completed	2019
Size	300 SF









SECTION THREE

Design

This section will help you think about what you want your ADU to look like, inside and out. You will do some initial work to identify how your proposed addition fits in its environment as well as how it fits in relation to the yard, the main house, and your neighbors' houses. It will also help you hire and work with a designer or architect. By the end of this chapter, you will:

- Have identified initial design goals, features, issues, and considerations
- Understand the design process and professionals involved
- Be ready to hire and work with an architect/designer

Photo: Lanefab Design/Build

Inspiration and Getting Started

Typically, a studio is 200–400 square feet, a one-bedroom is 300–600 square feet, and a two-bedroom is 600+ square feet.

Before moving forward with the design process, it is important to think about how you will use your ADU and what you want it to look like. The following are some activities to begin the process.

When you see things you like or don't like, take notes and pictures. Pay attention to what neighboring buildings look like and how they relate to their surroundings.

- Take a walk around your neighborhood. Do you see houses or design elements that strike you?
- View your home and potential ADU from your neighbor's perspective in terms of privacy, views, sunlight, noise, etc.
- View the photos in the "Stories" section of www.NapaSonomaADU.org or the spotlights in this workbook, also available on the website.
- Look through magazines or books and tear out pages, or take photographs of your favorite designs.
- Search for inspiration on websites like Pinterest and Houzz.

It is helpful to have a clear sense of your preferences and priorities early in the process.

If you have not made some fundamental decisions, like the type of ADU and how many bedrooms you want, it's difficult to start the design process. An architect can help you brainstorm or answer fundamental questions, but they cannot start designing until these questions are answered. It's a good idea to revisit the ADU standards for your city on the companion website (www.NapaSonomaADU.com/standards) to see if your city has any specific design guidelines. Some cities have guidelines intended to help maintain the character of a place that can include guidelines on color, material, details, and style, among other things. Many homeowners are excited to think about the finishes (the type of siding, flooring, fixtures, or lighting), but these design details do not need to be decided early in the process. These elements do not affect the form and placement of the unit, which is what the design will focus on initially. Use the space on page 47 to jot down your ideas, but know that these will be refined later in the design process.

Design Definitions

Architect A design professional who has passed a licensing exam by the state. Architects are trained in design and construction management. We use the term architect and designer interchangeably in this book.

Design/build A firm that does both design and construction.

Designer A general term for someone who does design. Architects are one type of designer. Designers who are not architects often charge lower rates, but have less expertise.

Drafter Someone who does architectural drawings.

Elevation drawing A drawing that shows a straight view, usually of an exterior wall. Elevation is often a synonym for facade, so the south elevation is the south-facing facade of your house.

Prefab/panelized/modular A method of building that involves some or most of the construction happening off-site.

Site plan A drawing of your lot, buildings, and other features.

Survey A professional examination/drawing of your property boundaries and/or slope. This is required in some cases but not in others.



Photo: Abodu

Initial Design Exercise

Websites like Pinterest are a great way to collect online photos and inspiration.

Here are some notes and questions to get you started on the design process. Remember, all of these might change when you start discussing costs.

1. Review the goals you identified on page 14 in the Getting Started section to ensure they are still appropriate.
2. What type of ADU do you want (e.g., freestanding, garage conversion, etc.)? See page 4 for ADU types.
3. Do you want a modern or a traditional feel? (Many people feel an ADU will look best if it matches the main home—and the city might require that.)
4. What are some houses that you like and why?
5. Are there floor plans you like or don't like? What features stand out?
6. How many bedrooms do you want?
7. How many bathrooms do you want, and do you want them larger or smaller?
8. Do you want more communal space (living room) or larger bedrooms?
9. What kind of kitchen do you want (chef's kitchen or something less expensive)?
10. Do you want features that will help people stay in the home as they age or that account for special needs (e.g., level entry, accessible bathrooms, no stairs, etc.)?
11. Will there be a washer and dryer in the unit?
12. Do you want additional green or sustainable features?
13. Are there landscaping plans you would like to incorporate?
14. Do you have preferences about the flow of the house (e.g., the entrance should be in one place, there should be a door to the garden, etc.)?
15. How should you situate your ADU on your property? Think about natural light, access to utilities, and privacy issues.
16. Are there features in your current home or past homes that you loved or felt could be improved that can help inspire your ADU?

Notes

Design Ideas Exercise

Write down your thoughts here. When it is time, pull this out.

Flooring

Lighting

Siding

Fixtures

Designer Type

You don't need to make extensive small talk with your architect, which can be expensive.

Most jurisdictions do not require an architect to design a residential project. However, they may require an architect or structural engineer's stamp on certain documents submitted for permit.

As you start the design process, one of your first considerations is what kind of professional you want to work with. Most homeowners choose to work with some type of design professional to plan their ADU and help throughout the process. Bringing on a professional early in the process is often key to getting your ADU approved quickly and smoothly and to creating a cost-effective project. Homeowners with previous design experience can choose to manage the design themselves, but this is not recommended unless they have considerable experience. You will also need to decide how much you want your designer to take on—some homeowners hire their designers just to do design drawings, while others keep them on to do construction drawings and/or to help with construction management. No one type of design professional is inherently better than the other. Like any profession, specific relevant experience, professional interests, personal strengths, and personal fit with the client are critical. The following are the four general types of design professionals you can work with to design your ADU.

Architect An architect is a professional licensed by the state who has a degree in architecture and has passed a rigorous licensing examination. Architects take legal responsibility for their work. Architects may provide a range of services, including full-service support from the initial concept, on as well as completion of construction, including coordinating with required consultants such as structural engineers and any related subcontractors. Ask what services an architect offers and negotiate a fee based on what services you need. The American Institute of Architects website (www.aia.org) provides helpful information to homeowners in this regard. Architects usually bill at a higher rate than designers, but some feel the additional expertise saves them money (and stress) in the end.

Designer The term designer is not regulated; anyone can call themselves a designer. Some designers have an architectural education and training but are not licensed. Others are self-taught. Most fall somewhere in between. The services designers provide are variable depending on their experience and business model.

Design/Build A design/build firm will do the design and construction of your ADU. Most often, a design/build firm is headed by a licensed contractor who has a designer on staff, but some are headed by or have a licensed architect on staff. Be sure to ask detailed questions about the level of design services provided. The term design/build is not regulated. Some design/build firms have experienced designers on staff who can provide spatial planning for remodels, additions, and new construction, as well as material selections. Others focus on minor changes and material selections or will hire a drafter to draw up plans based on your or their ideas.

There isn't a hard line between prefab and custom-built. For example, you will be able to customize prefab designs. You can also have your architect start from plans that have been used and approved in other places. By compromising a little on flexibility, you might be able to save a lot of time and money.

Modular/prefab With modular and prefab homes, some or all of the home is built in a factory and shipped to your site. Generally, the homeowner will work with the modular company to select and often customize their unit. A contractor is then required for site, utilities, and concrete work in preparation for the installation of the modular unit. This method simplifies the design process to choosing a company and then selecting a model and finish options. Modular generally takes the least time from conception to completion with a reliable level of quality control. In theory, permitting should be easier with modular homes, but because it is a relatively new and not yet widely implemented method, some jurisdictions may have additional questions that require additional finesse. Additionally, site-specific conditions on your property, such as access to utilities and where your main sewer line is or whether a prefab home can be delivered to the site, may impact your decisions on whether a modular/prefab ADU will save time and money. See page 78 for more information.



Photo: Blokable

Hiring and Working With a Designer

FAQ

How do I find an architect?

A designer will start the process by visiting your home. They will talk about your ideas and goals. If it seems like a good match, they will prepare a proposal that details exactly what services they will provide and what they will charge. You will need to determine how involved you want your designer to be. Some designers will charge for their initial consultation or development of a proposal; it depends on the firm. There are two key considerations when evaluating a design professional: their experience and their interpersonal skills. There are unique challenges to designing small homes and you most likely will want someone who has experience with small homes. Also, designers have favorite styles (e.g., modern, craftsman, etc.) and your designer's skills should match your goals. It is also important to find a designer who has a personality and communication style that fits with you. They should understand and respect your goals and choices. Chemistry really matters. A major portion of a designer's job is explaining the process and the design choices to you, so you want someone whose explanations make sense to you. This extends to communication mode as well. If they are an email person and you are a phone person, it might not be a good match. The American Institute of Architects recommends you meet with three to five firms before making a hiring decision. See page 52 for questions to ask your designer.

Consider hiring someone you know from your community (e.g., church, work, or a neighbor). Because contractors are busy, sometimes the personal connection helps. Also, if there is a problem, you have a strong incentive to find a solution that you can both live with.

Designer Considerations Exercise

1. Would you rather work with a licensed architect, who has more training, or a designer, who is likely to be less expensive?

2. Do you want to use modular/prefab construction (unit is at least partially built off-site)?

3. Do you want to use a design/build firm to handle both drawings and construction?

4. How client-centered do you want your designer to be? Some architects welcome interactions with their clients and some dread it. Some homeowners want to be actively involved and some are more hands-off.

5. Do you prefer to work with a larger firm or a smaller firm? Both have pros and cons. In the end it comes down to your personal preference.

6. Do you want your designer to just prepare drawings, or do you want them also to help with permitting, construction drawings, and/or the construction phase?

Remember: if the ADU shares a wall, sound- and odor-proofing is a really good investment.

Questions to Ask Your Designer

Experience

- Do you have experience with building ADUs?
- Where can I see pictures of similar projects you have designed?
- Can you send me a list of client references, preferably from smaller projects?
- How big is your firm? Who does which portions of the work? Who specifically will be working on my design?
- Are you licensed?
- What is your experience designing the type of ADU I would like built?
- Do you have experience working with my city and do you know city staff?

Design

- How closely do you like to work with homeowners in the design process?
- Do you have a design philosophy?
- What are the steps in the design process and how are they organized?
- How do you help a homeowner establish priorities and make design decisions?
- What role do you have during construction?
- Am I expected to work with the contractor directly?

My Project

- How busy are you? What is the timing to start work?
- What is your estimated timeline once the project is moving forward?
- What challenges do you foresee?
- What do you see as important considerations for my project?
- How will you go about identifying my needs and goals and incorporating them into the design?
- Is my budget realistic?
- How will you help me to understand key milestones in the process?
- What do you expect me to provide and by when?

Fees

- What are your fees? How do you structure your fees?
- Can you provide some sense of what it might cost (with the understanding that this would be rough numbers without a formal proposal)?
- What is included in your basic services and what services would incur additional fees?
- What is the process for changes in scope?
- How do you manage a project to keep it on budget?

Adapted from the American Institute of Architects

Costs and Contracts

Design costs vary with every project, but a rule of thumb is that it will cost 10-20% of the total construction budget. Typically designers use one of three methods:

Fixed fee Based on your project needs, an architect gives you a maximum price. If the project takes more or less time to complete, their prices do not change.

Time and materials The architect will bill you for the hours they work. This works best if there are too many unknowns for the architect to fully understand the scope of the project.

Not to exceed The architect will only charge the hours they work, but there are agreed upon maximum amounts for each phase of the work. California requires architects to offer you a written contract. You should take advantage of this to protect yourself and to avoid miscommunications. You may want to have a lawyer review the contract to make sure all of your concerns are covered before you sign.

Sample Design Costs

	PERCENT OF TOTAL	BASIC STUDIO	HIGH-END 2-BEDROOM
CONCEPT/SCHEMATICS	15%	$1,500	$3,000
REFINEMENT & PERMITS	30%	$3,000	$6,000
CONSTRUCTION DRAWINGS	40%	$4,000	$8,000
BIDDING, NEGOTIATION, & CONSTRUCTION	15%	$1,500	$3,000
TOTAL		**$10,000**	**$20,000**

These represent typical costs, but every project is different and costs will vary. All costs from 2019.



Graphic: Smallworks

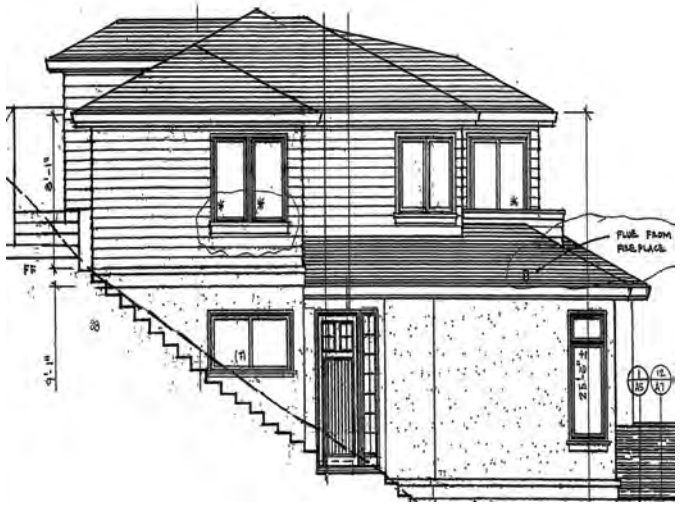
Steps in the Design Process

In most cities, you are not required to talk to your neighbor about your proposed second unit, but you should. Try to imagine yourself in their shoes. They might have some ideas about design or privacy that you can incorporate.

STEP 1

Conceptual Drawings/ Schematics

Once your designer is hired and you've discussed your goals, they will take measurements of your property and develop conceptual drawings or schematics. (If the site plan you did in Section 1 was accurate enough, they may be able to use this.) Schematics are often sketches that show broad concepts, but not details. They are relatively fast and inexpensive to produce and can help you and the designer focus in on what you want. The conceptual diagrams will focus on the type of ADU, floor plan, relationship to outside areas and the main house, etc. Cost considerations should come up at every stage of the process. If your designer does not bring them up, you should. City rules will affect your options. For example, many cities require your ADU design to be compatible with the neighborhood. Also, the size or height might be limited by city rules. Look back over the city rules you downloaded earlier. In this stage, it is important to consider how the ADU interacts with the yard. People often want more windows and doors with glass in smaller homes to make the space feel more open. There may be trees, open space and other features you're interested in looking at from within, while you may not want to see other elements like fences, driveways, and neighbors' homes. Vaulted ceilings are popular as they make smaller spaces feel much larger.



STEP 2A

Refinement

Once you have a concept plan, the designer will refine their work. Designers will ask more questions about your goals and you will have to start choosing components, like doors and windows. At the end of this stage, there will be a drawing done to scale that covers the layout and all the major systems (heating, electrical, etc.).

STEP 2B

Review With the City and Apply for Permits

At this point (ideally, halfway through the refinement process) it is a good idea to show the design concept to city staff to make sure the plan is approvable and to identify any other regulatory considerations. Your designer can attend this meeting and can assist you in clarifying all the requirements and issues that should be covered in the permit drawings. After meeting with the city, you or your designer can complete the city's permit application and appropriate plans for that stage of the review. See page 64 for more information.

STEP 3

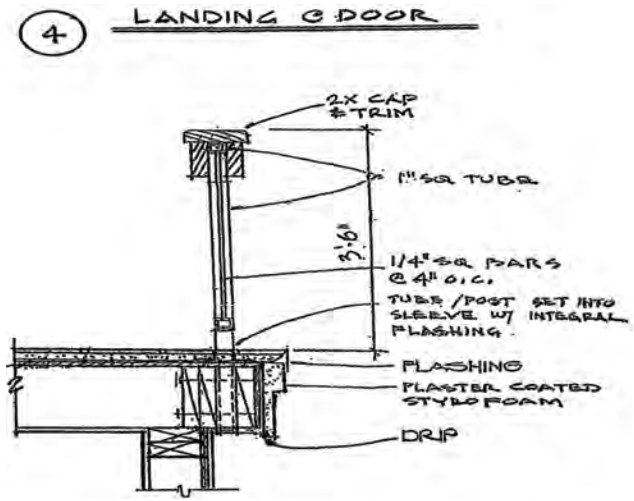
Construction Drawings

Many homeowners get construction drawings from their designer that provide all the detail needed for a contractor to bid on the project. Some homeowners use drawings to get bids, but many contractors cannot give an accurate bid with just this information and may also want to visit the site.

STEP 4

Managing Construction

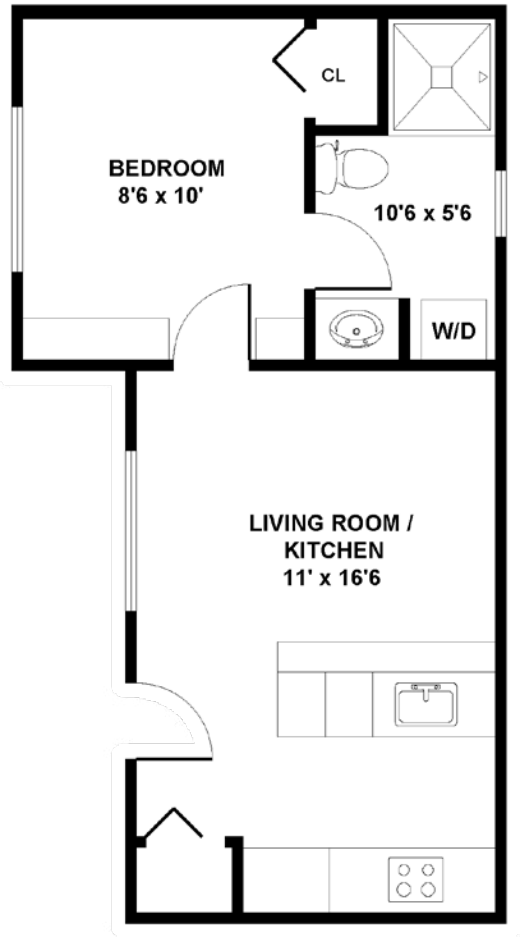
Some homeowners keep their designer on to help with construction. Most designers have a pool of contractors they work with. They can help you get bids and choose one that works for you. Your designer can also help you think through last-minute complications if they arise.



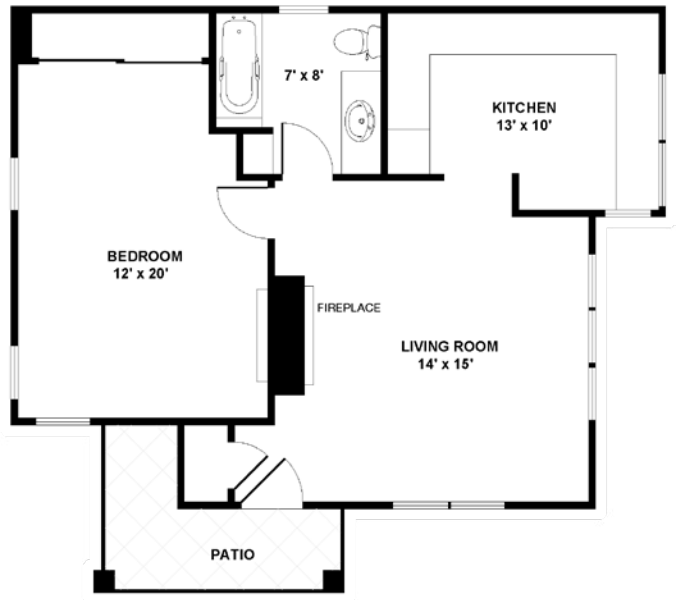
Builders/contractors will often have thoughts about costs—and opportunities to reduce them—that your designer may not have considered early on. Consider expanding your team to include a builder so you can draw upon their expertise before the plans are finalized. However, you will not have detailed enough drawings to solicit bids. It is okay to have one builder review plans and then have others bid to do the actual work.

Sample Floor Plans

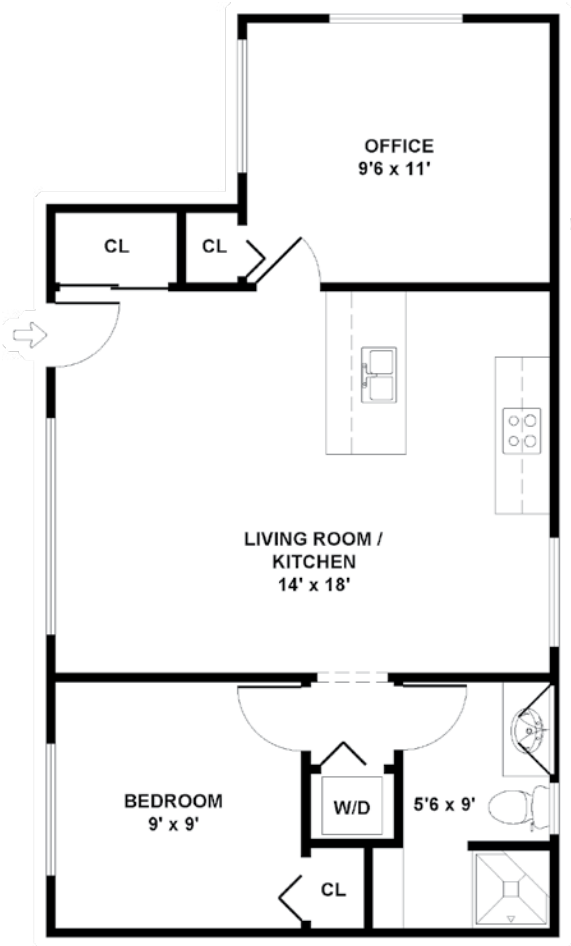
Here are a few examples of floor plans from real-world projects (floor plans are not to scale relative to each other):



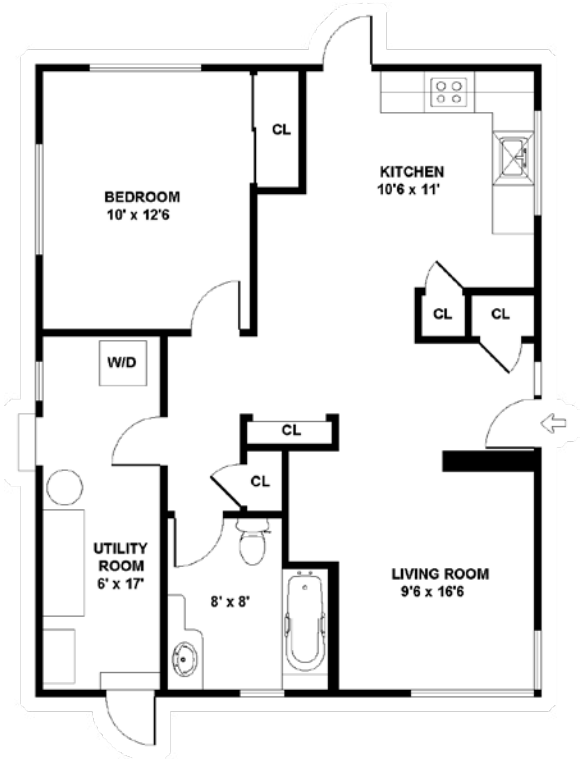
Bowen's Oasis
336 SF
1 bedroom/1 bath



Sofia's Granny Flat
674 SF
1 bedroom/1 bath plus patio

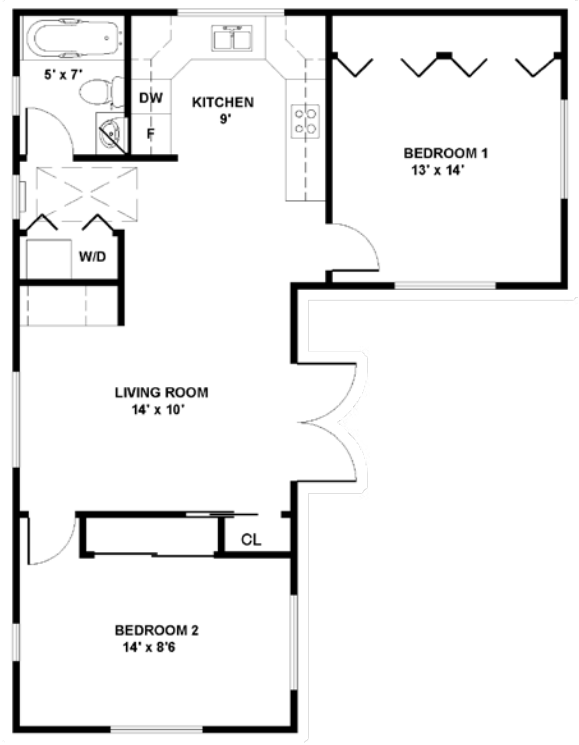


Tara's Retirement Plan
609 SF
1bedroom/1 bath plus office



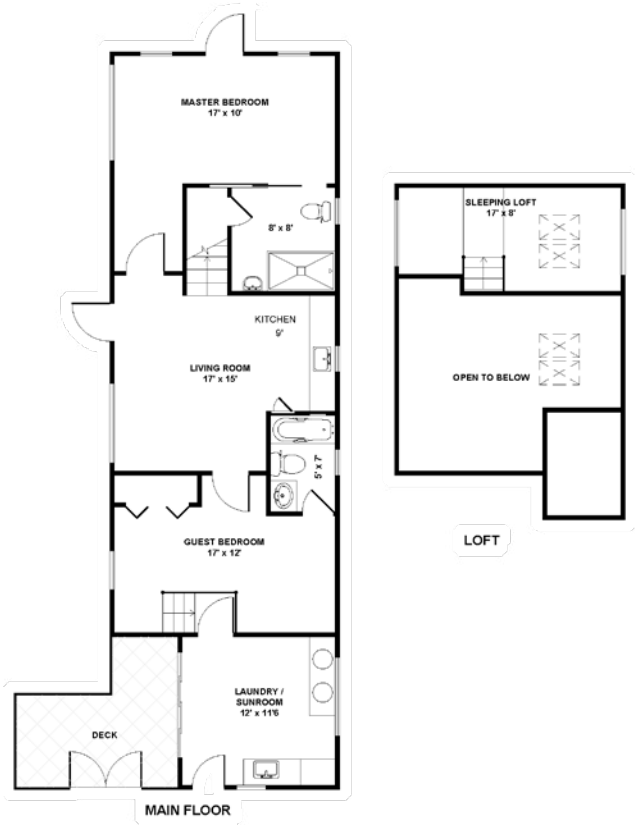
Julia's Garage Conversion

640 SF
1 bedroom/1 bath plus utility room



Mateo and Terry's Downsize

700 SF
2 bedroom/1 bath plus utility room

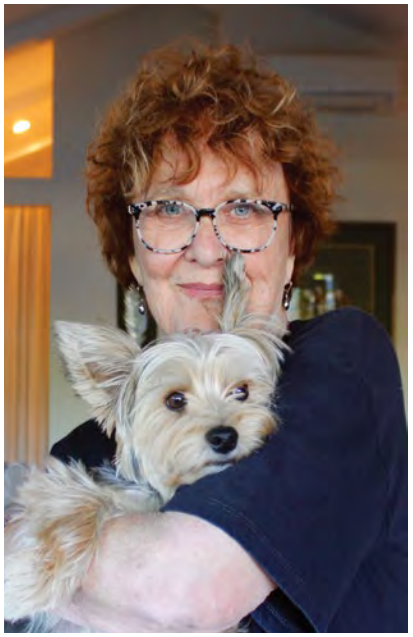


Karin's Backyard Cottage

875 SF
2 bedroom/2 bath
plus sleeping loft and deck

SPOTLIGHT **DOWNSIZING, BUT STILL ENTERTAINING**

Adele

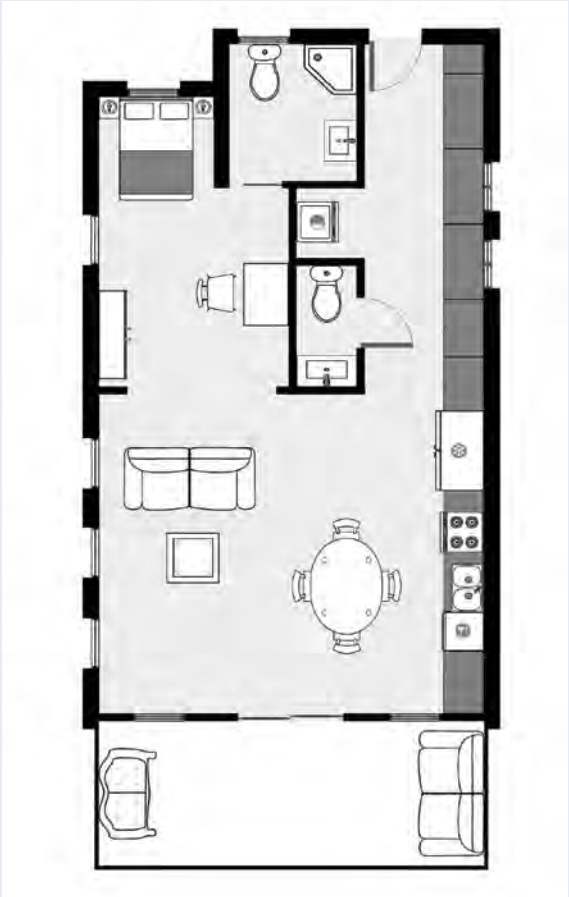


"I wanted a place I could have people come visit. It has a very large feel, high ceilings and all windows. I open up the door and the porch becomes part of the house. I can still entertain the same number of people as before."

When Adele thought about where she wanted to live as she got older, she knew she did not want to move far. "I have lived in Healdsburg for 35 years," she said. "It's an incredible village." She also had a great network of friends and she wanted to continue to host parties. "Dinner, cocktail, wine," she explained, "I cook everything."

When she decided to build an ADU in her yard she turned to her son, a designer, to plan a smaller home that still felt large. "I've had 15, 18 people here," she said. "High ceilings, all windows, and when I open up the door the porch becomes part for the house."

The rental income from the main house has helped her be more comfortable, but the relationship with the tenants is equally rewarding. "They are a young couple in their early 30s. When they first saw it, they called it their dream home. I keep the rent reasonable. We have gotten to know each other. They pay the rent on time and are sweet. I'm lucky."



Location Healdsburg
ADU type New detached
Price $350,000
Year completed 2016
Size 640 SF + 200 SF porch




PRUVOST




JOB COPY
PEACETOWN
SEBASTOPOL CA

SECTION FOUR

Permitting

This section will take you through the ADU permitting and approvals process. By the end of this chapter, you will:

- Have an overview of what your city may require as part of the permit application
- Know what to expect for the application review
- Have reviewed the types of fees you may need to pay
- Understand how to get started on your application

Permitting Overview

Once you have plans for your ADU, you or your designer will need to submit the material to your city for approval. You should have a rough idea of the permitting and approvals process from your initial meeting with the city and the work you did in Section 1 of this workbook. More importantly, your designer or contractor should be familiar with the process and will serve as your guide.

Planning, zoning, and building regulations ensure homes and other buildings are habitable, environmentally friendly, and safe places to live and work. However, the local permit application, review, and approval process can be daunting for anyone who has not gone through it before. While the process has gotten easier, it still can be difficult. The following are steps and resources to keep in mind.

Final pre-submittal review Before submitting your application, it is worth you and perhaps your designer making a final trip to the city with a draft of all your drawings and materials. Call the city and let them know you are almost ready to submit and want to set up a meeting for final guidance. Set up a time to go over any outstanding questions and get any advice they have before you submit your application, so you can minimize surprises later in the process. This is also a great opportunity to ask about common problems in the permitting process and how to avoid them. See page 67 for suggested questions and space to organize information.

Application submission Each city has a different permitting process, but generally you will submit one application with several components and the city will send it to various departments to review. The first step will be for the city to sign off that your application is complete. That will initiate the staff's internal review. Typically, several city departments will review your application, including (at minimum) planning and building.

City review and response to comments The city will collect all internal review comments on your application and send them back to you or your designer. Assuming changes are needed (which is usually the case), you will resubmit your revised plans in response to the comments or provide additional information as part of your application. This step is repeated until all the comments are addressed, which might take a few rounds. In less common instances, a discretionary permit may be required. See page 68 for more information.

Fee payments Before receiving the final permits, homeowners will have to pay all required fees, including fees required by other agencies like school districts or water districts. The city will give you a list of where you need to go to pay and obtain proof of payment for the various fees required.

Permit pick-up The homeowner or contractor, if they are identified on the application, may then pick up the building permits to commence construction. Architects are generally not allowed to pick up the permits.



Photo: New Avenue Homes



Putting Together Your Application

Most homeowners choose to work with a professional throughout the permitting process. Based on dozens of interviews with homeowners in Napa and Sonoma Counties who have gone through this process, they felt that hiring a professional is the best money they spent.

The submittal and review process is often quite complex and can require significant architecture and building technology knowledge to go smoothly. California allows homeowners to submit the application under their name, but many who start down this path have a miserable time. Also, owner-builders are liable if anything goes wrong. Generally, it is better to have a professional on your side to explain the requirements and the choices you must make. The following page is a sample checklist from the City of Calistoga to give you an idea of what to expect.

ADUs in the Coastal Zone

If you are building an ADU in the Coastal Zone, the rules may differ. The Coastal Zone covers parts of unincorporated Sonoma County. State law governing ADUs applies differently in the Coastal Zone. A coastal development permit may be required, which may include notifying your neighbors. It's best to discuss ADU projects in the Coastal Zone with your county staff to determine the process.

City of Calistoga
Planning & Building Dept.
1232 Washington Street
Calistoga CA 94515
(707) 942-2827 *fax* (707) 942-2831
www.ci.calistoga.ca.us

FOR DEPARTMENT USE ONLY

RECEIVED: _____ BY: _____
PERMIT # _____
ADDRESS _____
APN _____-_____-_____
APPLICANT _____
OTHER PERMITS: (e.g., encroachment, FSS)
_____

BUILDING PERMIT APPLICATION CHECKLIST

Staff will review the information provided for submittal with your building permit application. Additional information may be required after the application materials have been reviewed. A complete application will ensure prompt processing. If you have any questions, please contact the Building Division.

PROJECT DESCRIPTION:

Abbreviated Application Submittal Requirements

	REQUIRED	RECEIVED	ITEM	Number of Copies				
				*SFD	*MFR	*COM	*COM-TI	OTHER
1			Completed building permit application	1	1	1	1	1
2			Application deposit	1	1	1	1	1
3			Owner/builder form (if applicable)	1	1	1	1	1
4			Site plan	4	4	5	5	
5			Floor plans	4	4	5	5	
6			Roof plans	4	4	5	5	
7			Building elevations	4	4	5	5	
8			Structural framing and foundation details	4	4	5	5	
9			Cross sections	4	4	5	5	
10			Plumbing, electrical and mechanical plans	4	4	5	5	
11			Title 24 energy compliance documents	3	3	3	3	3
12			Manufacturer's specification reports	2	2	2	2	2
13			Green building mandatory measures	2	2	2		
14			Structural calculations	3	3	3	3	3
15			Drainage erosion and sedimentation plans	4		5		
16			Soils report	3		3		
17			Landscaping plans			As Reqd.		
18			Parking lot plan (lighting)			As Reqd.		
19			Accessibility worksheet			1	1	
20			Other as required by the City of Calistoga:_____					

*** SFD = Single Family, MFR = Multi-family, COM = Commercial, COM-TI = Commercial Tenant Improvement**

Application Submittal

Title 24

Title 24 regulates minimum energy efficiency for new construction in California. For example, these standards dictate how much insulation is required and the types of light fixtures that can be used. All new ADUs will need to demonstrate compliance with Title 24, which usually requires hiring a consultant and typically costs less than $500. In some cases, like newly constructed freestanding ADUs, you might need to add solar panels to meet the rules.

The details of submitting an application are different in each city. Some cities require applications to be submitted online while others require (multiple) paper copies on various sizes of paper. In any case, the city will initially review your application for completeness before it begins a more thorough review. Once your application is deemed complete—meaning you correctly submitted all of the required materials at the required level of detail—the various reviewing departments and agencies will begin their review. Under new state laws, cities have 60 days to complete an application review.

Most cities have applicants turn in all their application material at one time. A minority of cities do the application in two steps, first requiring homeowners to receive planning or zoning approval. This generally covers the building size, placement on the lot, height, etc., but not the construction details. A homeowner may apply for a building permit once they receive planning and zoning approvals. As of September 2019, only Rohnert Park and Yountville require or recommend using a two-step process.

Application requirements vary by city, but the following is a checklist of typical application components:

- Site plan (depicting existing and proposed structures)
- Building/architectural plans (floor plans, elevation plans, and details)
- Structural plans (foundation plan, framing plans, and associated details)
- Other items (Title 24 energy calculations, best management practices for erosion control, photos, etc.)

Timeliness

Typically cities want you to finalize your plans within 120-180 days after they send comments, depending on the jurisdiction. If you do not respond within that time, the city may add fees. While applicants can ask for a no-cost extension, working in a timely manner is very important.

Permit Application Planning and Organization

Use this space to collect and organize information on the permit application you will submit.

1. What are all the steps of the permitting and approvals process?

2. How long does each step in the process take?

3. What application materials are required and where/how are they submitted?

4. What fees are required and to whom do I pay each fee?

5. What potential problems do you see with my application and how can I address these?

Other notes or questions:

City Review and Comments

Separate utility meters and lines typically add to the initial costs, but separate meters allow tenants to pay their share and encourage conservation. However, there is usually a monthly minimum charge, which can be high for people with small units.

In the application review phase, various departments will assess your project application to ensure that it meets all applicable regulations. The process will typically include some or all of the following reviews (and possibly a few others).

Planning Department Review

The application review process typically begins with planning/zoning review. Planning review will assess whether your proposed ADU complies with basic zoning regulations such as allowed size, height, placement on property, parking, etc. This level of review may actually happen before your application is deemed complete.

Building Department Review

Building review addresses the physical construction of the ADU to ensure that all the elements of the building meet the requirements of the California building code. Some examples include electrical, insulation, ventilation, plumbing fixtures, ceiling heights, foundation and seismic safety, etc. Building codes are nearly identical from city to city, but some jurisdictions have made minor amendments.

In addition to planning and building, your project may be reviewed by a variety of other departments and agencies, including:

Public works may review drainage and the project's connection to streets and sidewalks.

Fire agencies with jurisdiction over your property may review your plans for compliance with all fire codes.

Public utilities (water, sewer) If your unit requires installation or expansion of water and/or sewer service, the relevant agencies will review your project to ensure that water and sewer connections are adequate and appropriately designed. Projects may require a "will serve letter" from local service agencies to prove you have the right to connect to water and sewer services. These utility agencies may require your ADU to meet other requirements related to water fixtures or landscaping. Contact your local city or county (for unincorporated properties) to determine if utility districts serve your property. There are no sewer or water connection fees when converting existing space to an ADU.

Environmental health If your unit requires installation or expansion of a septic system or relies on well water, the county environmental health department will review these components of the project. Be sure to check the water supply and septic rules early on because sometimes the requirements are expensive.

Comments

You will receive comments from each of the reviewing agencies that may require changes to your application. You and your project team will need to address all comments and resubmit your application. Most ADUs require one to three rounds of review before the application is approved, and each review typically takes two to four weeks for the city to return comments. The length of the entire process will depend on the number of reviews required and how quickly the application is resubmitted between reviews. Be prepared; sometimes the city may bring up entirely new comments in later reviews. This can be frustrating, but is not uncommon.

One really helpful change is that in many or all cases, state law no longer allows cities to comment on preexisting zoning problems unrelated to the ADU. For example, you should not receive comments about the main house or a fence unrelated to the ADU.



Photo: McDunn ADUs

Surveys, Expert Opinions, and Certificates

Some cities require homeowners to get expert opinions or certificates or to conduct surveys as part of the approval process. For example, if the ADU could impact significant trees, an arborist may need to certify that the ADU will not damage the trees. Other common requirements include boundary and geotechnical surveys, elevation certificates (especially for properties located in the FEMA flood zone), and sewer certification.

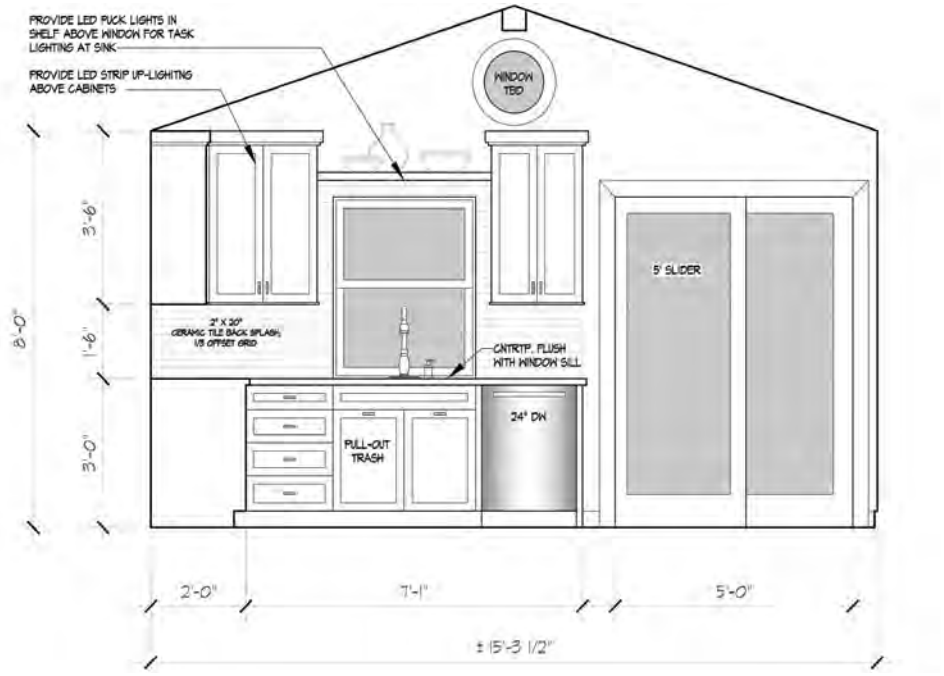
Design Review

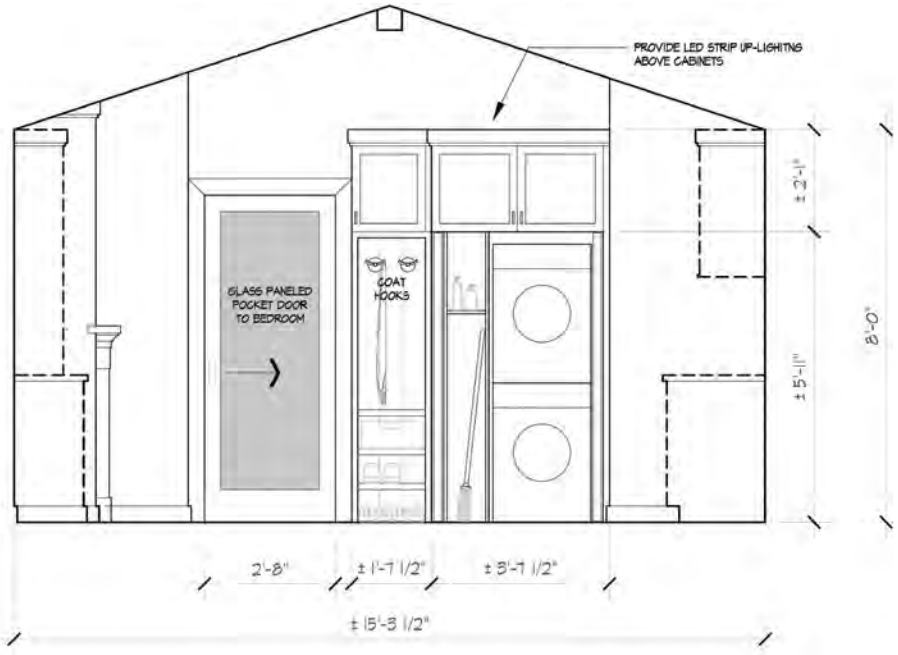
Some cities require design review, which ensures that ADUs meet certain design standards (color, material, style, etc.) for neighborhood compatibility. State law specifies that design review of ADUs occurs at the staff level only, with no public hearing. With a few exceptions, only ADUs in Petaluma's historic districts currently require design review.

Public Hearings: The Exception

If your ADU meets all basic standards and does not require any special exceptions or permissions (commonly referred to as variances), it will typically only be reviewed and approved by staff at the departments and agencies listed above. However, if your project does not fit within the basic standards, you may request certain exceptions to these regulations. In this case, your unit will typically be reviewed at a public hearing. Depending on the nature of your project, public hearings may include the Design Review Committee, Zoning Board, or Planning Commission. If a public hearing is required, the permits will only be issued after approval by the relevant hearing body.







Sample Review Comments

Here are some sample comments from cities on ADU applications.

"Please amend site plan to clarify whether the 11-inch side property line setback is based on field measurements or property line survey. The plan showing the relationship between the building and the North property line must be done by a land surveyor, or civil engineer."

"Revise the construction drawing to provide complete plans and specifications for the removal of rainwater from roofs, paved areas, yards, vent shafts, light wells and similar areas."

"Habitable spaces are required to be provided with an under-slab vapor retarder..."

Pay Fees

Check with your city for the latest information on fees.

Our ADU Calculator (www.NapaSonomaADU.org/calculator) can provide an estimate of the fees for your project.

Each city will require different fees, and the exact fees will be dependent on your specific project. Fees range from a few hundred dollars to over $30,000. As of 2019, most projects are in the $10,000 range, or less than 5% of construction cost. Generally, you will need to pay all fees prior to receiving your building permit. Surprisingly, cities do not control many of the most expensive fees (e.g., school fees and water fees). Below are the fees commonly required by cities, but fees will vary for each city and project. You may only have to pay some of these fees or there may be other fees.

Entitlement fees are levied by cities to cover the administrative costs of applications. These typically range from hundreds to thousands of dollars and are not levied in all cities.

Building permit fees cover the costs of inspections before, during, and after construction. These fees can vary and are often a few thousand dollars.

Development impact fees help pay for new infrastructure in your neighborhood and the surrounding area, such as new roads or parks. ADUs under 750 square feet are exempt from these fees.

Water and sewer fees support the cost of providing water and sewer service to the community. Recent changes to state law have significantly reduced the water fees for ADUs: existing buildings do not require water fees, while new buildings can only be charged fees in proportion to the size of the unit.

School district fees support the schools in your area through a per-square-foot development fee. These are paid directly to the school district. Typically, your city will give you the address(es) of the school district(s) to which you are required to pay fees. You will pay the school district directly and then present proof of payment to your city. In 2019, these fees varied from nothing to $3.48 per square foot, though some projects are exempt from school fees (often projects under 500 square feet).

There are a few ways to save on fees. School districts are not allowed to charge fees for units under 500 square feet, but not all districts have adjusted their policies to be in line with state law. State law also says that an ADU created within the space of an existing building (e.g., garage, bedroom, etc.) does not have to pay a water or sewer connection fee or capacity charge. If the ADU is created by constructing new square footage a fee may be charged, but it must be proportional based on its square footage or number of plumbing fixtures. ADUs under 750 square feet are exempt from other impact fees.



Photo: Valley Home Development

SPOTLIGHT **PROXIMITY AND INDEPENDENCE FOR FAMILY**

Dena and Tor



"We created a lot of flexibility and options by biting the bullet and just getting the ADU built."

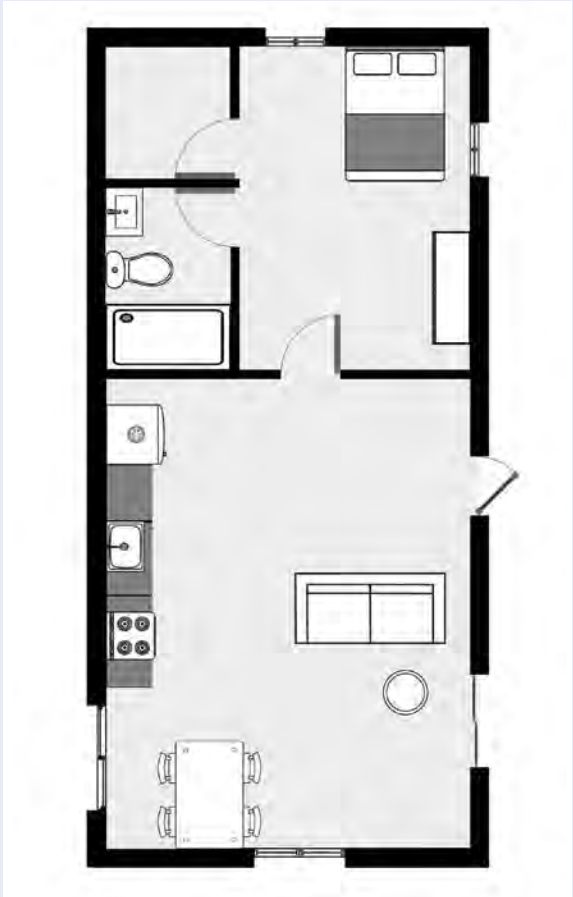
"When you actually build something and it takes shape, then you come away with this feeling of pride and success for accomplishing something like that."

When Dena and Tor were looking for a new home, they had their wish list: a place for themselves and their two teenage girls, an ADU for Dena's mother, a space for their home-based environmental nonprofit, a nice neighborhood, and a reasonable price. "We just weren't finding anything," Dena explained.

Then, almost by accident, they came across an empty piece of land for sale that could work. They bought it with plans to simultaneously build a house for themselves and a granny flat for Dena's mom.

Adding the ADU was important, and doing the two units together cut down on costs. "It was important for my mom's sense of independence to have her own place. Also for us, it was so convenient. Especially after she stopped driving," Dena explained. "And, we were thinking ahead, potentially using it as a rental someday."

Now that Dena's mom has passed, they do in fact rent out the unit. "It's super easy to find a renter. Everyone you know is trying to find a space for someone they know. As a landlord you have your pick of who and how to rent. We picked someone we liked to interact with because we knew they would be our next-door neighbor."



Location Unincorporated Sonoma County
ADU type New detached
Year completed 2010
Size 600 SF









SECTION FIVE

Construction

This section will guide you through the construction phase of your project, from hiring a contractor to completing final inspections. By the end of this chapter, you will:

- Have an overview of different types of construction
- Be able to very roughly estimate construction costs
- Know how to get bids and hire a contractor
- Understand your and your contractor's roles during the construction process

Photo: www.buildinganADU.com



Photo: Lanefab Design/Build

Traditional vs. Prefab

There are two types of construction to consider for your project: traditional construction (unit is custom-built on-site) and prefabricated/modular methods (sections of the unit or the entire unit are built off-site). Both traditional construction and prefab have pros and cons, so it's best to consider your specific needs in terms of your lot, design intention, ease of hiring contractors, etc. Traditionally, a homeowner hires a builder to construct the unit that their architect designs or a design/build firm handles the entire process. This allows the homeowner to design a home fitted to their space and needs. Traditional construction also allows for smaller changes to the design during the process, even after construction has started. With prefab and modular methods, some or all of the home is built in a factory and shipped to your site. These methods rely significantly less on contractors—except for on-site assembly, foundation, utility hookups, etc. Additionally, prefab often saves time because the site can be prepared while the home is being constructed in the factory. Prefab homes typically offer less customization. Prefab homes are often about the same price as traditional construction, though some companies offer lower-cost options. While prefab homes can appear to offer cost savings, it's important to consider some of the additional costs like transport, crane costs, the foundation, and sales tax when comparing costs, which can end up being 20-40% of the total cost. Also, not all banks will finance prefab construction.

Three Types of Prefab Homes



Panelized: Homes constructed from two-dimensional, pre-built sections that are assembled on-site.



Modular: Fully constructed and finished boxes (with cabinets, plumbing, and doors already installed) that are hooked up on-site.



Manufactured: Similar to modular in that unit is built off-site, but it's regulated by federal building code, often designed to be mobile, and usually more affordable.

Photo, top: Lanefab Design/Build
Photo, middle: New Avenue Homes
Photo, bottom: US Modular, Inc.
Photo, right: Lanefab Design/Build

To explore prefab home options, you will want to get in touch with prefab companies directly. Generally, they will visit and evaluate your site and make recommendations for your property, including cost and customization options. You can find prefab builders by researching online.

Shipping Container Homes

Many people are excited about shipping containers finding a second life as small homes. Typically, these heavy-duty steel boxes are 20 feet long and 8 feet wide and are repurposed by companies and do-it-yourselfers into dwellings made up of just one container or multiple containers connected together. If you are interested in them, make sure they meet all legal requirements for your location.

No matter the design, ADUs cannot be on wheels and must have a permanent foundation.



Project Manager

Someone will need to manage the construction process. This includes hiring subcontractors for electrical and plumbing, coordinating construction, managing scheduling, making payments, working with the city on permits, and more. If you hire a design/build firm (see page 49 for more information), you will not need to hire a separate person or company when you get to the construction phase. If not, you'll either need to hire a general contractor or manage the project yourself.

Often, people who are their own general contractors have a difficult and unpleasant time. Many people believe that because they have experience managing a kitchen renovation or adding an addition they will be able to save money by being their own general contractor. But it's important to recognize that building an ADU is more akin to building an entire house than a renovation, and there are many more possibilities for costly and time-consuming mistakes and delays. From securing permits to dealing with PG&E, the process is challenging and best left to those with extensive experience. The Getting Bids and Hiring Your Contractor sections of this chapter will take you through the process of finding and hiring a general contractor.

Some homeowners choose to retain the services of their designer during construction, or they hire a construction manager or owner's representative who represents and advocates for the homeowner through the process. Having an expert who assists with contract negotiation, payment schedules, quality checks, project timing, working with the city and other regulatory agencies, and more can be valuable to a homeowner who is unfamiliar with these processes. Though it may cost more up front, some homeowners will come out ahead because their project was better managed and/or because of the rental income they would have lost to a delayed project.

Building Costs

Construction costs for your second unit will vary significantly depending on personal preferences, site conditions, location, and many other factors. Similar to asking what an average wedding will cost, it's impossible to give an accurate estimate without some specifics and an understanding of your preferences. The cost to develop a second unit typically ranges from $30,000 for a simple interior conversion to $500,000 for a large unit with high-end finishes on a hillside lot. Cost per square foot is a good way to estimate, though this too can range from $200–$800 per square foot depending on the complexity and design finish of the project. Generally, most projects are between $250–$500 per square foot, and $400 per square foot is a good starting estimate for an average project.

Despite what many think, smaller units are not necessarily significantly cheaper because construction costs are not directly proportional to the size of the unit. There are many costs that must be included in all second units—particularly the foundation, kitchen and bathroom(s)—with marginal increases for larger size units. Each bathroom generally costs $15,000–$25,000, and the kitchen is generally $25,000–$50,000.

The type of ADU you build will also impact costs. While costs will depend mostly on the specifics of your project design, some types of ADUs are generally less costly to construct than others. New construction of both detached and attached ADUs tends to be the most expensive. Conversions of interior space (basement or otherwise) can be much cheaper—assuming no complex building code or structural issues exist—because much of the structure for the ADU is in place (walls, floors, ceilings, etc.). If allowed, two-story units can generally be built at a lower cost per square foot because only one foundation and one roof are needed. Garage conversions are often no cheaper or not much cheaper than new construction because these structures usually need significant work to be brought up to code, and the shell of a building (walls, foundation, roof) are not the most expensive parts of construction. Common challenges include redoing the foundation, replacing the floor so a vapor barrier can be added, replacing the windows, insulating, etc.

Placing all your plumbing, such as kitchen and bathroom pipes, on the same side or in the same wall, especially on multiple floors, will save you money during construction.

Worried about high construction costs?

If the construction costs of building an ADU are too high, consider home sharing or converting interior space into an ADU. Home sharing requires no construction, but brings in rental income. The cost to convert interior space into a junior ADU is often much lower than other types of construction, so this can be a great option if cost is a barrier. See page 5 for more information.

Green Building

Contact your local building department to review adopted green building criteria for more information on green building materials, water conservation, solar photovoltaic systems, electric vehicle chargers, and more.

There are many other factors that will impact costs, including:

- Quality of interior finish work and amenities
- Architectural form and details
- Extent of utility, structural, mechanical, electrical, and plumbing upgrades required
- Required ancillary upgrades (sidewalk frontages, sewer and water upgrades, etc.)
- Whether sprinklers are required
- Whether doors and windows meet emergency exit standards
- Lot complexity (slope, trees, fault lines, etc.)

Many homeowners wonder if fire sprinklers are required. In general, sprinklers are only required in an ADU if the primary dwelling is required to have sprinklers. However, new construction or projects that add significant square footage may trigger a requirement for sprinklers. It's best to discuss your specific situation early on with your city to determine if you need sprinklers.

ADU Cost Estimates and Examples

To estimate your project's specific costs, check out our ADU Calculator, which estimates costs based on your specific project, including location, construction type, size, and interior quality. The calculator is available at www.NapaSonomaADU.org/calculator.

Here are a few examples of construction costs from real-world projects:

All costs in 2018 dollars



$262,000
1 bedroom/1 bath
Attached & interior conversion
700 SF



$450,000
2 bedroom + office/2 bath
Detached, new construction
1,350 SF



$88,000
2 bedroom/1 bath
Interior conversion, designed by owner
771 SF



$321,000
2 bedroom/2 bath
Attached, new construction incl. primary residence, construction managed by owner
800 SF



$301,000
2 bedroom/1 bath
Detached, modular
704 SF



$84,000
1 bedroom/1 bath
Detached, panelized
288 SF

Photos, top: San Mateo County Second Unit Center, SDK Design, San Mateo County Second Unit Center
Photos, bottom: San Mateo County Second Unit Center, Josh To https://soup.is, Valley Home Development



Photo: McDunn ADUs

Getting Bids

FAQ

How do I find a contractor?

To get bids, you will use the construction drawings your designer completed (see Section 3). You'll want to be specific about what the bid should include, and be clear on which costs are covered and which are not. If you did not have complete construction drawings prepared (just drawings for planning), it is even more important to know what assumptions the contractors are making. You should also ask the contractor to include their license and insurance information, references, examples of past work, and a proposed schedule in their bid. Make sure you are asking each contractor to bid on the exact same specifications, so the bids are comparable.

Once you have figured out what you are asking the contractors to bid on, you will need to come up with a list of professionals to ask for bids. Ask friends, family, neighbors, and any homeowners who completed a construction project for recommendations of good local professionals. Your designer may also have recommendations of people they have worked with in the past. You can also conduct your own research to find professionals who might be a good fit.

Contractors with ADU experience can be an asset to the project. However, ADU construction is often similar to other residential construction, so past work on ADUs shouldn't be an absolute requirement. Once you have your list, contact and request bids from your top choices. You will want to get at least three bids for comparison.

Selecting a Contractor

When you have at least three bids, you can begin the selection process. First, make sure you understand all the details of the bids and, if necessary, ask the contractors any clarifying questions. While it may be tempting, selecting the lowest bid is not always the best decision. Generally, there is a trade-off between experience and cost; less expensive builders will have less experience, while those with more experience can charge more. You will need to decide what level of experience you are comfortable with in relation to when they can start your project and overall costs. You will want to check the contractor's references by reaching out to them directly. If possible, you should see photographs of the referenced projects. Some of the questions for references you may want to ask include:

- What was their overall experience like?
- Were they satisfied with the work?
- Was the project completed on time and within budget?
- What are the contractor's communication skills like?
- Is there anything they wished they had known before hiring the contractor?

Finally, you will want to consider your personal experience with the contractor, their communication style, whether you feel like you will work well together, and whether they understand your goals. Similarly to when you selected your architect, you want to find someone who fits well with you and with whom you have chemistry. You will need to weigh the fit with costs, past experience, references' experience, and other factors to decide the best fit for your project.

Department of Consumer Affairs Resources

The California Department of Consumer Affairs is a great resource when it comes to selecting a contractor. They have resources on hiring, checking the status of a contractor's license, negotiating a clear contract, and resolving disputes. Check out their online resources at www.cslb.ca.gov/Consumers.



Hiring Your Contractor

Before you hire your contractor, make sure to check their license and insurance. You can verify the contractor's license by calling the Contractors' State License Board at (800) 321-2752 or check on the web at www.cslb.ca.gov. Verify insurance by requesting a certification of insurance or by calling the contractor's insurance agent. Make sure workers' compensation, property damage, and liability are included. Your contractor will most likely present you with a contract to formalize your agreement. Alternatively, you can present your own written agreement, though this is less common. Review the entire agreement carefully to make sure you understand and are okay with everything. Also, make sure you understand how contingencies and added work will be handled. The contract should address the following:

- Contractor's license number, name, and address
- Total project cost and payment schedule
- Start date and timeline
- List of work to be accomplished and materials to be used
- Work to be subcontracted (if any)
- Specific terms about what constitutes substantial completion of work
- Any special requests (such as saving scrap lumber, bricks, or homeowner "sweat equity")
- The terms of warranties
- Whether there is a cancellation penalty
- A provision requiring the contractor to obtain lien releases from all subcontractors and suppliers (to protect the homeowner if a subcontractor claims they weren't paid)
- Plan for cleanup and removal of material and debris
- Requirements for protecting property and landscaping
- Areas where materials may or may not be stored
- Instructions regarding children or pets

The payment schedule should be a dated plan that shows when you will make payments based on construction completion milestones. For example, you might pay 20% after the building enclosure is complete, 25% once the exterior finish carpentry is complete, etc. California law requires that no more than 10% or $1,000 be paid up front, whichever is less, and it's generally a good practice to withhold 10% of the total project cost until all work and inspections are completed. Do not sign the contract until you fully understand and agree with all the terms.



Photo: Propel Studio



During Construction

Once your contract is signed, your contractor will start work according to the schedule you agreed upon. It's a good idea to have your designer, yourself, and your contractor go through the work in detail as your contractor may have questions and may suggest construction cost savings related to the design of your ADU. Your contractor will lead the construction process, but you have the following responsibilities during the process:

Communicate Keep in touch with your contractor and ideally set up a schedule for checking in.

Monitor Regularly walk through the construction area to monitor the quality of the work and to make sure the work is progressing the way you expect.

Decide Be prepared to make decisions about the details—light fixtures, appliances, and other materials—in a timely manner so your contractor can stay on schedule.

Adjust Follow the contract you agreed to, including any changes as described specifically in a change order form.

Photo: Timbre Architecture

Inspect Although your contractor will usually arrange the required city or utility inspections, it is your responsibility as property owner to make sure that the inspections are conducted as required.

Traditional construction will take 6-12 months, though this will vary depending on the specifics of the project. Stages of construction include:

Site preparation	1-2 months
Foundation	1 month
Walls, roof, doors	1-2 months
Plumbing & electrical	1-2 months
Insulation & drywall	½-1 month
Fixtures & finishes	1-2 months
Final touches	½-2 months

Any changes to the original agreement should be reflected in a change order form signed by both you and the contractor. Change order forms describe the specific change and any corresponding change to the project price or timeline. Changes to size, height, position, or outside finish could require review by the city. During construction, your ADU will be inspected multiple times to ensure it is being built according to the permitted plans. Typical inspection points include building, plumbing, mechanical, electrical codes, and sometimes fire, water, or public works. You will also need to apply for an address for your ADU—check with your city as the exact process varies by location. The building permit (which must be posted on-site) will state the required inspections and the order in which they should be performed.

These estimates are for traditional construction—prefab will typically be faster.



Photo: Timbre Architecture

SPOTLIGHT **A MULTI-PURPOSE SPACE**

Amy and Brian

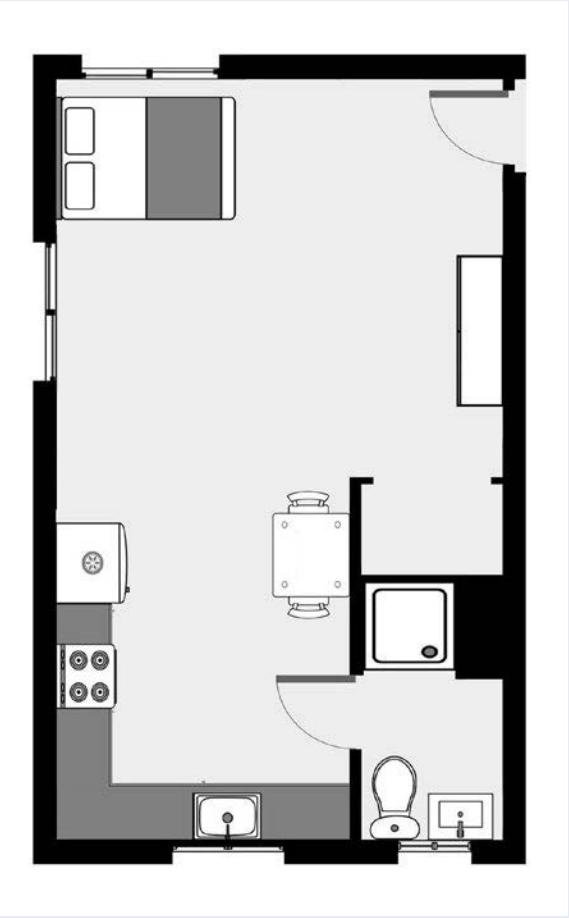


"The two things I always say are: it is great financially and provides great flexibility."

Amy and Brian were not searching for an ADU, they just wanted a house big enough for their family of three (or four if you count Buckley, their 15-pound, geriatric but lovable pug). Amy explained, "When we found the home, we didn't understand the ADU's financial potential. We liked the house and the lot; the granny unit was a bonus."

Because the ADU is so close to the main house, they mostly rent to people for a couple months at a time. "We have had lots of international folks come and stay, mostly interning in the wine industry," Amy said. "It's been nice to meet them. Someone from France, someone from Chile. A guy from China left a big cleaver in the kitchen that we now use all the time."

When not being rented out, Amy and Brian host their own family. "They are from the East Coast and up early, making coffee and noise. It works for everyone for them to stay longer because they can retreat to their own space."



Location Healdsburg
ADU type Detached garage conversion
Year completed Moved in 2015
Size 300 SF









SECTION SIX

Move-In

Construction is complete, and now it's time for someone to move in. This may be you, a friend, a family member, or a tenant. If it is a renter there are plenty of resources to help you become a landlord, including organizations that can help you manage your unit if you want. By the end of this chapter, you will:

- Understand how to be a landlord, including relevant laws
- Have an idea what your unit may rent for
- Know how to search for and select a good tenant
- Know the key parts of a lease and where to go to find one

Photo: New Avenue Homes

Becoming a Landlord

FAQ

What is involved in being a landlord?

Being a landlord comes with a number of responsibilities that can be addressed by making sure you follow a structured, well-thought-out series of steps, summarized below:

Preliminary steps Prepare to rent your unit by getting insurance, setting up utilities, and developing a plan to handle the finances.

The law and being a landlord You will need to understand all the laws related to being a landlord, especially with regards to discrimination.

Setting the rent Learn how to establish a fair rent that will attract and keep good tenants. Maximizing the rent is often not the only consideration.

Rental leases Make sure your lease (or rental agreement if it is month-to-month) clearly identifies all of the expectations for you and your future tenant.

Finding a tenant Understand how to successfully advertise your unit and select a good tenant.

Tenant management Have a long-term plan for the care and upkeep of your ADU, and how to address any issues with your tenant.

Help for Landlords

Property managers will help find and screen tenants and will deal with tenant complaints, schedule repairs, and collect rent payments for you. In exchange, you pay a percentage of the rent to them. Often, property management companies charge as little as 5% of the rental income plus a one-time fee when finding tenants. You can search online for companies and read online reviews. If you are nervous about being a landlord, this is a good investment. If you do hire a property management company, they will handle much of what is covered in this chapter.

Preliminary Steps

Before you start looking for a tenant, there are several things you will want to consider and address first.

Obtain insurance You'll need to notify your homeowner insurance company about your ADU. Regardless of how you intend to use your unit, your insurance will go up because your policy will need to cover more. Different insurance companies charge different amounts, so it is a good time to shop around. Be sure to consider if your policy covers personal injuries and losses from fire, storms, vandalism, and theft.

Have an accounting plan Working with an accountant or tax advisor, at least initially, can help you understand how to plan your ADU finances and pay your taxes. This will help you set up good systems and know what to expect. The law is complicated, but the good news is that many of your ADU costs count as deductions. Keeping accurate records of your income and expenses (including proof of all expenses) and understanding the depreciation schedule process (which allows for deduction of some construction costs) will help maximize deductions. You can obtain an accountant referral at www.calcpa.org.

Set up utilities Prior to advertising your unit, you will want to make sure all utilities are set up and that you have a plan for who will pay for what. If gas or electric utilities are shared or if the tenant's meter covers common areas, then you must disclose to your tenant that utility meters are shared and have a written agreement for who will pay for the shared utilities. California law does not specifically regulate how landlords bill tenants for water and sewer utilities.

Due to recent wildfires in Napa and Sonoma Counties, it is important to check with your existing homeowner insurance company to determine if building an ADU on your property will have impacts on your insurance due to fire-related policies, based on the location of your property and the history of fires in the region.



Fair Housing Law

Disclaimer: This section provides information about California fair housing law, but does not provide legal advice.

You're probably aware that there are numerous laws that impact rental housing in California. As a landlord of an ADU, one important consideration is state fair housing laws. (Federal fair housing laws and rental control typically do not apply to ADUs.) Under state fair housing law, it's against the law to discriminate against potential tenants on the basis of certain characteristics. You should know this information before you meet with your first potential tenant.

Discrimination can take many forms, including denying a person housing, telling a person that housing is not available when it actually is available, stating a preference in advertisements, or charging a higher deposit.

In California, individuals are protected from housing discrimination based on the following categories:

- Race, color
- Ancestry, national origin
- Religion
- Disability, mental or physical
- Sex, gender
- Sexual orientation
- Gender identity, gender expression
- Genetic information
- Marital status
- Familial status
- Source of income (e.g., alimony, Section 8 vouchers, etc.)

Discrimination can also be refusal to make reasonable accommodation for a person with a disability. Avoid saying things like "ideal for a couple" or "perfect for a student" because these can be considered discrimination against families. Project Sentinel (www.housing.org) is a great resource to learn more.

Photo: San Mateo County Second Unit Center



Setting the Rent

As you get ready to advertise your ADU, you will need to set the rent. Setting the right rent for your ADU will depend on the current rental market, location, size, design features and layout, and nearby amenities.

You'll also want to consider setting the rent a bit under market rate. Even very small discounts will attract a lot of applicants, which often leads to a greater pool of longer-term applicants. The longer your tenants stick around, the less time you will spend finding new renters. Setting the rent a bit below market rate can also make your unit more accessible to community members like teachers, firefighters, or nurses. You can use our calculator (www.NapaSonomaADU.org/calculator) to see rents in your area for similarly sized units. Consider the following as you determine the rent:

Research rental prices for similar units Find out how much rent others are charging for comparable units. Look on sites like Craigslist, Zillow, RENTCafé, and Trulia.

Location Location is the key factor that commands higher rent. If the property is in a convenient and popular location (e.g., near popular areas, employers, public transit, or schools) it will command a higher rent.

Desirability of your unit The location, size, and layout of the unit affects the rental value. High-end finishes and appliances (including a dishwasher and washer/dryer), as well as contemporary design elements, can command higher rent.

If you plan to work with a property management company or rental agent, they will help you set the rent. These professionals typically have a keen understanding of local rental markets and can assess the positives and negatives of your rental property to set the appropriate rental price.

Average Rent for Napa and Sonoma Counties

	500 SF	1,000 SF
AMERICAN CANYON	$1,300	$1,900
CALISTOGA	$1,400	$2,000
CLOVERDALE	$1,400	$2,000
COTATI	$1,500	$2,100
HEALDSBURG	$1,550	$2,250
NAPA	$1,300	$1,900
PETALUMA	$1,700	$2,500
ROHNERT PARK	$1,500	$2,100
SANTA ROSA	$1,400	$2,200
SEBASTOPOL	$1,400	$2,000
SONOMA	$1,500	$2,150
ST. HELENA	$1,600	$2,300
UNINCORP. NAPA COUNTY	$1,500	$2,100
UNINCORP. SONOMA COUNTY	$1,450	$2,100
WINDSOR	$1,450	$2,250
YOUNTVILLE	$1,600	$2,300

Data from analysis based on RENTcafe.com (Nov. 2017)

Renting to a Community Member

ADUs help address housing challenges in Napa and Sonoma Counties by adding homes that are naturally more affordable, which helps provide workforce housing and preserves diversity and community character. Many homeowners are motivated to rent their ADU to a school teacher, firefighter, or other community member who might otherwise have to commute a long distance to find a home they can afford. Consider giving the school district, local preschools, your place of worship, or others a call so they can tell their employees. Setting a rent below market rate can help attract great local renters.



Photo: www.buildinganADU.com



Photo: McDunn ADUs

Rental Leases

Renting to Friends or Family

If you're renting to a friend or family member, you will still want to prepare a lease for both of you to sign. This will establish clear terms and avoid future problems. You can also write guidelines about how you plan to live together.

Before you advertise the vacancy or seek a renter, you should prepare a lease that will specify all of your requirements for the tenant. A lease agreement is a legal contract that will give each party the security of knowing they hold the other responsible for upholding their end of the arrangement. The lease or rental agreement should follow the law while documenting the concerns both parties will have when entering into such an arrangement.

There is no one best resource for what you should cover in your lease or rental agreement. Generally, you can find sample leases online. Check www.NapaSonomaADU.org for homeowner resources. Nolo, a publisher of self-help legal guides (www.nolo.com), has high-quality paid resources as well. The California Department of Consumer Affairs booklet *California Tenants: A Guide to Residential Tenants' and Landlords' Rights and Responsibilities* is another helpful resource (available at www.achhd.org/documents/California-Tenants-Guide.pdf).

Your Lease Terms

Use this space to plan important decisions about your lease terms.

- What is the rent?
- When is rent due and how will it be paid?
- What is the security deposit?*
- Is your lease fixed-term or month-to-month?
- At the end of the rental period, does the lease terminate or turn into a month-to-month rental?
- Does the unit include parking?
- Do you allow pets? If so, what type? How many? Size restrictions?
- Do you allow smoking or marijuana use?
- Do tenants have access to any shared spaces (yard, storage, etc.) and, if so, what are the terms?
- Are you limiting the number of tenants?**
- Are short-term rentals like Airbnb allowed in your city for your ADU and, if so, are you allowing tenants this option?***
- Is there anything else will you include in your lease?

* As of September 2019, California law says you may charge up to two months' rent or three months' rent if the unit is furnished.

** Landlords can generally limit the number of tenants to two people per bedroom plus one person (e.g., five people for a two-bedroom apartment).

*** Short-term rentals are illegal in some cities, so make sure to check the laws in your city. As of September 2019, the following jurisdictions in Napa and Sonoma Counties limit or prohibit short-term rental of ADUs: American Canyon, Calistoga, Cotati, Healdsburg, Napa City, Napa County, Petaluma, Santa Rosa, Sebastopol, Sonoma City, Sonoma County, St. Helena, Windsor, and Yountville. However, new state laws effective January 2020 require cities to limit ADU rentals under 30 days in certain cases. Please see www.NapaSonomaADU.org for more details.

Finding a Tenant

You will want to follow the steps below to advertise your unit and find a tenant:

Advertisement The first step to finding a good tenant is to advertise your unit. You will be most effective if you use high-quality photos and include information on rent, size, layout, approximate location, special features, and any requirements. Many people in Napa and Sonoma Counties advertise on Craigslist, but you can also consider a property sign, advertising with local institutions (schools, employers, etc.), other online advertising (Trulia, Zillow, Nextdoor, etc.), public bulletin boards (community centers, churches, etc.), and word of mouth.

Rental application You will need to prepare a written rental application to give to prospective tenants when they view your unit. Collect information requested on the application for each adult who will live in the unit. Free sample rental applications are available online, or you can contact a legal publishing company like Nolo (www.nolo.com).

Open house Next you will be ready to show your unit to prospective tenants. You can advertise and hold an open house, or arrange individual showings with potential tenants. Having an open house is often more efficient, but setting up individual appointments allows you to select the most promising tenants. Make sure to have all interested potential tenants complete your written rental application.

Tenant selection Once you have applications, it's time to select a tenant. It's recommended that you develop written, fair criteria that you will use to judge applicants and apply the criteria consistently with all applications. This will help ensure that you comply with fair housing law. Review the applications and select the tenant(s) that are the best fit for you and your property based on your criteria.

Credit check You will want to run a credit check on potential tenants to evaluate if they are financially stable and reliable. Credit reports are issued by the three major bureaus: TransUnion, Experian, and Equifax. You will need to verify with the bureaus that you are a landlord before you can run a credit check on a potential tenant. The report will include your potential tenant's credit score and past financial information. Credit scores range from 300-850; a score above 620 is considered good for a rental application. If you have trouble understanding the credit report, there are

third-party companies that can provide easier-to-understand reports.

Background check You will also want to run a background check on potential tenants using a verified tenant screening company. The Consumer Financial Protection Bureau (www.consumerfinance.gov) has compiled a list of approved companies for tenant screening. The background check will show a number of things like any criminal record (including running the name on the sex offender database), whether they have ever damaged any property, and whether they paid rent on time. You can charge a reasonable fee to cover your costs for the credit and background checks.

Reference check You'll also want to check the applicant's references, including past landlords, employers, and financial institutions. It's recommended that you speak to several past landlords, not just the current one.

Lease Once you've selected the tenant(s) and they accept, you will need to sign the lease or rental agreement you prepared. You should collect the security deposit and the first month's rent when you sign the lease. It's also recommended that you conduct a move-in inspection with your tenant(s) and that you and your tenant(s) retain a record of the results of the inspection.

Tenant Management

Once your tenant has moved in, you'll still have ongoing landlord responsibilities.

Maintenance It is your responsibility as a landlord to maintain a "habitable" unit per state law. Regardless, it is best practice to keep your unit well-maintained to keep your tenant happy. Except in the case of an emergency, you will need to give your tenant(s) 24 hours notice before you or any maintenance people enter the unit.

Rent increases Generally, if your tenant is on a lease you cannot increase the rent during the lease term. When the lease expires (or in month-to-month tenancies), you can increase the rent as you see fit. Property owners may increase the rent as much as they want, so long as they give tenants notice at least 30 days in advance for increases of 10% or less, and 60 days for increases exceeding 10%.

Eviction Hopefully you and your tenant(s) will not have problems, but if problems do arise that cannot be resolved, you will need to consider eviction. It's recommended that you work with a lawyer if eviction is necessary. State law mandates a judicial eviction process, which is best handled by a lawyer.



Next Steps

Congratulations!

By completing this workbook, you've taken a big step towards developing your ADU. As with any major construction project, there will be surprises along the way. By working closely with your city and project team and by following the advice in this workbook, you can get through any challenges. ADUs are a uniquely win-win type of housing; they can help you meet your family's needs and can play an important role in addressing the housing needs of Napa and Sonoma. By adding an ADU to your property, you can be part of the solution. The goal of this workbook is to serve as a solid foundation to help you get started, and as a tool to lean on as your project progresses. Let us know how we did! We welcome your feedback about this book or any other ADU topics.

Best of luck with your project, and thank you for helping create more affordable housing in Napa and Sonoma Counties!

Give us feedback at www.NapaSonomaADU.org/workbook-feedback.

Find more resources and get in touch with us at www.NapaSonomaADU.org.

Napa Sonoma ADU

Photo: Adam Long

ADU Workbook

Certificate of Completion

This is to certify that



has completed the ADU Workbook and is now ready
to begin design and development of their second unit.
These efforts will increase the availability of
much-needed housing.

Congratulations!

The Napa Sonoma ADU Center is a joint project of Napa Valley Community Foundation and Community Foundation Sonoma County, designed to support and inform homeowners in Napa and Sonoma counties who are interested in building ADUs. As a part of these efforts, this workbook was created by Baird & Driskell Community Planning. © Copyright 2020 Baird + Driskell Community Planning. All rights reserved.

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NAPA COUNTY

PROXIMITY WORKFORCE HOUSING ASSISTANCE GUIDELINES

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I. GENERAL

Section 101. Purpose

The purpose of the Proximity Workforce Housing Assistance Program (the "Proximity Housing Program") is to assist low- and moderate-income households to purchase a home close to their place of work. The Proximity Housing Program is ~~an effort~~intended to strengthen the jobs-to-housing nexus for members of the Proximity Workforce by increasinge housing opportunities that are affordable ~~to members of the Proximity Workforce~~ and that ~~to~~ reduce~~inge~~ displacement of those members who may otherwise choose to purchase homes outside of the County due to lower home prices ~~by strongly encouraging the creation of a jobs-to-housing nexus for members of the Proximity Workforce~~.

Section 102. Definitions

1. "Affordable Housing Ordinance" means Chapter 18.107 (Affordable Housing and Incentives) of the Napa County Code.

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2. “Affordable Housing ~~Trust~~ Fund” means the affordable housing fund for the County established pursuant to Section 18.107.020 of the Napa County Code. Monies from the Affordable Housing ~~Trust~~ Fund may be used to provide Proximity Housing Assistance only for borrowers that meet the affordability and occupancy requirements set forth in the Affordable Housing Ordinance.

3. “County” means the County of Napa, a subdivision of the State of California.

4. "Eligible Proximity Workforce Household" means a household that has been certified by the County as eligible to participate in the Proximity Housing Program by qualifying as a Proximity Workforce Member and having a gross household income which does not exceed one hundred twenty percent (120%) of the Area Median Income.

5. “Employer” means a business whose business address is located within Napa County. If an Employer is not physically based in the Proximity Housing Market Area, an employee must be able to verify that they work in the Proximity Housing Market Area, such as working from home or route driving, for the minimum number of hours to qualify as a member of the Proximity Workforce.

6. “Gross Household Income” means the total Federal gross income for all household members (including those with their name on the deed, their spouse, and all dependents over the age of 25). Gross household income shall be calculated by summing all income for all members of the household by reviewing the most recent paystubs and the most recent tax return. If there are discrepancies, the Federal gross income as reported on the most recent paystubs will be the document used to determine income.

7. “Self-Employment Income” means net income earned from carrying on a "trade or business" as a sole proprietor, an independent contractor, or some form of partnership. Self-Employment Income will be calculated using the income from the most recent tax return from Form 1040, line 9. This amount will be cross-referenced with the income reflected on the Uniform Residential Loan Application.

~~7.~~8. "Net Proceeds" means the amount determined by subtracting the Original Base Price from one of the following amounts, as applicable: (i) the Resale Price of the Home, or (ii) in the event a creditor acquires title to the Home through a deed in lieu of foreclosure, a trustee's deed upon sale, or otherwise, the amount paid for the Home at a creditor's sale of the Home. Net Proceeds cannot be less than zero.

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~~8.~~9. "Non-Occupying Co-Borrowers" means individuals used to assist the Proximity Household borrower obtain a first mortgage. Non-Occupying Co-Borrowers must certify that they will not be living in the home and will not be contributing financially to the monthly mortgage payment.

~~9.~~10. "Original Base Price" means the original purchase price of the home paid by the Owner.

~~10.~~11. "Owner" shall mean the~~a~~ person or persons who ~~owns a Proximity Housing Unit who~~ receives Proximity Housing Assistance to finance a Proximity Housing Unit with that assistance.~~.~~

~~11.~~12. "Primary Residence" means the principal place of residence of a person/household. The Owner shall be deemed to have ceased to use the Home as the Owner's Primary Residences by residing in the Home fewer than nine (9) months, or approximately seventy-five percent (75%) of any consecutive twelve (12) month period. Co-signers shall be permitted upon certification that they do not intend to occupy the Proximity Housing Unit.

~~12.~~13. "Proximity Household Size" means the total number of members in the household as verified against the total number of people, including dependents, documented on the IRS Form 1040. Third party documentation will be required to verify dependents not included on the IRS 1040 (e.g. new birth certificate, court paperwork, etc.)

~~13.~~14. "Proximity Housing Assistance" means monetary assistance in the form of a loan from the County to Eligible Proximity Workforce Households to increase the affordability of purchasing a property within the Proximity Housing Market Area. The Proximity Housing Assistance will be evidenced by the Proximity Housing Promissory Note and deed of trust.

~~14.~~15. "Proximity Housing Guidelines" means these guidelines, including any attachments or exhibits hereto.

~~15.~~16. "Proximity Housing Loan" means the monetary assistance from the County to the Owner to make the Proximity Housing Unit affordable to the Owner. The purpose of the Proximity Housing Loan is to increase housing affordability to members of the Proximity Workforce.

~~16.~~17. "Proximity Housing Market Area" means the area within the County that is within twenty (20) road miles" of the proposed property to be purchased with Proximity Housing Assistance.

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~~17.~~18. "Proximity Housing Promissory Note" means the promissory note evidencing the terms of the Proximity Housing Loan, which note shall be in a form approved by the County Staff consistent with these Proximity Housing Guidelines.

~~18.~~19. "Proximity Housing Share of Appreciation" shall be equal to the Shared Appreciation Percentage of the Net Proceeds. ~~In the event that~~If Net Proceeds is equal to zero no Proximity Housing Share of Appreciation shall be due.

~~19.~~20. "Proximity Housing ~~Trust~~ Fund" means the special fund, the proceeds of which shall be used to partially fund Proximity Housing Assistance and to pay for administrative costs associated with receipt of Proximity Housing Assistance.

~~20.~~21. "Proximity Housing Unit" means a single unit residence (condominium, townhome, single family home, etc,) purchased by an Owner with Proximity Housing Assistance. Participants in the Proximity Workforce Housing Program may not own, and plan to retain, another residential property for rental income while participating in the program. Applicants that own an existing residential property will be required to sell the existing property prior to closing a loan through the Worker Proximity Program.

~~21.~~22. "Proximity Workforce" means a person who at the time of execution of a purchase agreement (or other transfer agreement) for a Proximity Housing Unit is: (i) employed and currently working at least 30 hours per week or working a minimum of 1,200 hours per year, at a site or sites located within the Proximity Housing Market Area; (ii) or a disabled person who is employed at a job site located within the Proximity Housing Market Area, regardless of hours worked or who is unable to work because of the disabling condition, illness, or injury. For purposes of these guidelines, "disabled" means a person who has a disability as defined in subdivision (b) of Section 54 of the California Civil Code. Under certain proximity programs developed pursuant to these Proximity Housing Guidelines, only members of the Proximity Workforce whose gross household income does not exceed one hundred twenty percent (120%) of area median income shall be considered eligible to participate.

~~22.~~23. "Shared Appreciation Percentage" is the amount which represents the percentage obtained by dividing the principal amount of the Proximity Housing Loan by the Original Base Price of the Home.

~~23.~~24. "Transfer" means any sale, assignment, or transfer, voluntary or involuntary that would trigger a reassessment of value.

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II. PROGRAM ELEMENTS

Section 201. Proximity Housing Assistance.

The County may elect to offer Proximity Housing Assistance to homebuyers to assist with the purchase of a home located closer to the household member's place of work. Proximity Housing Assistance offered to homebuyers will be subject to the following conditions:

1. The total amount of Proximity Housing Assistance offered will not exceed ~~ten~~ sixteen and one-half percent (16.5~~10~~%) of the purchase price of the home. The total down payment amount contributed by the applicants, including gifts, will not exceed 16.5~~10~~% of the purchase price. The maximum purchase price of a home shall be capped at 110% of the median price of a home in the listed jurisdiction (i.e. Napa, American Canyon, Yountville, St. Helena, Calistoga) as evaluated and issued by memorandum each ~~January~~ April and ~~July~~October by the Director of Housing ~~and~~ & Homeless Services.

2. Only households with at least one member who is a member of the Proximity Workforce will be eligible for the Proximity Housing Assistance. ~~In order t~~To be certified as a member of the Proximity Workforce, total gross household income must be verified to be less than 120% of area median income. Refer to income verification requirements at Section~~§~~302 of these Guidelines.

3. The property purchased with the Proximity Housing Assistance must be ~~located~~ in the County of Napa and must be within a twenty (20) road mile radius of the place of employment of the member of the household who qualifies as a Proximity Workforce member. The Owner must intend to occupy the home as his or her Primary Residence.

4. The Proximity Housing Assistance will be evidenced by a promissory note and secured by a deed of trust recorded on the purchased home second only to a first mortgage that cannot exceed eighty-~~six and one-half~~ percent (80~~6.5~~%) of the value of the purchased home excluding closing costs and mortgage insurance. The County may require additional documentation with regards to the Proximity Housing Assistance.

5. The Owner shall not rent or otherwise lease the Home to another party, unless approved by the County under hardship conditions.

6. Other first time homebuyer programs are acceptable to be used in addition to the Napa County Proximity Housing Assistance Program so long as Napa County maintains the second lien and is not subordinate to another program.

III. Program Administration

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Section 301. Qualification to Receive Proximity Housing Assistance

To be eligible to receive Proximity Housing Assistance, a person shall be required to:

1. have at least one member of the household certified as a member of the Proximity Workforce at the time of execution of a purchase and sale agreement for a Proximity Housing Unit;

2. certify that the Owner's gross household income does not exceed one hundred twenty percent (120%) of the Area Median Income; and

3. occupy the unit as that Owner's Primary Residence.~~;~~

Section 302. Employment/Income Verification Procedures

~~In order to~~To determine that a person requesting Proximity Housing Assistance meets all of the criteria set forth in Section 301, prior to occupancy, the County should review and keep on file specific documentation which provides proof of employment and income for each household member. The applicant must provide the following documentation (with all such information and documentation to remain confidential):

1. Internal Revenue Service's Form 1040 Individual Income Tax Return from most recent tax year

2. Most recent ~~four~~three months pay stubs

The County may also request any of the following documentation:

1. Executed Employment Verification Form (signed by Employer(s)) to verify physical work address in those instances when a PO Box or different work location is provided, to verify number of working hours for part-time positions and/or other unusual circumstances.;2. Employer(s) name, address, telephone, and dates of employment.~~;~~

2. A valid form of picture identification.

3. W-2 Wage Information

If any of the above required information is not available, the applicant shall provide other documentation as requested by the County. The sufficiency of any such alternative documentation will be determined by the County at its sole discretion.

When a person is self-employed, the County requires demonstration of a two-year history of the borrower's prior earnings as a means of demonstrating the likelihood that the income will continue to be received. A person with a shorter history of self-

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employment – 12 to 24 months – may be considered, as long as the borrower's most recent signed federal income tax returns reflect the receipt of such income at the same (or greater) level in a field that provides the same products or services as the current business or in an occupation in which he or she had similar responsibilities to those undertakingen in connection with the current business.

The County may request any or all of the following documentation (with all such information and documentation to remain confidential):

1. ~~A complete copy of the applicant's most recent tax returns, including Federal and State tax returns~~Copies of signed federal income tax returns (both individual returns and in some cases, business returns) that were filed with the IRS for the past two years (with all applicable schedules attached).~~;~~

2. Copies of ~~all W-2s, Form~~ the most recent1099 Form~~s~~, or K-1s received, if any.~~;~~

~~3.~~ Copies of any paycheck stubs, or an up-to-date profit and loss statement. ~~; and~~

~~4.~~3. A copy of a current business license, if applicable.

All Owners shall verify on their application that all information provided is true and accurate. If any of the information is determined by the County to be inaccurate or non-verifiable, the applicant may be subject to disqualification by the County from the application and/or approval process. The County may, if it chooses, designate a "Qualification Specialist," who reviews all application materials. An application fee covering the County's costs associated with verification is required at the time the proximity workforce verification form is submitted to the County for processing.

IV. OTHER PROGRAM CONDITIONS

Section 401. Payments Due to County Upon Transfer of Home

The terms for the Proximity Housing Loan will be as follows and will be more specifically set forth in the Proximity Housing Promissory Note:

(a) Required Payment. The Owner, upon Transfer, is required to pay all sums due and owing under Proximity Housing Promissory Note. The amounts due under the Proximity Housing Promissory Note will the repayment of the Proximity Housing Assistance plus the Proximity Housing Share of Appreciation. The County will

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not release the deed of trust on the Proximity Housing Unit without full repayment of the amounts owed under the Proximity Housing Promissory Note.

(b) Proximity Housing Share of Appreciation. The Proximity Housing Share of Appreciation shall be equal to the Shared Appreciation Percentage of the Net Proceeds. In the event that Net Proceeds is equal to zero no Proximity Housing Share of Appreciation shall be due.

By way of example, if an Eligible Proximity Workforce Household receives a Proximity Housing Loan from the County in the amount of $160,5000 and purchases a home with an Original Base Price of $100,000, the County's Shared Appreciation Percentage would be 16.50% based on the Proximity Housing Loan being 16.50% of the total purchase price. If that same household sells the home ~~at a later date~~later for $150,000, the County would be repaid the original $160,500 Proximity Housing Loan amount plus $8,255,00 representing 16.50% of the Net Proceeds ($50,000) from the sale of the home.

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(c) Prepayment. Owner will be allowed to prepay the Proximity Housing Loan. At the time of prepayment, the Owner will be obligated to obtain a fair market value appraisal for the Proximity Housing Unit. The Proximity Housing Share of Appreciation at the time of any prepayment will be determined based on the fair market value appraisal, provided, that at the time of prepayment, the Proximity Housing Share of Appreciation shall be at least one-half of one percent of the fair market value of the Proximity Housing Unit. The Proximity Housing Promissory Note will include provisions regarding determination of fair market value and appraisal standards.

Section 402. Defaults

(a) Events of Default**.** The Proximity Housing Assistance and the Proximity Housing Share of Appreciation shall be due in the event of a default under the Proximity Housing Promissory Note. Defaults will include any failure to comply with the terms of the Proximity Housing Promissory Note, any default on a first mortgage on the home, a declaration of bankruptcy by the Owner and such other defaults as are included in the Proximity Housing Promissory Note, deed of trust or other documents evidencing the Proximity Housing Loan.

Section 403. Term of Loan

The Proximity Housing Promissory Note shall have a term of fifty-five (55) years from the date of the signed promissory note, unless earlier terminated under the terms of the Proximity Housing Note.

Section 404. Other Terms

The mortgage lender and title company selected by the Owner shall provide all loan and escrow documents to the County and the Owner at least 10 days in advance for County review and approval.

The Second Mortgage Agreement shall include such other terms as deemed reasonable by County consistent with these Proximity Housing Assistance Guidelines, including the following:

(a) Maintenance. The Second Mortgage Agreement shall require the Owner to maintain the Home, including landscaping, in good repair and in a neat, clean and orderly condition (and, as to landscaping, in a healthy condition) and in accordance with all applicable laws, rules, ordinances, orders and regulations of all federal, state, County, municipal, and other governmental agencies and bodies having or claiming jurisdiction and all their respective departments, bureaus, and officials, The Owner will be required to make all repairs and replacements necessary to keep the Home in good condition and repair.

(b) Insurance. The Second Mortgage Agreement shall require the Owner to maintain a standard all risk property insurance policy equal to the replacement value of the Proximity Housing Unit, naming the County as an additional insured.

(c) Refinancing. The Second Mortgage Agreement will allow the Owner to refinance the first mortgage loan under conditions which will ensure that the County's Proximity Housing Loan and Proximity Housing Share of Appreciation is protected, and no such refinancing amount exceeds seventy five percent (75%) of the fair market value of the home. There will be a fee for the preparation of a subordination agreement for every refinance of the first mortgage, in accordance with the County's Fee Schedule.

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V. PROGRAM OVERSIGHT

Section 501. Special Review

A special review for a variance from the strict application of these guidelines may be granted if an unusual hardship can be established and the County finds, at its sole discretion, that the granting of such variance is consistent with the County's proximity housing goals and objectives. A person requesting a special review shall do so in writing and provide documentation regarding the unusual hardship. The applicant shall also be required to submit any additional information reasonably requested by the County in a timely manner.

The special review committee may grant, conditionally grant, or reject any such request at its sole discretion.

Section 502. Grievance Procedures

A proximity housing program adopted in accordance with these guidelines may, if appropriate, provide any person the right to appeal determinations made by County staff directly to the Board of Supervisors in the manner set forth in Chapter 2.88 of the Napa County Code.

NAPA COUNTY

PROXIMITY WORKFORCE HOUSING ASSISTANCE GUIDELINES

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I. GENERAL

Section 101. Purpose

The purpose of the Proximity Workforce Housing Assistance Program (the "Proximity Housing Program") is to assist low- and moderate-income households to purchase a home close to their place of work. The Proximity Housing Program is intended to strengthen the jobs-to-housing nexus for members of the Proximity Workforce by increasing housing opportunities that are affordable and that reduce displacement of those members who may otherwise choose to purchase homes outside of the County due to lower home prices.

Section 102. Definitions

1. “Affordable Housing Ordinance” means Chapter 18.107 (Affordable Housing and Incentives) of the Napa County Code.

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3. “County” means the County of Napa, a subdivision of the State of California.

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6. “Gross Household Income” means the total Federal gross income for all household members (including those with their name on the deed, their spouse, and all dependents over the age of 25). Gross household income shall be calculated by summing all income for all members of the household by reviewing the most recent paystubs and the most recent tax return. If there are discrepancies, the Federal gross income as reported on the most recent paystubs will be the document used to determine income.

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8. "Net Proceeds" means the amount determined by subtracting the Original Base Price from one of the following amounts, as applicable: (i) the Resale Price of the Home, or (ii) in the event a creditor acquires title to the Home through a deed in lieu of foreclosure, a trustee's deed upon sale, or otherwise, the amount paid for the Home at a creditor's sale of the Home. Net Proceeds cannot be less than zero.

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Borrowers must certify that they will not be living in the home and will not be contributing financially to the monthly mortgage payment.

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11. "Owner" shall mean the person or persons who receives Proximity Housing Assistance to finance a Proximity Housing Unit with that assistance.

12. “Primary Residence” means the principal place of residence of a person/household. The Owner shall be deemed to have ceased to use the Home as the Owner's Primary Residences by residing in the Home fewer than nine (9) months, or approximately seventy-five percent (75%) of any consecutive twelve (12) month period. Co-signers shall be permitted upon certification that they do not intend to occupy the Proximity Housing Unit.

13. “Proximity Household Size” means the total number of members in the household as verified against the total number of people, including dependents, documented on the IRS Form 1040. Third party documentation will be required to verify dependents not included on the IRS 1040 (e.g. new birth certificate, court paperwork, etc.)

14. "Proximity Housing Assistance" means monetary assistance in the form of a loan from the County to Eligible Proximity Workforce Households to increase the affordability of purchasing a property within the Proximity Housing Market Area. The Proximity Housing Assistance will be evidenced by the Proximity Housing Promissory Note and deed of trust.

15. "Proximity Housing Guidelines" means these guidelines, including any attachments or exhibits hereto.

16. “Proximity Housing Loan" means the monetary assistance from the County to the Owner to make the Proximity Housing Unit affordable to the Owner. The purpose of the Proximity Housing Loan is to increase housing affordability to members of the Proximity Workforce.

17. “Proximity Housing Market Area” means the area within the County that is within twenty (20) road miles” of the proposed property to be purchased with Proximity Housing Assistance.

18. "Proximity Housing Promissory Note" means the promissory note evidencing the terms of the Proximity Housing Loan, which note shall be in a form approved by the County Staff consistent with these Proximity Housing Guidelines.

19. “Proximity Housing Share of Appreciation” shall be equal to the Shared Appreciation Percentage of the Net Proceeds. If Net Proceeds is equal to zero no Proximity Housing Share of Appreciation shall be due.

20. "Proximity Housing Fund" means the special fund, the proceeds of which shall be used to partially fund Proximity Housing Assistance and to pay for administrative costs associated with receipt of Proximity Housing Assistance.

21. "Proximity Housing Unit" means a single unit residence (condominium, townhome, single family home, etc,) purchased by an Owner with Proximity Housing Assistance. Participants in the Proximity Workforce Housing Program may not own, and plan to retain, another residential property for rental income while participating in the program. Applicants that own an existing residential property will be required to sell the existing property prior to closing a loan through the Worker Proximity Program.

22. “Proximity Workforce” means a person who at the time of execution of a purchase agreement (or other transfer agreement) for a Proximity Housing Unit is: (i) employed and currently working at least 30 hours per week or working a minimum of 1,200 hours per year, at a site or sites located within the Proximity Housing Market Area; (ii) or a disabled person who is employed at a job site located within the Proximity Housing Market Area, regardless of hours worked or who is unable to work because of the disabling condition, illness, or injury. For purposes of these guidelines, “disabled” means a person who has a disability as defined in subdivision (b) of Section 54 of the California Civil Code. Under certain proximity programs developed pursuant to these Proximity Housing Guidelines, only members of the Proximity Workforce whose gross household income does not exceed one hundred twenty percent (120%) of area median income shall be considered eligible to participate.

23. "Shared Appreciation Percentage" is the amount which represents the percentage obtained by dividing the principal amount of the Proximity Housing Loan by the Original Base Price of the Home.

24. “Transfer” means any sale, assignment, or transfer, voluntary or involuntary that would trigger a reassessment of value.

II. PROGRAM ELEMENTS

Section 201. Proximity Housing Assistance.

The County may elect to offer Proximity Housing Assistance to homebuyers to assist with the purchase of a home located closer to the household member's place of

work. Proximity Housing Assistance offered to homebuyers will be subject to the following conditions:

1. The total amount of Proximity Housing Assistance offered will not exceed sixteen and one-half percent (16.5%) of the purchase price of the home. The total down payment amount contributed by the applicants, including gifts, will not exceed 16.5% of the purchase price. The maximum purchase price of a home shall be capped at 110% of the median price of a home in the listed jurisdiction (i.e. Napa, American Canyon, Yountville, St. Helena, Calistoga) as evaluated and issued by memorandum each April and October by the Director of Housing & Homeless Services.

2. Only households with at least one member who is a member of the Proximity Workforce will be eligible for the Proximity Housing Assistance. To be certified as a member of the Proximity Workforce, total gross household income must be verified to be less than 120% of area median income. Refer to income verification requirements at Section302 of these Guidelines.

3. The property purchased with the Proximity Housing Assistance must be in the County of Napa and must be within a twenty (20) road mile radius of the place of employment of the member of the household who qualifies as a Proximity Workforce member. The Owner must intend to occupy the home as his or her Primary Residence.

4. The Proximity Housing Assistance will be evidenced by a promissory note and secured by a deed of trust recorded on the purchased home second only to a first mortgage that cannot exceed eighty- percent (80%) of the value of the purchased home excluding closing costs and mortgage insurance. The County may require additional documentation with regards to the Proximity Housing Assistance.

5. The Owner shall not rent or otherwise lease the Home to another party, unless approved by the County under hardship conditions.

6. Other first time homebuyer programs are acceptable to be used in addition to the Napa County Proximity Housing Assistance Program so long as Napa County maintains the second lien and is not subordinate to another program.

III. Program Administration

Section 301. Qualification to Receive Proximity Housing Assistance

To be eligible to receive Proximity Housing Assistance, a person shall be required to:

1. have at least one member of the household certified as a member of the Proximity Workforce at the time of execution of a purchase and sale agreement for a Proximity Housing Unit;

2. certify that the Owner's gross household income does not exceed one hundred twenty percent (120%) of the Area Median Income; and

3. occupy the unit as that Owner's Primary Residence.

Section 302. Employment/Income Verification Procedures

To determine that a person requesting Proximity Housing Assistance meets all of the criteria set forth in Section 301, prior to occupancy, the County should review and keep on file specific documentation which provides proof of employment and income for each household member. The applicant must provide the following documentation (with all such information and documentation to remain confidential):

1. Internal Revenue Service's Form 1040 Individual Income Tax Return from most recent tax year

2. Most recent three months pay stubs

The County may also request any of the following documentation:

1. Executed Employment Verification Form (signed by Employer(s)) to verify physical work address in those instances when a PO Box or different work location is provided, to verify number of working hours for part-time positions and/or other unusual circumstances.;2. Employer(s) name, address, telephone, and dates of employment.

2. A valid form of picture identification.

3. W-2 Wage Information

If any of the above required information is not available, the applicant shall provide other documentation as requested by the County. The sufficiency of any such alternative documentation will be determined by the County at its sole discretion.

When a person is self-employed, the County requires demonstration of a two-year history of the borrower's prior earnings as a means of demonstrating the likelihood that the income will continue to be received. A person with a shorter history of self-employment – 12 to 24 months – may be considered, as long as the borrower's most recent signed federal income tax returns reflect the receipt of such income at the same (or greater) level in a field that provides the same products or services as the current business or in an occupation in which he or she had similar responsibilities to those undertaken in connection with the current business.

The County may request any or all of the following documentation (with all such information and documentation to remain confidential):

1. Copies of signed federal income tax returns (both individual returns and in some cases, business returns) that were filed with the IRS for the past two years (with all applicable schedules attached).

2. Copies of the most recent1099 Form, or K-1s received, if any.

   Copies of any paycheck stubs, or an up-to-date profit and loss statement.
3. A copy of a current business license, if applicable.

All Owners shall verify on their application that all information provided is true and accurate. If any of the information is determined by the County to be inaccurate or non-verifiable, the applicant may be subject to disqualification by the County from the application and/or approval process. The County may, if it chooses, designate a "Qualification Specialist," who reviews all application materials. An application fee covering the County's costs associated with verification is required at the time the proximity workforce verification form is submitted to the County for processing.

IV. OTHER PROGRAM CONDITIONS

Section 401. Payments Due to County Upon Transfer of Home

The terms for the Proximity Housing Loan will be as follows and will be more specifically set forth in the Proximity Housing Promissory Note:

(a) Required Payment. The Owner, upon Transfer, is required to pay all sums due and owing under Proximity Housing Promissory Note. The amounts due under the Proximity Housing Promissory Note will the repayment of the Proximity Housing Assistance plus the Proximity Housing Share of Appreciation. The County will not release the deed of trust on the Proximity Housing Unit without full repayment of the amounts owed under the Proximity Housing Promissory Note.

(b) Proximity Housing Share of Appreciation. The Proximity Housing Share of Appreciation shall be equal to the Shared Appreciation Percentage of the Net Proceeds. In the event that Net Proceeds is equal to zero no Proximity Housing Share of Appreciation shall be due.

By way of example, if an Eligible Proximity Workforce Household receives a Proximity Housing Loan from the County in the amount of $16,500 and purchases a home with an Original Base Price of $100,000, the County's Shared Appreciation Percentage would be 16.5% based on the Proximity Housing Loan being 16.5% of the total purchase price. If that same household sells the home later for $150,000, the County would be repaid the original $16,500 Proximity

Housing Loan amount plus $8,250 representing 16.5% of the Net Proceeds ($50,000) from the sale of the home.

(c) Prepayment. Owner will be allowed to prepay the Proximity Housing Loan. At the time of prepayment, the Owner will be obligated to obtain a fair market value appraisal for the Proximity Housing Unit. The Proximity Housing Share of Appreciation at the time of any prepayment will be determined based on the fair market value appraisal, provided, that at the time of prepayment, the Proximity Housing Share of Appreciation shall be at least one-half of one percent of the fair market value of the Proximity Housing Unit. The Proximity Housing Promissory Note will include provisions regarding determination of fair market value and appraisal standards.

Section 402. Defaults

(a) Events of Default**.** The Proximity Housing Assistance and the Proximity Housing Share of Appreciation shall be due in the event of a default under the Proximity Housing Promissory Note. Defaults will include any failure to comply with the terms of the Proximity Housing Promissory Note, any default on a first mortgage on the home, a declaration of bankruptcy by the Owner and such other defaults as are included in the Proximity Housing Promissory Note, deed of trust or other documents evidencing the Proximity Housing Loan.

Section 403. Term of Loan

The Proximity Housing Promissory Note shall have a term of fifty-five (55) years from the date of the signed promissory note, unless earlier terminated under the terms of the Proximity Housing Note.

Section 404. Other Terms

The mortgage lender and title company selected by the Owner shall provide all loan and escrow documents to the County and the Owner at least 10 days in advance for County review and approval.

The Second Mortgage Agreement shall include such other terms as deemed reasonable by County consistent with these Proximity Housing Assistance Guidelines, including the following:

(a) Maintenance. The Second Mortgage Agreement shall require the Owner to maintain the Home, including landscaping, in good repair and in a neat, clean and orderly condition (and, as to landscaping, in a healthy condition) and in accordance with all applicable laws, rules, ordinances, orders and regulations of all federal, state, County, municipal, and other governmental agencies and bodies having or claiming jurisdiction and all their respective departments, bureaus, and officials, The Owner will

be required to make all repairs and replacements necessary to keep the Home in good condition and repair.

(b) Insurance. The Second Mortgage Agreement shall require the Owner to maintain a standard all risk property insurance policy equal to the replacement value of the Proximity Housing Unit, naming the County as an additional insured.

(c) Refinancing. The Second Mortgage Agreement will allow the Owner to refinance the first mortgage loan under conditions which will ensure that the County's Proximity Housing Loan and Proximity Housing Share of Appreciation is protected, and no such refinancing amount exceeds seventy five percent (75%) of the fair market value of the home. There will be a fee for the preparation of a subordination agreement for every refinance of the first mortgage, in accordance with the County's Fee Schedule.

V. PROGRAM OVERSIGHT

Section 501. Special Review

A special review for a variance from the strict application of these guidelines may be granted if an unusual hardship can be established and the County finds, at its sole discretion, that the granting of such variance is consistent with the County's proximity housing goals and objectives. A person requesting a special review shall do so in writing and provide documentation regarding the unusual hardship. The applicant shall also be required to submit any additional information reasonably requested by the County in a timely manner.

The special review committee may grant, conditionally grant, or reject any such request at its sole discretion.

Section 502. Grievance Procedures

A proximity housing program adopted in accordance with these guidelines may, if appropriate, provide any person the right to appeal determinations made by County staff directly to the Board of Supervisors in the manner set forth in Chapter 2.88 of the Napa County Code.

RESOLUTION NO. _____

A RESOLUTION OF THE BOARD OF SUPERVISORS OF NAPA COUNTY, STATE OF CALIFORNIA, ADOPTING AMENDED PROXIMITY HOUSING GUIDELINES

WHEREAS, the Board of Supervisors of Napa County passed Resolution No. 2010-153, adopting Proximity Workforce Housing Guidelines ("Guidelines") to assist low and moderate income households to purchase a home close to their place of work while helping the County to mitigate the impacts of development, reduce greenhouse gas emissions and vehicle miles travelled, and create a closer jobs to housing nexus for members of the workforce; and

WHEREAS, the Guidelines have been amended from time to time to improve the County's Proximity Workforce Housing Program; and

WHEREAS, the Board wishes to revise the Guidelines to increase the County's proximity housing assistance from a maximum of ten percent (10%) to sixteen and a half percent (16.5%) of the purchase price of a home.

NOW, THEREFORE, BE IT RESOLVED that the Napa County Board of Supervisors adopts the amended Proximity Housing Assistance Guidelines, as set forth in Exhibit "A," effective on the date first written below.

THE FOREGOING RESOLUTION WAS DULY AND REGULARLY ADOPTED by the Board of Supervisors of the County of Napa, State of California, at a regular meeting of said Board held on the 19th day of April, 2022, by the following vote:

AYES: SUPERVISORS

NOES: SUPERVISORS

ABSENT: SUPERVISORS

_____
RYAN GREGORY, Chair of the Board of Supervisors

APPROVED AS TO FORM Office of County Counsel	APPROVED BY THE NAPA COUNTY BOARD OF SUPERVISORS	ATTEST: NEHA HOSKINS Clerk of the Board of Supervisors
By: *S. Darbinian* Date: April 12, 2022	Date: Processed By: _____ Deputy Clerk of the Board	By: _____

Napa County

Board Agenda Letter

Board of Supervisors	**Agenda Date:** 4/19/2022	**File ID #:** 22-605

TO: Board of Supervisors

FROM: David Morrison, Director of Planning, Building and Environmental Services

REPORT BY: Brian Bordona, Assistant Director

SUBJECT: Walt Ranch Vineyard ECP - GHG Mitigation Appeal

RECOMMENDATION

PUBLIC HEARING 1:30 P.M. - (Walt Ranch Appeal)

Consideration and possible action regarding an appeal filed by Center for Biological Diversity (Appellant) to a decision by the Director of the Napa County Department of Planning, Building and Environmental Services on October 6, 2021, to approve a revision to Mitigation Measure 6-1 and to incorporate the revised mitigation measure into the Mitigation Monitoring and Reporting Plan applicable to the Walt Ranch Vineyards Agricultural Erosion Control Plan - File No. P11-00205-ECPA submitted by Hall Brambletree Associates, LP (Applicant) to allow earthmoving associated with the development of approximately 209 net acres of vineyard (±316 gross acres) (the Project) as further described in the Board Agenda Letter for this matter. The Project is located on the west side of Monticello Road, approximately one mile southwest of its intersection with Highway 128, and approximately one-half mile north of its intersection with Waters Road, approximately 6.25 miles east of the Town of Yountville in Napa County located within the Milliken Reservoir Watershed and Capell Creek-Upper Reach Drainage. (Assessor Parcel Numbers: 032-120-028, 032-480-007, -008, -011 through -024, -027, -028, 032-490-004, -005, -006, -008 through -020.)

EXECUTIVE SUMMARY

The matter before the Board involves the appeal of a revision to a mitigation measure adopted to offset the impacts on the environment of the greenhouse gas (GHG) emissions from the construction and operation of the Project. The Environmental Impact Report (EIR) was adopted and certified in December 2016 and was not invalidated or decertified by the subsequent petitions for writ of mandate filed by the Appellant, among others. Instead, the Court issued a writ of mandate requiring the County to revise and substantiate the mitigation of GHG impacts caused by the Project. The Director approved the revised Mitigation Measure 6-1, which requires

the Applicant to (1) place no less than 124 acres of oak woodland on the Project site into a perpetual conservation easement, and (2) plant no fewer than 16,790 oak trees within lands protected by conservation easements identified in this and other mitigation measures applicable to the Project. After the appeal was filed, the Applicant submitted a revised proposal that would substantiate the mitigation measure originally adopted by the County in the EIR by identifying and mapping 292.6 acres of woodland habitat, from which 248 acres would be conserved, on specific portions of the property that meet the conditions for adequate conservation easements, as required by the Court of Appeal. The Project is located in the AW (Agricultural Watershed) Zoning District and has a General Plan land use designation of AWOS (Agriculture, Watershed and Open Space).

PROCEDURAL REQUIREMENTS

1. Chair introduces item.
2. Chair invites disclosures from Board members.
3. Chair invites the Staff Report presentation.
4. Chair opens the public hearing and invites testimony from Appellant and their witnesses as previously disclosed on their witness list and in the order noted on the witness list attached as **Attachment 7**.
5. Chair invites any other interested members of the public to testify regarding the appeal.
6. Chair invites testimony from the Applicant and their witnesses as previously disclosed on their witness list attached as **Attachment 7**.
7. Chair then invites Appellant to have final rebuttal, if any.
8. Chair closes the public hearing.
9. A motion of intent is made and seconded to deny, uphold, and/or remand the appeal.
10. Chair refers the matter to County Counsel's office for preparation of a Resolution of Findings of Fact and Decision on Appeal. Staff recommends that the Board direct County Counsel's office to return to the Board on June 7, 2022, with the proposed Resolution for the Board's consideration and adoption.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact?	No
County Strategic Plan pillar addressed:	Vibrant and Sustainable Environment

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: The Final Environmental Impact Report was certified on August 1, 2016 (State Clearinghouse No. 2012-02046); an Addendum was prepared to analyze the impact and effectiveness of the revised Mitigation Measure 6-1. The Applicant's revised proposal substantiates the mitigation measure described in the EIR.

BACKGROUND AND DISCUSSION

On August 1, 2016, the Director approved the Hall Brambletree Associates, LP - Walt Ranch Vineyard Conversion - File No. P11-00205-ECPA, which consisted of an erosion control plan for the earthmoving associated with the development of approximately 209 net acres of vineyard (±316 gross acres). The Director

also approved the Environmental Impact Report ("EIR") (SCH #2012102046), finding that, as mitigated, the environmentally superior alternative project would not result in any significant impacts to the environment.

The decision followed 134 days of public comment on the Draft EIR, including two public hearings before the Director. Thereafter, the Director's decision was appealed by four parties on numerous identified grounds. In December of 2016, the Board held three separate hearings on the consolidated appeals, including public comment on the Project. After due consideration, the Board upheld the Director's approval, with some modification to mitigation measures and conditions of approval. The EIR was certified on December 22, 2016, and the project approved.

On January 19, 2017, three Petitions for Writ of Mandate were filed challenging the approval in Napa Superior Court, on numerous grounds. On April 5, 2018, the Superior Court denied the Petitions and upheld the County's decision to certify the EIR and approve the Project. The petitioners appealed the Superior Court's decision and on September 30, 2019, the Court of Appeal upheld the Superior Court's decision on all grounds except one. (Attachment 22.) The Court of Appeal held that there was insufficient evidence that the preservation of 248 acres of woodlands would offset the GHG emissions resulting from the project because the record did not identify the specific woodlands to be preserved. For this reason, there was insufficient evidence to show that such woodlands were otherwise subject to conversion to other uses. The Court of Appeal therefore directed the County to reconsider the adequacy of Mitigation Measure 6-1.

On May 6, 2020, the Superior Court entered judgment and issued a writ consistent with the Court of Appeal's decision. (Attachment 21.) The judgment and writ directed the County to set aside its findings "concerning whether the Project, as mitigated, will have a less-than-significant impact with respect to GHG emissions." The judgment provided that no Project activity that may result in GHG emissions may proceed unless and until such findings are reconsidered and supported by substantial evidence on the record. Nevertheless, the judgment did not set aside the approval of the Project, nor did the judgment decertify the EIR. Therefore, the only issue that was left to resolve is the adoption of adequate mitigation for GHG emissions; all other issues related to the Project and the EIR are conclusively resolved.

The Judgment concluded, in relevant part, as follows:

1. As set forth in the Opinion*, the Petition for Writ of Mandate, filed by Petitioners is granted in part as to the following EIR issue: to ensure that the greenhouse gas ("GHG") emissions associated with the project, as mitigated, constitute a less-than-significant impact. As set forth in Section II.F of the* Opinion*, substantial evidence does not support the County of Napa's (the "County's") conclusion that the conservation easement that the Project must provide will provide sufficient mitigation to reduce the Project's GHG emissions to less-than-significant levels.*

2. In all other respects, the petition is denied.

(Attachment 21, p. 9.)

Based on the Court of Appeals opinion, even the analysis of the impact of the project with respect to GHG emissions is conclusively resolved. The EIR estimated that installing the vineyard would result in GHG emissions totaling 105,753 metric tons of carbon dioxide equivalent ("$MTCO_2e$"). The EIR also concluded that these emissions would not result in a significant impact if they were offset by reductions in GHG emissions by 26 percent. This translates to a reduction in GHG emissions of 27,496 $MTCO_2e$. The Court also did not question the County's conclusion in the EIR that preserving 248 acres of woodlands would result in a reduction of the GHG impact by 27,528 $MTCO_2e$, provided the appropriate woodland could be identified. This

conclusion was based on estimates generated by the California Emissions Estimator Model ("CalEEMod"), which was developed by the California Air Pollution Officers Association in collaboration with the California air districts, including the Bay Area Air Quality Management District ("BAAQMD"). The methodology was deemed appropriate.

On July 14, 2020, pursuant to the judgment, the Napa County Board of Supervisors adopted Resolution No. 2020-98 (Attachment 20), which vacated and set aside the finding in Attachment A to Resolution No. 2016-184 regarding Impact 6-1 and directed staff to file a return to the peremptory writ of mandate informing the Court that the Board had adopted this resolution.

The proposed project approved by the Director consists of an amendment to Mitigation Measure 6-1, which, as previously approved, required the applicant to place into permanent protection no less than 248 acres of oak woodland habitat to offset 27,528 MTCO2e of the project's GHG emissions. The proposed project would amend Mitigation Measure 6-1 to combine a smaller conservation easement area with a substantial tree-planting program. The proposed revision to Mitigation Measure 6-1 would require permanent protection of no less than 124 acres of woodland habitat, which must be located on slopes less than 30 percent and outside any other preservation areas required by the EIR, and the planting of no less than 16,790 native oak trees, as further described in project documents. An Addendum to the EIR in accordance with the CEQA Guidelines, Section 15164, has been prepared, which analyzes the amendment to Mitigation Measure 6-1 and provides further details. (Attachment 17.)

Since the filing of the appeal, the Applicant submitted a revised proposal, which would substantiate the original mitigation measure requiring conservation of 248 acres of woodland habitat. (Attachments 2 and 3.) The revised proposal identifies 292.6 acres of woodland habitat on the Property, from which the Applicant would be required to conserve 248 acres. The proposal includes detailed mapping to show that the land identified: (1) consists of mapped woodland habitat; (2) is located on slopes less than 30 percent; (3) is located outside the Milliken Reservoir watershed; (4) is located outside required setbacks for riparian corridors; (5) does not overlap with land to be converted to other uses as part of the project; and (6) is not designated for preservation under adopted mitigation measures to protect other resources on the Property. The revised proposal would revise the previously adopted Mitigation Measure 6-1 to reflect the change and to incorporate the accountability and oversight provisions of the Biological Resources Management Plan ("BRMP.")

Code Compliance:

There are no active code violations at the project site.

Public Process:

Erosion Control Plans are subject to review and approval by the Director of the Department of Planning, Building and Environmental Services (the "Director"), pursuant to Napa County Code section 18.108.070. While no specific process is provided for approval of a revision to a mitigation measure for an approved project with a certified EIR, the County sought to provide an opportunity for public review and input. To that end, the

Director issued a tentative decision on September 21, 2021, providing for a comment period of at least 10 days before the decision became final. The tentative decision stated that the final decision would be made on October 1, 2021.

In response to the tentative decision, the County received approximately 60 comments from the public, including a letter submitted by the Appellant, CBD, on October 1, 2021 (Attachment 11, Exhibit 2). The Director reviewed each comment and, on October 6, 2021, issued a final decision approving the revision to Mitigation Measure 6-1 (Attachment 15).

Findings:

The writ of mandate issued on May 6, 2020, required the County to vacate and set aside its findings regarding the impact of the Project on GHG emissions. The Board, by resolution passed on July 14, 2020, set aside the following finding, which was previously adopted in Resolution 2016-184:

Compliance with MM 6-1, which has been required or incorporated into the Project, will reduce impacts from GHG emissions through preservation of woodland on the property. The Board hereby directs that this mitigation measure be adopted. Pursuant to Public Resources Code Section 21081(a) and CEQA Guidelines Section 15091(a), the Board hereby finds that changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen this impact to a less-than-significant level.

The Director reviewed the proposal from the Applicants (Attachment 19), the report from Ascent Environmental (Attachment 19), the Addendum to the FEIR (Attachment 17), and other documents and information in the record and found that substantial evidence supported the conclusion that "the revised Mitigation Measure 6-1 will reduce the impact of the Project on Greenhouse Gas emissions to a less than significant level, in accordance with the Superior Court judgment." (See Attachment 15.)

Appeal:

On November 5, 2021, Appellant Center for Biological Diversity filed a timely Appeal Packet (the Appeal) challenging the approval of the amendment to Mitigation Measure 6-1 in the Walt Ranch Vineyards Agricultural Erosion Control Plan and EIR documents. (Attachment 11.)

Pursuant to the County's appeals ordinance (Napa County Code Chapter 2.88) a public hearing on an appeal must be scheduled not less than 25 days nor more than 90 calendar days from submittal of an appeal. The County scheduled the hearing for December 14, 2021, and the parties confirmed their availability for that date.

The Board held the hearing on December 14, 2021, and, after all presentations and public comment were received, adopted a tentative action. After the hearing and before the final action on the matter, however, the County became aware of allegations of a potential conflict of interest of one supervisor who voted in the majority for the tentative action taken at the December 14, 2021, hearing. On March 1, 2022, the Board considered whether to adopt the findings of fact as presented after the tentative action, or to reconsider the matter without the participation by the supervisor. Out of an abundance of caution, and at staff's recommendation, the Board decided by a 4-0 vote (with one supervisor recused) to re-set the hearing on the appeal to April 19, 2022, with a new prehearing conference to be presided over by the new chair.

Pre-Hearing Conference:

To clarify the County's procedural requirements and expectations regarding land use appeals, the County requires the parties to attend a pre-hearing conference with the Chair of the Board to discuss estimates on presentation lengths, scope of evidence, and testimony to be presented, together with witness lists. Any witness not appearing on a witness list at the pre-hearing conference is treated as an ordinary member of the public and allotted the usual three minutes of speaking time.

A pre-hearing conference was held on March 17, 2022, with the Chair and representatives of the Appellant, the Applicant, and a Deputy County Counsel. At the conference, Appellant and Applicant agreed to provide a list of their respective witnesses along with the subject matter of testimony and time estimates in advance of the hearing. The Chair informed the Appellant and the Applicant that each side is allotted a maximum of 20 minutes for their presentation, allocated at their discretion. The witness information that was provided by Appellant and the Applicant is provided in Attachment 7.

Additionally, following the pre-hearing conference, the parties submitted requests to augment the record. The Applicant requested the addition of the revised proposal and accompanying documents, and the Appellant requested the inclusion of a substantive response to the revised proposal. (Attachments 8 and 9, respectively.)

The Chair determined that good cause exists for the inclusion of this additional evidence in the record on appeal. (Attachment 10.) The parties did not request reconsideration of the Chair's decision before the whole Board.

Appeal Hearing Public Comments:

Public notice of this appeal hearing was mailed and provided to all parties who received notice of the Director's decision on April 1, 2022. The notice ran in the Napa Valley Register on Friday April 1, 2022.

GROUNDS OF APPEAL

On March 8, 2022, the Applicant submitted a revised proposal, which responds to concerns raised in the appeal by returning to, and substantiating, the original content of Mitigation Measure 6-1. This proposal was further revised in a letter on March 29, 2022. These letters are contained in Attachments 2 and 3.

On March 29, 2022, the Appellant submitted a substantive response to the revised proposal setting forth arguments against the approval of the revised proposal, which Staff considers new ground of appeal. This

response is included as Attachment 4.

For convenience, the specific grounds of appeal and Staff's response to these grounds are set forth in Attachment 1.

BOARD CONSIDERATIONS AND STAFF RECOMMENDATION

The following options are provided for the Board's consideration regarding possible action on the appeal:

- Deny the appeal in its entirety and approve the revised Mitigation Measure 6-1, as contained in Attachment 5.
- Uphold one or more grounds of the appeal, reverse the Director's decision, and reject the revised proposal, describing the basis for such denial.
- Remand the matter to the Director with direction for further consideration.

In Staff's opinion, the revised proposal to substantiate the mitigation set forth in the certified EIR, including the detailed mapping described in the staff report and responses, is supported by substantial evidence and, notwithstanding the arguments in the appeal, is sufficient to reduce the greenhouse gas emissions from the Walt Ranch project to a less-than-significant level. Therefore, Staff recommends that the Board deny the appeal and approve the revised Mitigation Measure 6-1, as reflected in Attachment 5.

GROUNDS OF APPEAL:

The grounds of appeal challenging the revised Mitigation Measure 6-1 are attached as **Attachment 12**. However, since the Applicant submitted a revised proposal, to which the Appellant submitted a response, the basis for the appeal has changed. The following outlines the basis for the revised proposal, contained in the Applicant's letters of March 8 and March 29, 2022, (See **Attachments 2 and 3**.) and the appeal grounds set forth in the response to the revised proposal, as contained in Appellant's March 29, 2022, letter (See **Attachment 4**). For convenience, Staff has provided a summary below, but recommends the Board review the actual Letter for details.

Applicant's Revised Proposal

As discussed above, the approved revision to Mitigation Measure 6-1 would exchange the permanent preservation of 248 acres of woodland habitat with a combination of preservation and tree planting. After further consideration, the Applicant now proposes to return to the previously approved mitigation, the conservation of 248 acres of woodland habitat, with additional information to substantiate the effectiveness of the mitigation and to address the concerns identified by the Court of Appeal. Specifically, the Applicant identified 292.6[1] acres of woodland habitat that was suitable for conservation based on the Court's criteria, as well as additional limitations the Applicant imposed to ensure the habitat was appropriate for mitigation. The 292.6 acres meet the following criteria:

- They are all mapped as woodland habitat.
- They are all located on slopes less than 30%.
- They are not located within the Millikin Reservoir watershed.
- They are not located within required setbacks from riparian corridors.
- There is no overlap with the land to be converted to other uses as part of the project.
- They are not designated for preservation under adopted mitigation measures requiring protection of other resources on the property, as set forth in the approved Biological Resources Management Plan.

Staff has reviewed the maps provided by the Applicant, comparing them to the mapping on the record, and has confirmed that the criteria are met. In addition, the Applicant has proposed revising the Biological Resources Management Plan ("BRMP") to include the GHG mitigation, thus incorporating the provisions relating to management of permanent preservation.

While the Applicant's proposal does not state the specific metes and bounds of the conservation easement, detailed mapping has been provided that allows staff to analyze the proposal. Section 6.1 of the BRMP requires that the specific areas to be covered by a conservation easement be determined by a qualified botanist or biologist and approved by the County before recording. In addition, the conservation easement document, representing the negotiated agreement between

[1] The March 8, 2022, proposal identified approximately 312 acres of available woodland habitat, but the Applicant revised this total to remove woodland within the Milliken Reservoir watershed. County regulations impose additional restrictions on vegetation removal within the municipal watershed that reduces the viability of this land for conservation. The Appellant's March 29, 2022, response was based on the March 8, 2022, proposal, though the only substantive difference is the total available acreage for conservation.

the Applicant and the certified land trust, approved by the County, would establish the appropriate financial security that would be required to maintain the easement area.

Based on the information submitted by the Applicant, and in light of the decision of the Court of Appeal regarding the previously approved Mitigation Measure 6-1, staff believes that substantial evidence supports the conclusion that the proposed revision to Mitigation Measure 6-1, included in Attachment 5, would result in a less-than-significant impact on GHG emissions.

Appellant's Response

In response to the proposed revision submitted by the Applicant, the Appellant provided a letter, dated March 29, 2022. (Attachment 4.) Initially, the Appellant requests that the Board grant the appeal and reject the proposed mitigation. However, this request is not supported by argument in the letter. Instead, the Appellant makes five requests for modification to the mitigation proposal, claiming that without the suggested modifications, the mitigation would lack sufficient specificity and assurances and, thus, would not be supported by substantial evidence. Staff treats these requests as new grounds of appeal, summarizing them below, but the Board is encouraged to review the March 29, 2022, letter for the complete details.

Appeal Ground No. 1: The Board should require more specificity regarding the location and configuration of the 248 acres to be placed in a conservation easement within the 312 acres of identified available woodland. Understanding that some flexibility in identifying appropriate easement areas is needed, the Applicant should provide more clarity regarding the possible configuration of the easements.

Staff Response: The California Environmental Quality Act (CEQA) does not require that the County specifically identify the metes and bounds of a conservation easement at the adoption of an environmental document. As a practical matter, the specific property to be conserved must be identified in coordination with the entity or organization that will hold the easement in perpetuity. Additionally, as discussed below, the boundaries of the easement will be identified in consultation with a biologist or botanist to ensure that the easement meets the standards set forth in the mitigation measures. Instead, as highlighted in the Court of Appeal decision in this matter, CEQA requires that the mitigation set forth standards to ensure that the conservation easement does, in fact, mitigate the impact that it is intended to address.

The Applicant's revised proposal does just that. The proposal includes detailed mapping of 292.6 acres of woodland habitat on the Property that meets specific standards to ensure that the conservation easement preserves woodland that would otherwise be threatened with development. From the 292.6 acres, the Applicant, the easement holder, and a qualified botanist or biologist, will identify at least 248 acres to include in a conservation easement, subject to approval by County staff.

As discussed above, staff has confirmed that the 292.6 acres of woodland habitat identified by the Applicant in the revised proposal meets the conditions identified by the Court of Appeal to ensure that the mitigation will preserve developable woodland. While there is no requirement that there be present plans for development on these 248 acres, and indeed, the Applicant has

presented no such plans, maps prepared by County staff show that, due to the constraints on the Property, the 292.6 acres identified by the Applicant represent the likeliest areas for development on the Property. (See Figure ##, attached.)

At this stage, the Board's role is to ensure that the mitigation measure is likely to be successful by establishing the standards to guide the necessary parties in recording the ultimate easement. The Applicant's proposal, by identifying the eligible woodland that meets the standards established by the Court of Appeal, allows the Board to make that determination while still allowing the necessary parties the flexibility to identify an appropriate easement area.

Appeal Ground No. 2: The Board should prioritize conserving large areas of intact and contiguous habitats as much as possible to demonstrate they aim to optimize carbon sequestration and storage potential.

Staff Response: The Applicant's proposal identified discrete portions of the Property that met the standards required by the Court of Appeal. As a result, the eligible woodland habitat appears to include many isolated areas across the Property. However, this must be understood in the context of the entire Property and in relation to the other constraints on the Property as a result of other mitigation, as well as Napa County Code and General Plan Policies. The EIR, adopted and certified in December 2016, captured this context well. The EIR stated that large portions of the Property are protected from development by existing laws and regulations. Over 1000 acres of the Property consist of slopes exceeding 30 percent and approximately 148 acres consist of wetlands or riparian corridors and their associated setbacks. (See Figure ##, attached.) Additional acreage will be preserved under other mitigation measures, which requires that 525 acres be conserved to mitigate for potential impacts to biological resources.[2]

In reviewing the detailed mapping provided by the Applicant in their revised proposal, along with the substantial GIS mapping available on the record, Staff has determined that the eligible woodland habitat is not, in fact, isolated or discrete areas of woodland, but is part of a largely contiguous area of undevelopable land, either due to steeps slopes or proximity to wetlands or riparian waterways. (See Figure ##, attached.)

The Appellant's argument for contiguous habitat appears to be based on their claim that "edge effects" of human activity will degrade forest habitats and reduce carbon sequestration in the conserved areas. In this context, it is clear from the mapping that the proposed conservation easements, when considered in connection with the other constraints on the Property, will result in the preservation of contiguous habitat on the Property. It is also clear that most forest "edges" resulting from the conservation easements are not edges at all. Instead, most boundaries of the potential conservation areas are either naturally occurring transitions between woodland and grasslands or shrublands, or simply lines on a map showing where the slope increases above 30 percent. Very few, if any, of the "edges" are the result of vegetation removal to accommodate approved vineyard blocks.

Regardless, Appellant's argument is not persuasive, nor does it appear to be supported by relevant studies. The Appellant's response was reviewed by Ascent Environmental (Ascent).

[2] Some of this acreage overlaps with the riparian corridors and setbacks and the areas over 30 percent slopes.

(Ascent Memorandum, 4/8/22, Attachment 6.) Based on Ascent's review and independent research, they concluded that because of the complex nature of edge effects and variations in the carbon cycle related to several factors, the conclusions made by the Appellant cannot reasonably be applied to ecosystems in Napa County. In fact, most of the sources cited by the Appellant acknowledge that their conclusions should not displace local models: "Moreover, development and implementation of effective mitigation strategies to reduce carbon emissions will require the use of local biomass models since they are accurate." (Ascent Memorandum, p. 2, citing Wakesa, et al., 2016.) Napa County has a Mediterranean climate, rather than a sub-tropical or tropical climate, which were the biomes studies in the papers relied upon by the Appellant. According to Ascent, recent research suggests that forest edges in temperate forests exhibit increased forest growth and biomass with no change in total mortality relative to the forest interior. (Ascent Memorandum, p. 2, citing Morreale et al. 2021.)

The County used the California Emission Estimator Model (CalEEMod) to calculate the Project's GHG emissions and the extent of conservation required to mitigate that potential impact. This local model is the industry standard for GHG emissions calculations, which factors in much more locally applicable conditions than the papers cited by the Appellant. The Court of Appeal upheld the County's reliance on this methodology as well as the conclusion that the preservation of 248 acres of woodland habitat would constitute appropriate mitigation if substantial evidence supported the conclusion that the habitat would be subject to development. The implication of the Appellant's argument regarding edge effects is that isolated easement areas would increase these "edge effects" and somehow reduce the effective sequestration of the conserved habitat. In addition to the failures of this argument, discussed above, the Appellant's methodology need not be adopted by the County, which relies on the industry standard modelling in the CalEEMod.

Appeal Ground No. 3: The Board should require Applicants to demonstrate how conservation easements will be buffered from roads and vineyard development to minimize edge effects that will degrade the woodlands and reduce their carbon sequestration and storage potential.

Staff Response: As discussed above, the concept that fragmentation (i.e. edge effects) is unsupported in temperate forest environments. Temperate forest edges have, in fact, shown a positive relationship between biomass and proximity to forest edge relative to the interior of the forest, citing a 95 percent increase in aboveground carbon stock within 5 meters of a forest edge. (Ascent Memorandum, p. 2, citing Meeussen et al. 2021.) Additionally, most of the "edges" of the proposed conservation areas are not edges at all, but merely transitions from different natural habitats or between steeper slopes. (See Figure ##, attached.)

Appeal Ground No. 4: The Board should require Applicants to implement easements in consultation with local and regional biologists, government agencies, and other stakeholders.

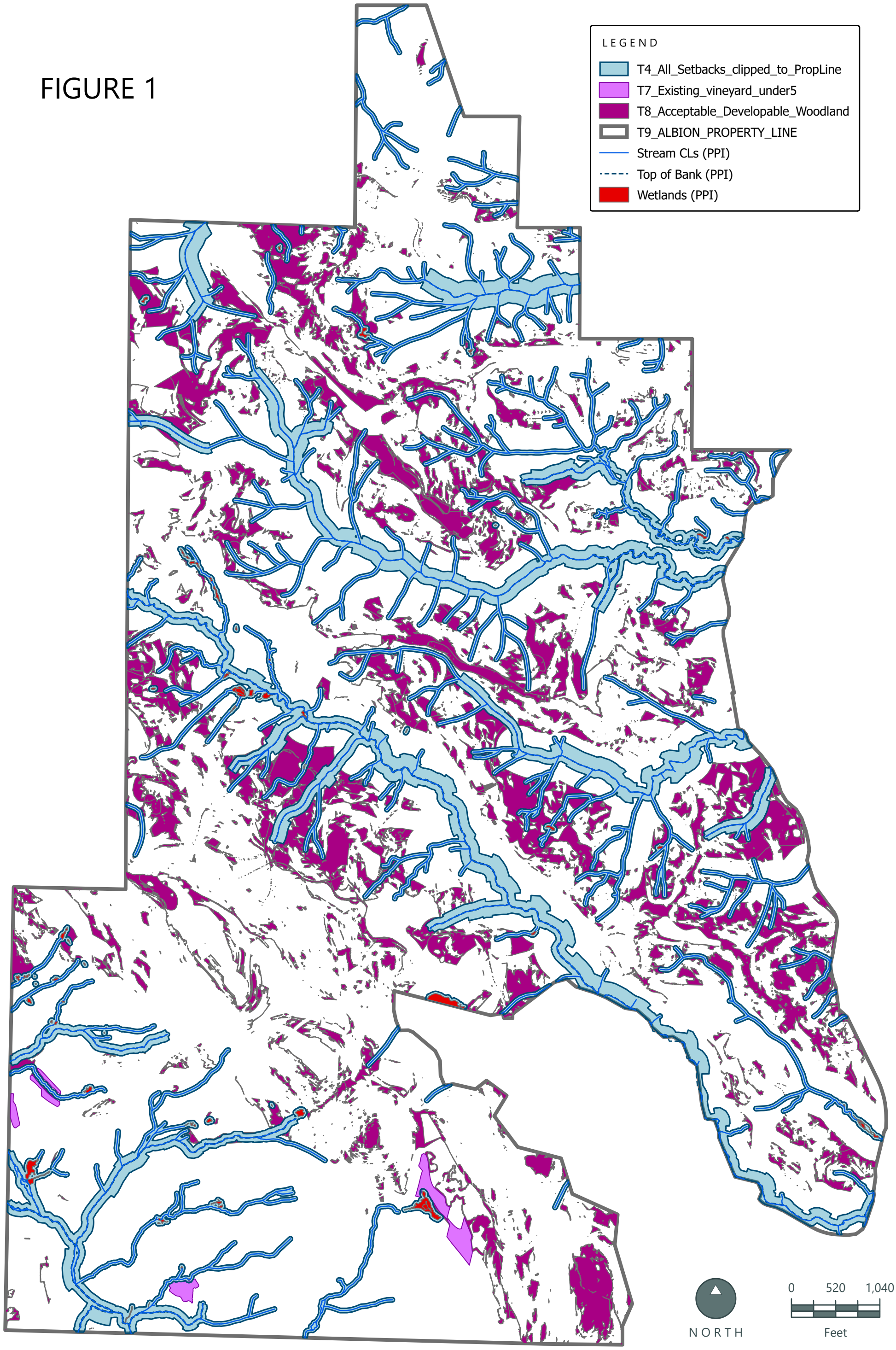
Staff Response: The revised proposal requires the Applicant to include the conservation easement in the Biological Resource Management Plan, or the BRMP. Section 6.1 of the BRMP requires the Applicant to work directly with a qualified botanist or biologist to determine the areas to be covered by conservation easements. In addition, County staff must approve the

easement prior to any project activities, which approval may include review by various state agencies, such as the Department of Fish and Wildlife.

Appeal Ground No. 5: The Board should require Applicant to demonstrate that adequate resources will be set aside to protect, monitor, and adaptively manage the conservation easements in perpetuity.

Staff Response: Conservation easements generally require financial commitments from the applicant to support the management of the easement area. That financial arrangement is between the Applicant and the certified land trust or other agency that acquires the easement. As discussed above, County staff must approve the form of the easement and will, therefore, be able to ensure that adequate financial security is in place. Since the primary purpose of the easement is conservation of natural land, management of the preserved land will be minimal.

FIGURE 1



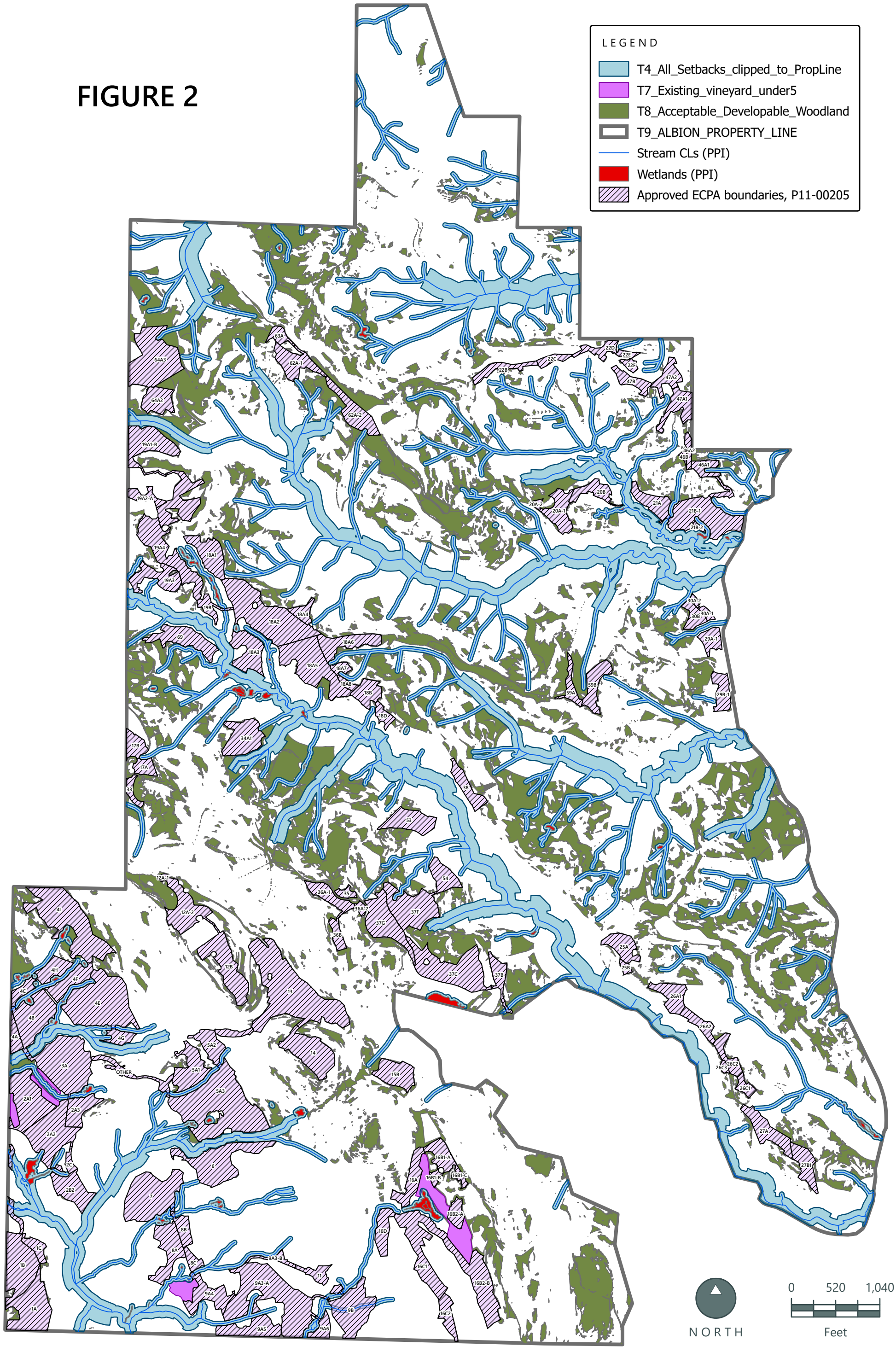
Water-related constraints | WALT

[DATE PUBLISHED: **3/16/2022** DATE REVISED: AUTHOR: **MSL** MAP SCALE: **1:12,480**]

PLANNING, BUILDING, & ENVIRONMENTAL SERVICES
1195 THIRD STREET, SUITE 210
NAPA, CA 94559
(707) 253-4417

Disclaimer: This map was prepared for informational purposes only. No liability is assumed for the accuracy of the data delineated hereon.

FIGURE 2



Water-related constraints | WALT

[DATE PUBLISHED: **3/16/2022** DATE REVISED: **4/1/2022** AUTHOR: **MSL** MAP SCALE: **1:12,480**]

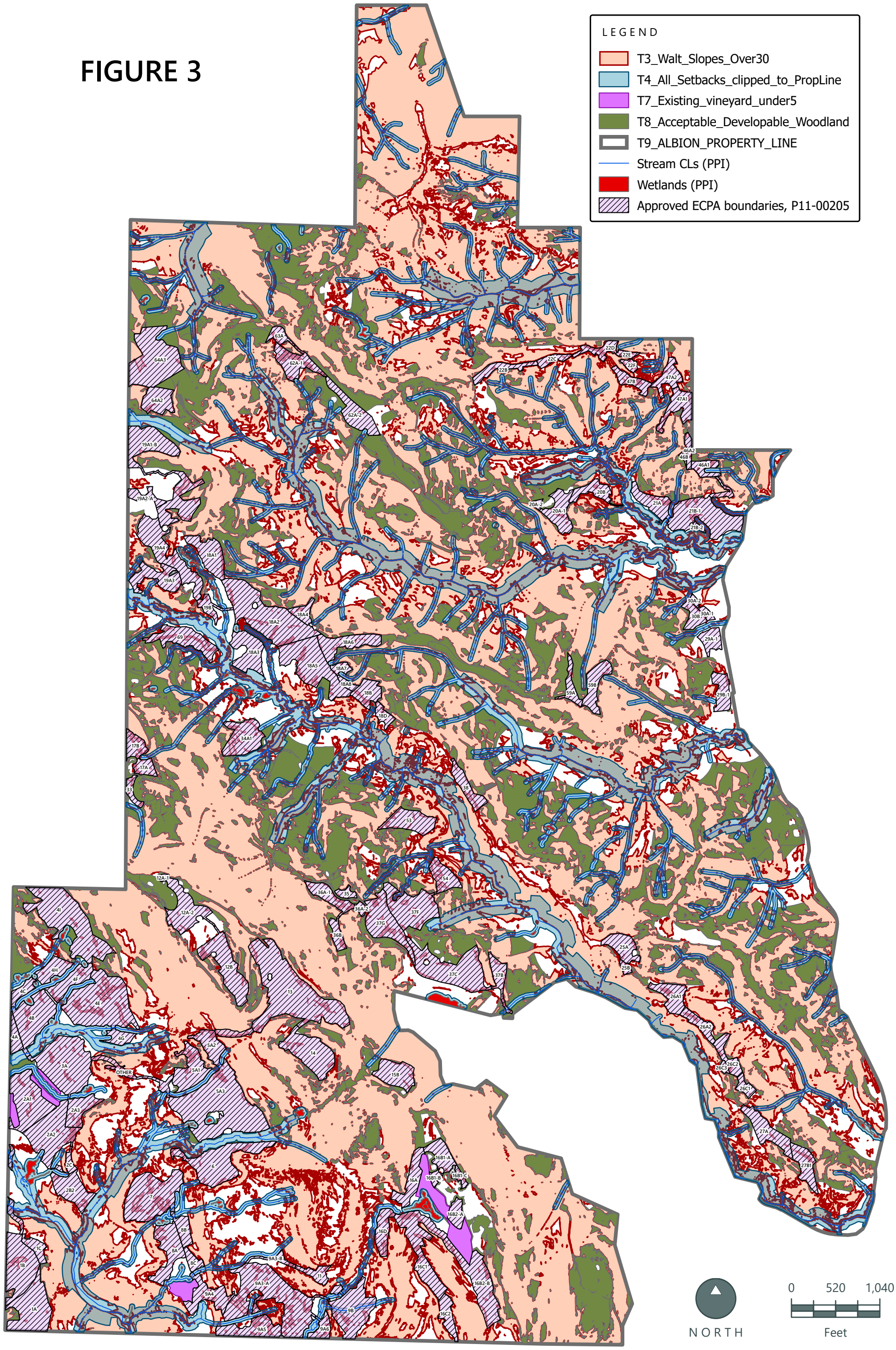
PLANNING, BUILDING, & ENVIRONMENTAL SERVICES

1195 THIRD STREET, SUITE 210
NAPA, CA 94559

(707) 253-4417

Disclaimer: This map was prepared for informational purposes only. No liability is assumed for the accuracy of the data delineated hereon.

FIGURE 3



Water-related constraints | WALT

[DATE PUBLISHED: **3/16/2022** DATE REVISED: **4/1/2022** AUTHOR: **MSL** MAP SCALE: **1:12,480**]

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(707) 253-4417

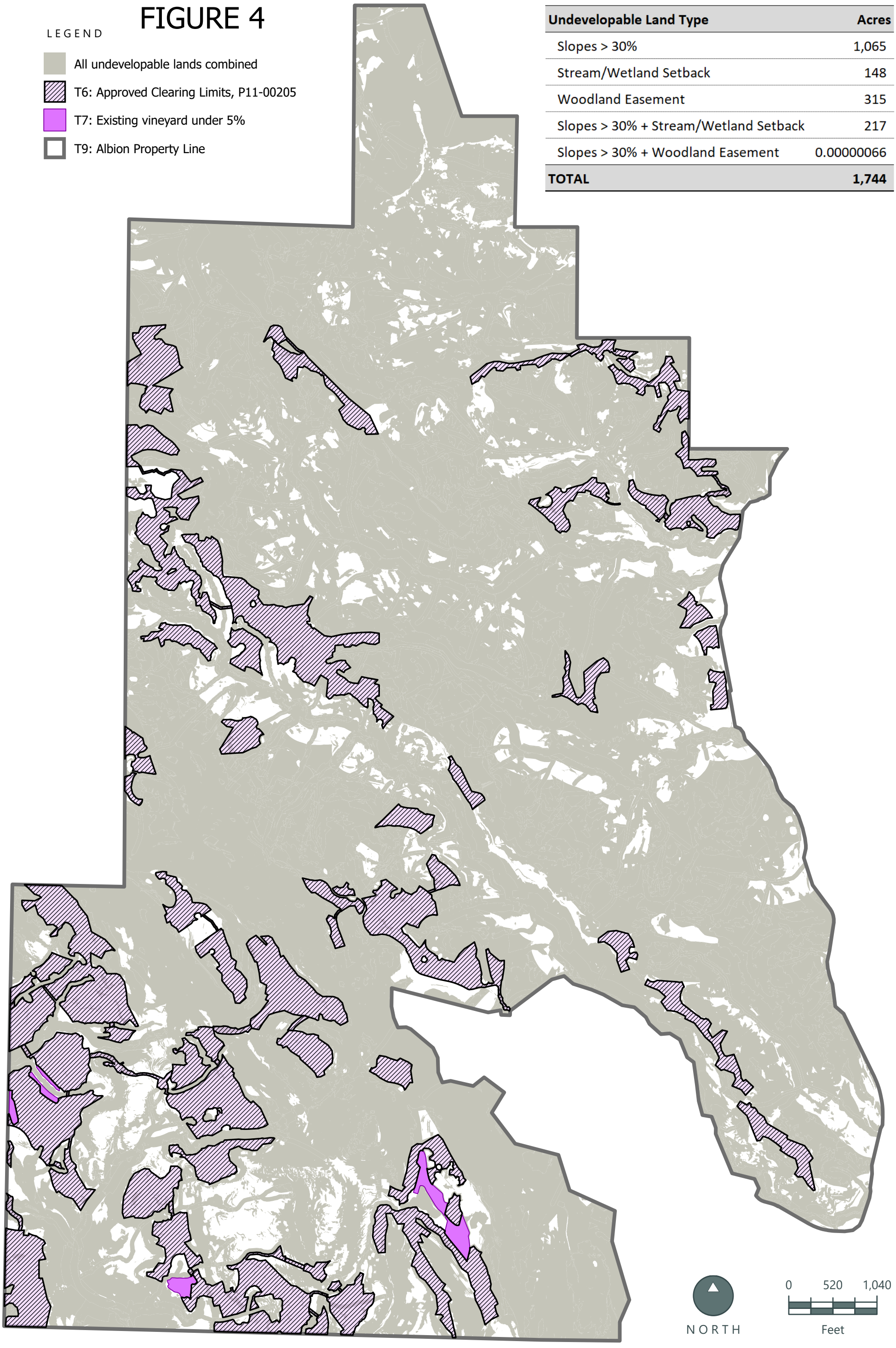
Disclaimer: This map was prepared for informational purposes only. No liability is assumed for the accuracy of the data delineated hereon.

FIGURE 4

LEGEND

- All undevelopable lands combined
- T6: Approved Clearing Limits, P11-00205
- T7: Existing vineyard under 5%
- T9: Albion Property Line

Undevelopable Land Type	Acres
Slopes > 30%	1,065
Stream/Wetland Setback	148
Woodland Easement	315
Slopes > 30% + Stream/Wetland Setback	217
Slopes > 30% + Woodland Easement	0.00000066
TOTAL	**1,744**



Undevelopable Lands | WALT

[DATE PUBLISHED: **4/8/2022** DATE REVISED: AUTHOR: **MSL** MAP SCALE: **1:12,500**]

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1195 THIRD STREET, SUITE 210
NAPA, CA 94559
(707) 253-4417

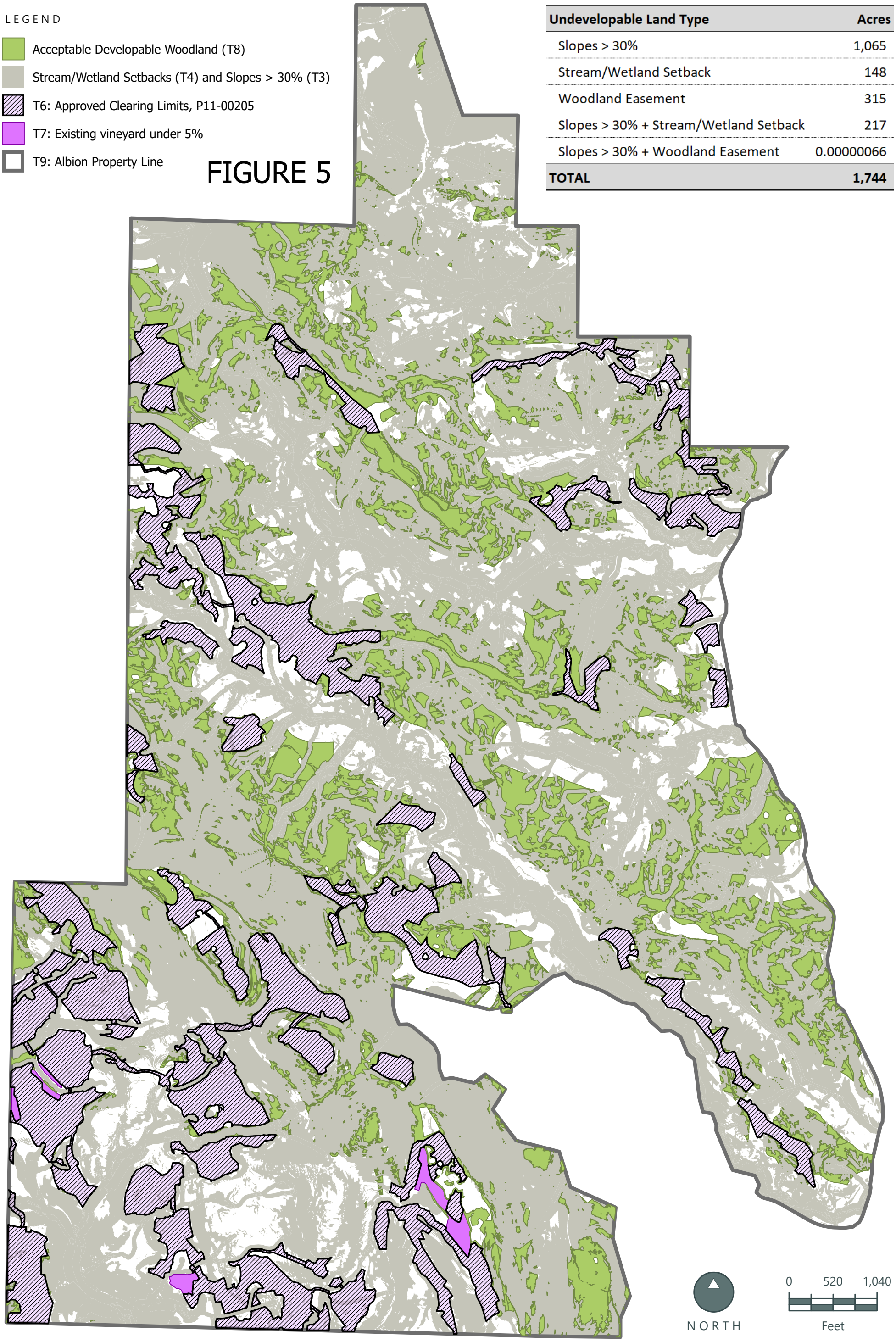
Disclaimer: This map was prepared for informational purposes only. No liability is assumed for the accuracy of the data delineated hereon.

LEGEND

- Acceptable Developable Woodland (T8)
- Stream/Wetland Setbacks (T4) and Slopes > 30% (T3)
- T6: Approved Clearing Limits, P11-00205
- T7: Existing vineyard under 5%
- T9: Albion Property Line

FIGURE 5

Undevelopable Land Type	Acres
Slopes > 30%	1,065
Stream/Wetland Setback	148
Woodland Easement	315
Slopes > 30% + Stream/Wetland Setback	217
Slopes > 30% + Woodland Easement	0.00000066
TOTAL	**1,744**



Undevelopable Lands v2 | WALT

[DATE PUBLISHED: **4/11/2022** DATE REVISED: AUTHOR: **MSL** MAP SCALE: **1:12,500**]

PLANNING, BUILDING, & ENVIRONMENTAL SERVICES
1195 THIRD STREET, SUITE 210
NAPA, CA 94559
(707) 253-4417

Disclaimer: This map was prepared for informational purposes only. No liability is assumed for the accuracy of the data delineated hereon.

Attachment 2
March 8, 2022, Revised Proposal

Hall Brambletree Associates
401 St. Helena Highway South
St. Helena, CA 94574

March 8, 2022

David Morrison
Director
Planning, Building & Environmental Services
Napa County
1195 Third Street, 2nd Floor
Napa, CA 94559

Re: Walt Ranch ECP – GHG Mitigation

Dear Mr. Morrison:

This letter sets forth Hall Brambletree's revised proposal to address the greenhouse gas emissions from the Walt Ranch Erosion Control Plan ("ECP").

As approved, Mitigation Measure 6-1 requires Hall to "place in permanent protection no less than 248 acres of woodland habitat." The Court of Appeal held that the requirement to place 248 acres of woodland habitat in a conservation easement was appropriate mitigation. The Court also held, however, that, because the EIR did not identify the specific acreage, there was insufficient evidence to show that such habitat could be converted to other uses. (Slip op., pp. 51-53.) Simply put, the Court said: show the County the acreage; and show that the woodland habitat could otherwise be converted.

With this revised proposal, we have done that. We have mapped +/- 312 acres of woodland habitat that could be converted to other uses under County policy. The location of this habitat is shown and described on the attached map and spread sheet. This information is based on the same surveys and mapping that was performed as part of the environmental review process. We encourage the County to review the mapping and data to confirm its accuracy.

We propose to place a conservation easement on not less than 248 acres out of the total of 312 acres. The difference between these numbers will provide Hall and the land trust flexibility to adjust the boundaries of the easement to account for roads or other features that would diminish a particular location's suitability as preserved woodland habitat. The final boundaries of the 248 acres of woodland habitat designated for protection will be subject to review and approval by the County. The essential point here, however, is that there is ample woodland habitat available on the site to meet the concerns expressed by the Court of Appeal. Specifically, the 312 acres shown and described on the attached map and spreadsheet meet the following criteria:

- They are all mapped as woodland habitat.
- They are not located on slopes of 30% or greater.
- They are not located in the Milliken Reservoir watershed.

- They are not located within required setbacks from riparian corridors.
- There is no overlap with the land to be converted to other uses as part of the project.
- They are not designated for preservation under adopted mitigation measures requiring the protection of other resources on the property (e.g., sensitive plants or habitats or cultural resources), as set forth in the approved Biological Resources Management Plan.

Thus, absent Mitigation Measure 6-1, 248 acres of this woodland habitat would be available for conversion to other uses. The 248 acres to be preserved are entirely additive and are on top of the acreage that will already be protected for other purposes.

In May 2021, we proposed that the County revise Mitigation Measure 6-1 to require preservation of 124 acres of identified woodland habitat. We also proposed an extensive tree planting program to accompany the 124-acre easement requirement. We thought this proposal made sense because it provided an opportunity restore the property in the wake of wildland fires in 2017 and 2020. To our surprise, our proposal met with resistance. We therefore propose to simply address, directly, the Court of Appeal's concern. This proposal also addresses the appellant's objections to our original proposal.

This is the same mitigation that the County approved unanimously in December 2016. The only difference is that now we are identifying the woodland habitat to be conserved. This is what the Court of Appeal asked us to do, and we are now doing it. We have also responded to the appellant's objections. There are no valid reasons why our proposal should be rejected.

We note that the information upon which this revised proposal is based is not new. The woodland habitat on the property was mapped as part of the EIR process, based on extensive surveys. The proposal is based on the same GIS data that the County relied upon in mapping biological resources and habitats on the property. This same data has been used to prepare the attached figure showing the location of woodland habitat available for conservation, meeting the criteria outlined above.

We request that the County revise Mitigation Measure 6-1 as shown in the attached document. These modifications are to make clear that the woodland habitat to be protected meets the criteria established by the Court of Appeal. We also wish to incorporate modifications to Mitigation Measure 6-1 made in response to our May 2021 proposal that we believe strengthen the mitigation.

We appreciate your consideration of this request. Please let us know if you would like additional information or have any questions. We look forward to hearing from you.

Very truly yours,

Mike Reynolds
Hall Brambletree Associates

Attachments:

Figure 1 – location of conservation easement for woodland habitat for GHG mitigation

Attachment 1 – spreadsheet identifying woodland habitat for GHG mitigation

Attachment 2 – proposed revisions to Mitigation Measure 6-1

Figure 1

Guide to Assessor Parcel Numbers

1. 032-120-028	18. 032-480-027
2. 032-480-007	19. 032-480-028
3. 032-480-008	20. 032-490-004
4. 032-480-011	21. 032-490-005
5. 032-480-012	22. 032-490-006
6. 032-480-013	23. 032-490-008
7. 032-480-014	24. 032-490-009
8. 032-480-015	25. 032-490-010
9. 032-480-016	26. 032-490-011
10. 032-480-017	27.032-490-012
11. 032-480-018	28. 032-490-013
12. 032-480-019	29. 032-490-014
13. 032-480-020	30. 032-490-015
14. 032-480-021	31. 032-490-016
15. 032-480-022	32. 032-490-017
16. 032-480-023	33. 032-490-018
17. 032-480-024	34. 032-490-019
	35. 032-490-020

N W E S

0 550 1,100 2,200 Feet

Legend

Acceptable Woodland

Walt Ranch Parcels

1 032-120-028
8 032-480-015
18 032-480-027
9 032-480-016
10 032-480-017
12 032-480-019
7 032-480-014
2 032-480-007
11 032-480-018
13 032-480-020
19 032-480-028
6 032-480-013
3 032-480-008
5 032-480-012
14 032-480-021
4 032-480-011
16 032-480-023
15 032-480-022
33 032-490-018
17 032-480-024
20 032-490-004
22 032-490-006
32 032-490-017
21 032-490-005
34 032-490-019
31 032-490-016
35 032-490-020
30 032-490-015
29 032-490-014
23 032-490-008
26 032-490-011
25 032-490-010
28 032-490-013
27 032-490-012
24 032-490-009

PPI ENGINEERING
2800 Jefferson Street
Napa, CA 94558
(707) 253-1806

Walt Ranch
Acceptable Woodland Available
for Conservation Easement
February 17, 2022

8:52:13 AM 2/17/2022 \\ppi-dc-2\ranches\KHWWAL\IMAGES\000 Post-Approval maps\Conservation Easement\2022-02-14 Acceptable Woodland by Parcel for Mike\2022-02-14 Woodland by Parcel.mxd

Attachment 1

Label	APN	GHG Acceptable Woodland (acres)
1	032-120-028	2.6
2	032-480-007	2.9
3	032-480-008	5.5
4	032-480-011	8.5
5	032-480-012	0.0
6	032-480-013	7.9
7	032-480-014	10.7
8	032-480-015	17.5
9	032-480-016	9.0
10	032-480-017	10.1
11	032-480-018	13.1
12	032-480-019	2.8
13	032-480-020	7.1
14	032-480-021	14.9
15	032-480-022	21.5
16	032-480-023	3.1
17	032-480-024	16.6
18	032-480-027	10.5
19	032-480-028	11.8
20	032-490-004	9.1
21	032-490-005	8.7
22	032-490-006	14.0
23	032-490-008	7.5
24	032-490-009	9.9
25	032-490-010	15.0
26	032-490-011	4.7
27	032-490-012	0.0
28	032-490-013	0.5
29	032-490-014	3.8
30	032-490-015	0.9
31	032-490-016	7.0
32	032-490-017	12.5
33	032-490-018	21.7
34	032-490-019	17.6
35	032-490-020	3.2
	Total (acres):	312.3

Attachment 2

Proposed Revisions to Adopted Mitigation Measure 6-1
(new text underlined)

6-1: In order to offset the construction emissions from development of the Proposed Project, the Applicant shall place in permanent protection no less than 248 acres of woodland habitat. The 248 acres to be protected shall be provided from the woodland habitat depicted in the map and spreadsheet attached to this measure. All acreage designated for preservation shall be identified as such in a conservation easement with an accredited land trust organization such as the Land Trust of Napa County as the grantee, or other means of permanent protection. The conservation easement shall be prepared in a form acceptable to County Counsel and entered into and recorded with the Napa County Recorder's office prior to any ground disturbing activities, grading or vegetation removal, or within 12 months of project approval, or whichever occurs first.

Any request by the permittee for an extension of time to record the conservation easement shall be considered by the Planning Director and shall be submitted to Napa County prior to the 12 month deadline, and shall provide sufficient justification for the extension.

Land placed in protection shall be restricted from development and other uses that would potentially degrade the quality of the habitat (including, but not limited to, conversion to other land uses such as agriculture, residential, or urban development, and excessive off-road vehicle use that increases erosion), and should otherwise be restricted by the existing goals and policies of Napa County.

The Biological Resource Management Plan and MMRP shall be revised to incorporate the conservation easement required by this mitigation measure, including the map and spreadsheet attached hereto.

Attachment 3
March 29, 2022, Amendment to Revised Proposal

Whitman F. Manley
WManley@rmmenvirolaw.com

March 29, 2022

Via e-mail

Jason M. Dooley
Deputy County Counsel
Office of the Napa County Counsel
1195 Third Street, Suite 301
Napa, CA 94559

Re: Walt Ranch – Appeal of Director Morrison's approval; Mitigation Measure 6-1

Dear Mr. Dooley:

Pursuant to section 2.88.090(B) of the County Code, and as discussed more fully below, we request that the Board of Supervisors consider the attached materials in considering the appeal filed by the Center for Biological Diversity ("Appellant") at the hearing on April 19, 2022. The following materials are attached:

- Attachment 1 – Letter from Mike Reynolds to David Morrison, with attachments (March 8, 2022). This letter sets forth Hall Brambletree's revised proposal to address the project's GHG emissions.

- Attachment 2 – Revised Figures and Table showing woodland habitat available for conservation as GHG mitigation.

- Attachment 3 – Excerpts of transcript of the Board of Supervisors' hearing on December 14, 2022.

- Attachment 4 – Excerpt of Appellant's November 5, 2021, letter setting forth the bases for its appeal.

This letter sets forth the applicant's showing of good cause to consider these materials.

1. March 8 Letter

Mike Reynolds' March 8 letter, including its attachments, consists of Hall Brambletree's revised proposal for Mitigation Measure 6-1. The proposal includes a figure, labeled "Figure 1," showing +/- 312 acres of woodland habitat suitable as GHG mitigation. The figure was prepared using existing surveys and GIS mapping of the property. The surveys and GIS mapping are the same as those that the County relied upon in preparing the

Final EIR. Figure 1 to this letter portrays this information in ways that we believe will be useful to the Board because it identifies the specific woodland habitat acreage available as mitigation to address GHG impacts. This is the specific information that the Court of Appeal stated is needed to support the County's finding that GHG emissions would be mitigated. The figure thus provides the substantial evidence necessary to support the mitigation measure that the County already adopted when it approved the project. The figure is not based on new or different survey data or GIS mapping. It simply portrays this same data in a way that focuses on the issue at hand.

The March 8 letter also includes proposed revisions to Mitigation Measure 6-1. The revisions reflect the following proposed changes:

- The revised text states that the 248 acres of woodland habitat to be preserved must be located as shown in the figure attached to our March 8 proposal. This is to ensure that the land to be preserved is otherwise developable and thus meets the criteria identified by the Court of Appeal.

- The revised text requires that the BRMP be modified to include the conservation easement required by this measure. This revision strengthens the proposal.

Good cause exists to consider this proposal. The proposal responds directly to the Court of Appeal's decision, eliminates the tree planting program to which the Appellant objected, and provides GHG mitigation in a manner that all parties agree is appropriate.

2. Revisions to March 8 Proposal

We request that the County consider the following modifications to our March 8 proposal. The March 8 proposal states that none of the woodland habitat available as GHG mitigation is located in the Milliken Reservoir watershed. This statement is incorrect. Parcels 24, 25, 26, 29 and 32 straddle the Milliken Reservoir and Capell Creek watersheds. Parcels 27, 28, 30 and 31 are within the Milliken Reservoir watershed. Taken together, these parcels contain 19.4 acres of available woodland habitat within the Milliken Reservoir watershed.

The woodland habitat in the Milliken Reservoir watershed is available as GHG mitigation because this habitat can be converted to other uses, so long as at least 60% of the canopy cover is retained. (Napa County Code, § 18.108.027(b).) [1] Even if the woodland habitat acreage on Parcels 24 – 32 shown on our March 8 proposal were converted, over 60% of the canopy cover (indeed, over 70% of the canopy cover) would be retained. Because the County Code does not prohibit converting this woodland habitat, it could be converted to other uses and is therefore available as GHG mitigation.

[1] The 60% required canopy cover is the standard that existed at the time the County approved the Walt Ranch ECP. The County since increased the required canopy cover to 70%. The change is not relevant here; Walt Ranch retains over 70% of the canopy cover in the Milliken Creek watershed.

We nevertheless wish to revise our proposal to eliminate all woodland habitat in the Milliken Reservoir watershed. Our reasoning is straightforward: we want to make our proposal as simple as possible. Moreover, we do not need the woodland habitat in the Milliken Reservoir watershed to provide the requisite 248 acres of woodland habitat conservation. If the woodland habitat in the Milliken Reservoir watershed is excluded from our proposal, then 292.6 acres of suitable woodland habitat remain available as suitable conservation for GHG mitigation.

A revised figure, entitled "Walt Ranch GHG Mitigation (March 29, 2022)," appears at Attachment 2. This figure shows, shaded in green, the +/- 292.6 acres of woodland habitat that is eligible as GHG mitigation. The green-shaded area is identical to the figure attached to our March 8 letter, except that the woodland habitat in the Milliken Reservoir has been excluded.

We also include in Attachment 2 a revised spreadsheet breaking down the acreage of woodland habitat by parcel. The figure and table are identical to those we submitted on March 8, except that the woodland habitat acreage in the Milliken Reservoir watershed has been excluded from our proposal.

We also include in Attachment 2 an additional figure. This figure shows the same +/- 292.6 acres of woodland habitat eligible as GHG mitigation. This figure also shows, shaded in grey, all the areas on the property that are not considered available for conservation as GHG mitigation. The reasons why these areas are not considered available as GHG mitigation are: (1) they are within approved vineyard clearing limits, (2) they are within the Milliken Reservoir watershed, (3) they are protected under other, adopted mitigation (e.g., for biological resources), (4) they are within required stream setbacks, or (5) they consist of areas with slopes in excess of 30%. The areas shaded in grey are therefore considered "off the table" as woodland habitat potentially available for conservation to mitigate the project's GHG emissions.

Good cause exists to consider these materials. They revise our proposal to eliminate potential confusion regarding whether woodland habitat in the Milliken Reservoir watershed is available as suitable GHG mitigation. The figures and table also provide greater specificity regarding the location of the 248 acres of woodland habitat to be conserved.

The second figure is particularly helpful because it shows that there is no overlap between the areas shaded grey and those shaded green. Thus, all the +/- 292.6 acres meets the criteria necessary to serve as GHG mitigation, because (absent the conservation easement required by Mitigation Measure 6-1), this acreage is developable under County policy.

This figure presents only information that is already in the record and that was before Director Morrison when he approved the May 5, 2021, proposal. The figure presents, on a single map, information that currently appears in different figures addressing various resource areas. Because the information is presented in a way that focuses on the issue at

hand, we believe this figure will be useful to the Board. We therefore believe that good cause exists to consider this figure.

3. Excerpts of testimony before Board of Supervisors (December 14, 2021)

Attachment 3 consists of excerpts of the transcript of the Board's December 14, 2021, hearing. At that hearing, Appellant opposed our previous proposal to revise Mitigation Measure 6-1. Our previous proposal consisted of preserving 124 acres of woodland habitat, plus implementing a tree planting program. At the Board's hearing, Appellant attacked the tree planting program, and argued that we should instead preserve 248 acres of woodland habitat. Here is what Appellant's representative stated:

> We recognize the narrowness of this appeal. We have no illusions about that…. [¶]
>
> The last time [Hall] stood before the Board, they promised to preserve 248 acres of woodland. Now they're coming back and they want to cut that in half. The County should hold them to their initial promise.
>
> Effective mitigation in this case would be to identify 248 acres of otherwise developable woodland that is on the project site, and to protect it in perpetuity. Sometimes the most obvious option is also the best.
>
> We shouldn't complicate things here. There has been no demonstration that 248 acres of developable land cannot be preserved. That is what the County should require. [¶] … Preservation of developable land must be the priority. [¶] Preservation is not just sound policy. In this case, it's the only legally viable option because the planting program does not meet CEQA's requirements for mitigation.
>
> ⋆ ⋆ ⋆
>
> There [are] a lot of reasons for the County to not leave anything up to chance. There is a lot of chance involved in the planting program. But there's already a pathway on the table that can lead to successful mitigation – identifying land that would otherwise be developable on the project site and require that that be set aside in a conservation easement – 248 acres.
>
> [¶]
>
> So what we're urging for you to do is to send this to – back to staff, and let's have a demonstration of what is available, what is developable, and what can be set aside in a conservation easement. . . . That is what the science demands and it's what your citizens demand.

(Transcript, Napa County Board of Supervisors Public Hearing on Walt Ranch Appeal (December 14, 2021), pp. 26–29, 114–116.)

Attachment 4 is an excerpt of the transcript from this hearing. Good cause exists to consider this excerpt because it reflects Appellant's position concerning the efficacy of the mitigation that we now propose. Because Appellant made these statements to the Board at a public hearing, there is no basis for disputing whether these statements reflect Appellant's position.

4. Excerpts from Appellant's appeal (November 5, 2021)

On November 5, 2021, Appellant filed a packet setting forth the reasons why it opposed our previous proposal. As its first ground of appeal, Appellant states:

> The County's original approval of the Project required extensive oak woodland preservation as mitigation for both biological resources and GHG impacts. (Addendum at 2.) The Court of Appeal did not invalidate the practice of preserving existing oak woodlands as a viable means of mitigation, it simply held that the County's failure to identify the areas to be preserved made it impossible to determine whether or not the mitigation was additive. (Court of Appeal Decision at 52.) The logical fix for the EIR's shortcomings would be to identify 248 acres of oak woodland that would otherwise be developable, because the areas have slopes under 30% and are outside steam setbacks and permanently protect those lands through conservation easement.

(Letter from Ross Middlemiss, Center for Biological Diversity, to Napa County Board of Supervisors (November 5, 2021), p. 3.)

Attachment 4 is an excerpt of this letter. Good cause exists to consider this excerpt because it reflects Appellant's position concerning the efficacy of conserving woodland habitat that is less than 30% slope and outside of stream setbacks. In addition, the letter is already part of the County's record for this proceeding.

Thank you for the opportunity to submit this information. Please do not hesitate to contact us if you would like additional information or have any questions about this request. Thank you for your attention.

Very truly yours,

Whitman F. Manley

cc (with attachments): Ross Middlemiss
Aruna Prabhala

-FUUFS UP +BTPO . %PPMFZ
"UUBDINFOU

Hall Brambletree Associates
401 St. Helena Highway South
St. Helena, CA 94574

March 8, 2022

David Morrison
Director
Planning, Building & Environmental Services
Napa County
1195 Third Street, 2nd Floor
Napa, CA 94559

Re: Walt Ranch ECP – GHG Mitigation

Dear Mr. Morrison:

This letter sets forth Hall Brambletree's revised proposal to address the greenhouse gas emissions from the Walt Ranch Erosion Control Plan ("ECP").

As approved, Mitigation Measure 6-1 requires Hall to "place in permanent protection no less than 248 acres of woodland habitat." The Court of Appeal held that the requirement to place 248 acres of woodland habitat in a conservation easement was appropriate mitigation. The Court also held, however, that, because the EIR did not identify the specific acreage, there was insufficient evidence to show that such habitat could be converted to other uses. (Slip op., pp. 51-53.) Simply put, the Court said: show the County the acreage; and show that the woodland habitat could otherwise be converted.

With this revised proposal, we have done that. We have mapped +/- 312 acres of woodland habitat that could be converted to other uses under County policy. The location of this habitat is shown and described on the attached map and spread sheet. This information is based on the same surveys and mapping that was performed as part of the environmental review process. We encourage the County to review the mapping and data to confirm its accuracy.

We propose to place a conservation easement on not less than 248 acres out of the total of 312 acres. The difference between these numbers will provide Hall and the land trust flexibility to adjust the boundaries of the easement to account for roads or other features that would diminish a particular location's suitability as preserved woodland habitat. The final boundaries of the 248 acres of woodland habitat designated for protection will be subject to review and approval by the County. The essential point here, however, is that there is ample woodland habitat available on the site to meet the concerns expressed by the Court of Appeal. Specifically, the 312 acres shown and described on the attached map and spreadsheet meet the following criteria:

- They are all mapped as woodland habitat.
- They are not located on slopes of 30% or greater.
- They are not located in the Milliken Reservoir watershed.

- They are not located within required setbacks from riparian corridors.
- There is no overlap with the land to be converted to other uses as part of the project.
- They are not designated for preservation under adopted mitigation measures requiring the protection of other resources on the property (e.g., sensitive plants or habitats or cultural resources), as set forth in the approved Biological Resources Management Plan.

Thus, absent Mitigation Measure 6-1, 248 acres of this woodland habitat would be available for conversion to other uses. The 248 acres to be preserved are entirely additive and are on top of the acreage that will already be protected for other purposes.

In May 2021, we proposed that the County revise Mitigation Measure 6-1 to require preservation of 124 acres of identified woodland habitat. We also proposed an extensive tree planting program to accompany the 124-acre easement requirement. We thought this proposal made sense because it provided an opportunity restore the property in the wake of wildland fires in 2017 and 2020. To our surprise, our proposal met with resistance. We therefore propose to simply address, directly, the Court of Appeal's concern. This proposal also addresses the appellant's objections to our original proposal.

This is the same mitigation that the County approved unanimously in December 2016. The only difference is that now we are identifying the woodland habitat to be conserved. This is what the Court of Appeal asked us to do, and we are now doing it. We have also responded to the appellant's objections. There are no valid reasons why our proposal should be rejected.

We note that the information upon which this revised proposal is based is not new. The woodland habitat on the property was mapped as part of the EIR process, based on extensive surveys. The proposal is based on the same GIS data that the County relied upon in mapping biological resources and habitats on the property. This same data has been used to prepare the attached figure showing the location of woodland habitat available for conservation, meeting the criteria outlined above.

We request that the County revise Mitigation Measure 6-1 as shown in the attached document. These modifications are to make clear that the woodland habitat to be protected meets the criteria established by the Court of Appeal. We also wish to incorporate modifications to Mitigation Measure 6-1 made in response to our May 2021 proposal that we believe strengthen the mitigation.

We appreciate your consideration of this request. Please let us know if you would like additional information or have any questions. We look forward to hearing from you.

Very truly yours,

Mike Reynolds
Hall Brambletree Associates

Attachments:

Figure 1 – location of conservation easement for woodland habitat for GHG mitigation

Attachment 1 – spreadsheet identifying woodland habitat for GHG mitigation

Attachment 2 – proposed revisions to Mitigation Measure 6-1

Figure 1

Guide to Assessor Parcel Numbers

1. 032-120-028	18. 032-480-027
2. 032-480-007	19. 032-480-028
3. 032-480-008	20. 032-490-004
4. 032-480-011	21. 032-490-005
5. 032-480-012	22. 032-490-006
6. 032-480-013	23. 032-490-008
7. 032-480-014	24. 032-490-009
8. 032-480-015	25. 032-490-010
9. 032-480-016	26. 032-490-011
10. 032-480-017	27.032-490-012
11. 032-480-018	28. 032-490-013
12. 032-480-019	29. 032-490-014
13. 032-480-020	30. 032-490-015
14. 032-480-021	31. 032-490-016
15. 032-480-022	32. 032-490-017
16. 032-480-023	33. 032-490-018
17. 032-480-024	34. 032-490-019
	35. 032-490-020

0 550 1,100 2,200 Feet

Legend

Acceptable Woodland

Walt Ranch Parcels

1 032-120-028
8 032-480-015
18 032-480-027
9 032-480-016
10 032-480-017
7 032-480-014
12 032-480-019
2 032-480-007
11 032-480-018
13 032-480-020
19 032-480-028
6 032-480-013
3 032-480-008
5 032-480-012
14 032-480-021
4 032-480-011
16 032-480-023
15 032-480-022
33 032-490-018
20 032-490-004
17 032-480-024
22 032-490-006
32 032-490-017
21 032-490-005
34 032-490-019
31 032-490-016
35 032-490-020
30 032-490-015
29 032-490-014
23 032-490-008
26 032-490-011
25 032-490-010
28 032-490-013
27 032-490-012
24 032-490-009

PPI ENGINEERING
2800 Jefferson Street
Napa, CA 94558
(707) 253-1806

Walt Ranch
Acceptable Woodland Available
for Conservation Easement
February 17, 2022

8:52:13 AM 2/17/2022 \\ppi-dc-2\ranches\KHWWAL\IMAGES\000 Post-Approval maps\Conservation Easement\2022-02-14 Acceptable Woodland by Parcel for Mike\2022-02-14 Woodland by Parcel.mxd

Attachment 1

Label	APN	GHG Acceptable Woodland (acres)
1	032-120-028	2.6
2	032-480-007	2.9
3	032-480-008	5.5
4	032-480-011	8.5
5	032-480-012	0.0
6	032-480-013	7.9
7	032-480-014	10.7
8	032-480-015	17.5
9	032-480-016	9.0
10	032-480-017	10.1
11	032-480-018	13.1
12	032-480-019	2.8
13	032-480-020	7.1
14	032-480-021	14.9
15	032-480-022	21.5
16	032-480-023	3.1
17	032-480-024	16.6
18	032-480-027	10.5
19	032-480-028	11.8
20	032-490-004	9.1
21	032-490-005	8.7
22	032-490-006	14.0
23	032-490-008	7.5
24	032-490-009	9.9
25	032-490-010	15.0
26	032-490-011	4.7
27	032-490-012	0.0
28	032-490-013	0.5
29	032-490-014	3.8
30	032-490-015	0.9
31	032-490-016	7.0
32	032-490-017	12.5
33	032-490-018	21.7
34	032-490-019	17.6
35	032-490-020	3.2
	Total (acres):	312.3

Attachment 2

Proposed Revisions to Adopted Mitigation Measure 6-1
(new text underlined)

6-1: In order to offset the construction emissions from development of the Proposed Project, the Applicant shall place in permanent protection no less than 248 acres of woodland habitat. The 248 acres to be protected shall be provided from the woodland habitat depicted in the map and spreadsheet attached to this measure. All acreage designated for preservation shall be identified as such in a conservation easement with an accredited land trust organization such as the Land Trust of Napa County as the grantee, or other means of permanent protection. The conservation easement shall be prepared in a form acceptable to County Counsel and entered into and recorded with the Napa County Recorder's office prior to any ground disturbing activities, grading or vegetation removal, or within 12 months of project approval, or whichever occurs first.

Any request by the permittee for an extension of time to record the conservation easement shall be considered by the Planning Director and shall be submitted to Napa County prior to the 12 month deadline, and shall provide sufficient justification for the extension.

Land placed in protection shall be restricted from development and other uses that would potentially degrade the quality of the habitat (including, but not limited to, conversion to other land uses such as agriculture, residential, or urban development, and excessive off-road vehicle use that increases erosion), and should otherwise be restricted by the existing goals and policies of Napa County.

The Biological Resource Management Plan and MMRP shall be revised to incorporate the conservation easement required by this mitigation measure, including the map and spreadsheet attached hereto.

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"UUBDINFOU

Guide to Assessor Parcel Numbers

1. 032-120-028	*18. 032-480-027*
2. 032-480-007	*19. 032-480-028*
3. 032-480-008	*20. 032-490-004*
4. 032-480-011	*21. 032-490-005*
5. 032-480-012	*22. 032-490-006*
6. 032-480-013	*23. 032-490-008*
7. 032-480-014	*24. 032-490-009*
8. 032-480-015	*25. 032-490-010*
9. 032-480-016	*26. 032-490-011*
10. 032-480-017	*27.032-490-012*
11. 032-480-018	*28. 032-490-013*
12. 032-480-019	*29. 032-490-014*
13. 032-480-020	*30. 032-490-015*
14. 032-480-021	*31. 032-490-016*
15. 032-480-022	*32. 032-490-017*
16. 032-480-023	*33. 032-490-018*
17. 032-480-024	*34. 032-490-019*
	35. 032-490-020

0 550 1,100 2,200 Feet

Legend

Acceptable Woodland

Walt Ranch Parcels

1 032-120-028
8 032-480-015
18 032-480-027
9 032-480-016
10 032-480-017
7 032-480-014
12 032-480-019
2 032-480-007
11 032-480-018
13 032-480-020
19 032-480-028
6 032-480-013
3 032-480-008
5 032-480-012
14 032-480-021
4 032-480-011
16 032-480-023
15 032-480-022
33 032-490-018
20 032-490-004
17 032-480-024
22 032-490-006
32 032-490-017
21 032-490-005
34 032-490-019
31 032-490-016
35 032-490-020
30 032-490-015
29 032-490-014
23 032-490-008
26 032-490-011
25 032-490-010
28 032-490-013
27 032-490-012
24 032-490-009

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2800 Jefferson Street
Napa, CA 94558
(707) 253-1806

Walt Ranch
Acceptable Woodland Available for Conservation Easement
March 29, 2022

11:35:54 AM 3/29/2022 R:\KHWWAL\IMAGES\000 Post-Approval maps\Conservation Easement\2022-03-29 GHG Mitigation outside Milliken Watershed\2022-03-29 Acceptable Woodland by Parcel.mxd

Label	APN	GHG Acceptable Woodland (a
1	032-120-028	2.6
2	032-480-007	2.9
3	032-480-008	5.5
4	032-480-011	8.5
5	032-480-012	0.0
6	032-480-013	7.9
7	032-480-014	10.7
8	032-480-015	17.5
9	032-480-016	9.0
10	032-480-017	10.1
11	032-480-018	13.1
12	032-480-019	2.8
13	032-480-020	7.1
14	032-480-021	14.9
15	032-480-022	21.5
16	032-480-023	3.1
17	032-480-024	16.6
18	032-480-027	10.5
19	032-480-028	11.8
20	032-490-004	9.1
21	032-490-005	8.7
22	032-490-006	14.0
23	032-490-008	7.5
24	032-490-009	9.9
25	032-490-010	14.3
26	032-490-011	2.0
27	032-490-012	0.0
28	032-490-013	0.0
29	032-490-014	0.6
30	032-490-015	0.0
31	032-490-016	0.0
32	032-490-017	5.8
33	032-490-018	21.7
34	032-490-019	17.6
35	032-490-020	3.2
N/A*	N/A	2.1
	Total (acres):	292.6

*Note: Due to differences in GIS data for the splits and outer property boundary, there are 2.1 acres of acceptable woodland within the surveyed outer property boundary that are not accounted for in the breakdown of individual parcels.

μ

0 550 1,100 2,200

Feet

Legend

- Acceptable Woodland for GHG Mitigation outside Milliken
- Approved Vineyard
- Otherwise Protected or Has Slope Greater than 30%
- Property Boundary

PPI ENGINEERING
2800 Jefferson Street
Napa, CA 94558
(707) 253-1806

Walt Ranch
GHG Mitigation

March 29, 2022

9:17:29 AM 3/29/2022 R:\KHWWAL\IMAGES\000 Post-Approval maps\Conservation Easement\2022-03-29 GHG Mitigation outside Milliken Watershed\2022-03-29 Walt Ranch GHG Mitigation.mxd

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Napa County Board of Supervisors

December 14, 2021

PUBLIC HEARING 2:00 P.M.

Walt Ranch Appeal

21-1269

On the second challenge, the court upheld the County's reliance on the Bay Area Air Quality Management District guidelines used to calculate greenhouse gas emissions. Neither the calculation of carbon sequestration loss or greenhouse gas emissions are before the Board of Supervisors today.

Those issues have been decided by the Court. On the third challenge, the court found that under the US Forest Protocols, conservation easements can only be used to mitigate carbon sequestration only if the forest being protected is under significant threat of conversion.

Because the EIR did not specify the location of the easements, and because it may have included development on 30 percent slopes, the court found the County did not provide substantial evidence to show that the land proposed for conservation is subject to the threat of development.

Therefore, consistent with the direction of the Appellate Court and the order of the Superior Court, the recommended mitigation measure before you today has removed all conservation easements on slopes of more than 30

percent, and specifies location of the easement, as you saw in this slide earlier.

The mitigation measure's also been revised and recommended by staff to incorporate the Biological Resource Management Plan, which includes detailed monitoring and reporting criteria to ensure and enforce that the measure is fully implemented.

I would like to reiterate real -- very briefly in their May 6th, 2020 decision, the Appellate Court issued Judgment 3.b, which stated the County shall not consider -- I'm sorry -- the County shall not reconsider whether it adopts such findings unless and until they are supported by substantial evidence in the record, emphasis without making changes to other aspects of the project and our EIR that have been approved and are not subject to the partial (indiscernible) mandate.

What that means is, that the County has already vacated Measure 6.1. They have to approve another Mitigation Measure 6.1 that is consistent with a court order. But you have to do that without changing substantially the project or the EIR.

So as Mr. Dooley indicated, this is a very, very narrow scope within which the Board is being asked to operate today. Consistent with that very narrow scope of the court order, staff has the following options provided for the Board's consideration -- deny the appeal in its entirety and uphold the approval of the revised mitigation Measure 6.1 with or without modification, uphold one or more grounds of the appeal and reverse the decision, or remand the matter back to the Planning and Building and Environmental Services Department with direction for further consideration.

In staff's opinion, the revisions to Mitigation Measure 6.1, including the modifications recommended are supported by substantial evidence and notwithstanding the arguments in the appeal are sufficient to reduce the greenhouse gas emissions to a less than significant level.

We recommend that the Board deny the appeal and uphold the approval of the revised Mitigation Measure 6.1 as shown in Attachment 8. And that concludes staff's presentation. Both Mr. Dooley and Mr. Bordone and myself and the

Ascent team are all available for any questions that the Board may have.

CHAIR ALFREDO PEDROZA: Thank you, Director Morrison. Board, is there any initial questions? I don't see any. I'm officially going to open up the public hearing and invite the Appellant to provide their testimony.

Mr. Middlemiss and Ms. Yap, you have 30 minutes. We'll remind you at 15 minutes. And again, if you want to preserve any time for rebuttal, that's for you to manage your time. Go ahead. And we won't start the clock, Mr. Middlemiss, until we load up your PowerPoint.

ROSS MIDDLEMISS: Thank you. And Mr. Dooley, if I ask you to change slides?

CHAIR ALFREDO PEDROZA: We can give you a clicker, (indiscernible). Ms. Hoskins, as soon as they start, you can go ahead and start the timer, please.

ROSS MIDDLEMISS: All right. Thank you, Chair Pedroza, Supervisors. My name is Ross Middlemiss, an attorney with Appellant Center for Biological Diversity. I'm joined today by my colleague, Dr. Tiffany Yap, Senior Scientist with the Center, who will speak shortly after myself.

I appreciate Staff's presentation. Thank you for laying out the background and the history. Taking a step back, I'd like to say, you know, since the moment the Center began our work in Napa, particularly with this project a number of years ago, our goal has been simple. It is to maximize conservation benefits, to protect the ecosystems and the unique biodiversity that makes Napa such a beautiful and cherished place for its residents and visitors alike.

Those same goals have brought us to file this appeal, to maximize conservation outcomes and environmental benefit. No matter how inevitable project approval may seem, we will always push for scientifically guided decision making that complies with the law.

We brought this appeal because the revised mitigation measure as approved is neither scientifically nor legally acceptable. We brought this appeal because we are in a climate crisis, and the County has a legal and moral obligation to mitigate the destructive projects that it approves.

We recognize the narrowness of this

appeal. We have no illusions about that. But properly mitigating the destruction of over 14,000 trees is of critical importance.

The revised mitigation has two parts -- the preservation of over -- or of 124 acres of woodland that is otherwise developable, and the planting program, which will plant 16,790 oak saplings.

Our appeal focuses on the planting program. Those two parts together must address the -- or must sequester enough carbon to offset the project's impacts over its 30 year lifespan -- 27,528 metric tons of carbon equivalent.

And because of the flawed planting program, which we will detail throughout our presentation, the math simply does not add up. In the past, the post approval appeal or -- sorry. The post approval revisions suggested by the Applicant and the recently added information from the County and the County's consultants don't change this reality.

Dr. Yap and I will demonstrate why the planting program falls short, both legally, scientifically and informationally. Also, this is my portion on why the legal requirements of

CEQA are not met, and Dr. Yap will follow by showing that the program is not capable of achieving the sequestration that's claimed by the Applicant and the County's consultants.

Before addressing the specific grounds of our appeal, I think it's important to take a step back and discuss why we're here and what options are presented to the County.

The key question for the Applicant and the County is how to make up for the destruction of over 14,000 trees that will forever change the character and nature of the beautiful property that's at stake here.

The last time the Holl stood before the Board, they promised to preserve 248 acres of woodland. Now they're coming back and they want to cut that in half. The County should hold them to their initial promise.

Effective mitigation in this case would be to identify 248 acres of otherwise developable woodland that is on the project site, and to protect it in perpetuity. Sometimes the most obvious option is also the best.

We shouldn't complicate things here. There has been no demonstration that 248 acres of

developable land cannot be preserved. That is what the County should require.

Because even with some fixes to the glaring issues in the planting program, which we'll lay out, it may still not be enough. Preservation of developable land must be the priority.

Preservation is not just sound policy. In this case, it's the only legally viable option because the planting program does not meet CEQA's requirements for mitigation.

There are four main issues with the planting program. The carbon calculations are misleading, 80 percent survival rate is unrealistic and unsupported, current site conditions are misrepresented, and there's a lack of enforcement and unclear funding of the program.

Again, I will touch on the CEQA violations and why the requirements for mitigation are not met, and Dr. Yap will talk about how the factual and scientific shortcomings undermine the mitigation's effectiveness.

CEQA was enacted to prioritize environmental protection. It pursues this goal

the way it is for a reason. That's how nature evolved and adapted.

There aren't more trees for various reasons, and some -- the young trees don't always survive. We should let nature, you know, let it be. We should stop thinking that we can go in and change everything just because we say we'll reach 80 percent.

And beyond that, it -- for the purposes of this mitigation, it doesn't matter what happens after 30 years. The scope of this EIR is 30 years. After that, the County doesn't have control over this anymore.

We need those mitigation measures now. We need that mitigation to occur now. Your community has demanded as much of you. You've heard today in the emails, in the public comment. This is urgent.

There is a lot of reasons for the County to not leave anything up to chance. There is a lot of chance involved in the planting program. But there's already a pathway on the table that can lead to successful mitigation -- identifying land that would otherwise be developable on the project site and require that

that be set aside in a conservation easement -- 248 acres.

And if that isn't feasible, then make that known and we'll go from there. But don't just jump straight to a speculative uncertain planting program, where there's not been a demonstration that will be effective.

And again, just addressing a few other points about our appeal. We haven't asked for the GHG emissions calculations to be changed. We acknowledged that what was in the EIR is the universe within which our appeal operates, just to clarify that.

So you know, I'll finish with, again, what we're asking for. We understand, Mr. Manley put it well, we don't like the project. We don't like that this is a common occurrence in Napa. But again, CEQA has certain requirements and it doesn't prohibit the approval of vineyard development projects. That's the reality.

What CEQA does require is effective mitigation and a clear demonstration to the public and decision makers that mitigation can occur and that will be followed through. There are clear methods that are available to

demonstrate that we can achieve that mitigation.

So what we're urging for you to do is to send this to -- back to staff, and let's have a demonstration of what is available, what is developable, and what can be set aside in a conservation easement. Okay. That is what the science demands and it's what your citizens demand.

CHAIR ALFREDO PEDROZA: You have less than a minute, Mr. Middlemiss.

ROSS MIDDLEMISS: Thank you. So again, we urge you to prioritize the preservation of existing woodland that would otherwise be cut down. Don't allow the Applicant to hold aside some lands with the slope below 30 percent to develop at a later date and rely on this uncertain planting plan. Thank you.

CHAIR ALFREDO PEDROZA: Thank you, Mr. Middlemiss and Dr. Yap as well, for your presentation. So at this point, we're going to take a quick break and we'll be back at 4:45. And then the Board will start our deliberation and ask any questions of all parties. So again, we'll be back at 4:45. Thank you all.

AUTOMATED VOICE: Recording stopped.

(Recess)

AUTOMATED VOICE: Progress.

CHAIR ALFREDO PEDROZA: All right. We are back from our short break. Thank you to the public. So now, we've heard from the Appellant. We've heard from the public. We've heard from the Applicant. At this time, I'll bring it back to the Board to initiate some initial questions we may have for staff. Supervisor Ramos?

VICE CHAIR BELIA RAMOS: Thank you. Thank you to the Applicants, Appellants and to all of the public who contributed to this dialogue today. I have two questions, possibly three, depending on your answers specifically.

One is, the survival rate of 80 percent that is in the assumptions by Ascent has been mentioned many times as not attainable, and therefore, does not meet the requirement of CEQA. Can someone, maybe at Ascent, speak to whether that -- what science was used to determine the 80 percent survivability of the tree planting program? Do you want me to keep adding questions or do you want me to let you do one?

JASON DOOLEY: Is Josh available on our panel? Or Brenda?

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6. Require a minimum 7-year monitoring program for plantings with specific, measurable, performance criteria and adaptive management strategies to accommodate climate change conditions (e.g., extended drought, increased wildfire frequency) and ensure an 80% success rate 16,790 of planted seedlings surviving to maturity.
7. Provide a clear definition of how tree planting survival is determined.

I. Preservation of Existing Oak Woodland Must be Prioritized

The County's original approval of the Project required extensive oak woodland preservation as mitigation for both biological resources and GHG impacts. (Addendum at 2.) The Court of Appeals did not invalidate the practice of preserving existing oak woodlands as a viable means of mitigation, it simply held that the County's failure to identify the areas to be preserved made it impossible to determine whether or not the mitigation was additive. (Court of Appeals Decision at 52.) The logical fix for the EIR's shortcoming would be to identify 248 acres of oak woodland that would otherwise be developable, because the areas have slopes under 30% and are outside stream setbacks and permanently protect those lands through a conservation easement. County policy demonstrates a preference for preserving existing habitat, and the Board should not depart from this scientifically-backed approach now.

Instead of the preservation route set forth in the EIR, Applicants proposed, and the County approved, a revised measure that halves the preserved acreage and commits to planting 16,790 oak seedlings. (Addendum at 3.) There is no discussion of why this approach is favored now, nor is there discussion of why preserving 248 developable acres within the project site is infeasible. The Center urges the County to reconsider this approach, and instead follow the science and prioritize the preservation of existing oak woodland, either within or outside the Project site, over the uncertain and risky tree planting proposal. As discussed more fully below, unless the County can provide substantial evidence demonstrating the effectiveness and adequacy of the tree planting program, the County should require the conservation of existing habitats to mitigate the Project's GHG emissions as required by CEQA. (*Sacramento Old City Assn. v. City Council* (1991) 229 Cal.App.3d 1011, 1027.)

The amendment is also uuclear regarding the locations of the different land uses planned for the Project in relation to the GHG mitigation lands. The failure to include the revised project footprint and the areas of undevelopable land (including the 525 acres the letters refer to) precludes a determination of whether or not development will occur within the proposed easement area or the available acceptable woodland area, or that 124 acres of oak woodland that is outside riparian setbacks on slopes less than 30% will be protected. The original project footprint provided in the FEIR appears to show a substantial amount of project footprint within and adjacent to the proposed easement area (FEIR at Figure 3-4), which would have direct and indirect impacts to the proposed mitigation. The amendment should be revised to provide more information so that the public can determine that at least 124 acres of oak woodlands outside riparian setbacks on slopes under 30% will be avoided for the purposes of GHG mitigation.

Attachment 4
March 29, 2022, Appellant's Response
To Revised Proposal

March 29, 2022

Napa County Board of Supervisors
1195 Third Street, Ste. 310
Napa, CA 94559

Re: Appeal of Proposed Revisions to the Environmental Impact Report for the Walt Ranch Vineyards Conversion (No. P11-00205-ECPA).

The Center for Biological Diversity (Center) urges the Napa County Board of Supervisors (Board) to grant the Center's appeal and reject the Applicant's March 8, 2022, proposed revision to Mitigation Measure 6.1 ("MM 6.1") of the Walt Ranch vineyard (Project) environmental impact report (EIR). If the Board chooses to accept the proposed revisions to MM 6.1 of the Project, the Center's requests that the Board only do so after the Applicant fully addresses the Center's concerns with the proposed revisions laid out below.

The Center is encouraged to see the Applicant retract from an ill-conceived planting program and move towards the Court of Appeal's requirement to place 248 acres of woodland habitat in a conservation easement to offset the Project's 27,528 $MTCO_2e$ of greenhouse gas (GHG) emissions. However, the revision lacks sufficient specificity and assurances that such mitigation will be appropriately implemented. Therefore, the proposed revisions fail to comply with the Napa County Superior Court's Peremptory Writ of Mandate and Judgment Granting Peremptory Writ of Mandate, or the California Environmental Quality Act (CEQA). Until specific criteria (outlined below) are provided to ensure the successful preservation of 248 acres of appropriate woodland habitat and its corresponding carbon sequestration and storage potential, the Board should reject the proposal as lacking substantial evidence that the measure will adequately mitigate the Project's GHG impacts. Providing defined prioritization criteria for the selection of preservation land is also needed to facilitate transparent enforcement by the County while demonstrating to a concerned public that claimed carbon sequestration benefits are being achieved.

The recent climate change assessment by the Intergovernmental Panel on Climate Change (IPCC) emphasizes the dire impacts of climate change already happening and warns of catastrophic consequences if we refuse to increase serious efforts to reduce greenhouse gas (GHG) emissions (IPCC 2022). The report points to nature-based solutions, like the preservation of existing intact habitats, as an important piece of the solution to mitigate and adapt to impacts of climate change (IPCC 2022). Therefore, mitigation measures like the one proposed here must ensure that the carbon sequestration and storage requirement is met.

The configuration of conservation easements will play a critical role in the success of the proposed mitigation measure to store the required amount of carbon in perpetuity and offset the Project's GHG impacts. Protecting the integrity of remaining intact forest ecosystems and biodiversity is critical for effective carbon sequestration and storage (Watson et al. 2018). Large,

intact forest areas have been shown to sequester more carbon than smaller, fragmented forest patches, and carbon density near forest edges has been found to be "very low" compared to the interior core areas of forest (Ma et al. 2017). This suggests that edge effects of human disturbance and activities degrade the capacity of woodlands to sequester and store carbon (Ma et al. 2017). In addition, higher plant and animal diversity has been linked with higher carbon storage in forests (as reviewed in Watson et al. 2018) while lower plant and animal diversity has been linked with fragmented habitats (e.g., Damschen et al. 2019; Delaney et al. 2021). Therefore, well-planned conservation easements that optimize carbon sequestration and storage potential by prioritizing the preservation of intact contiguous habitat will help ensure that mitigation requirements are met. Such action will facilitate other co-benefits, like protecting biodiversity, maintaining water quality and water supply, minimizing erosion, and maintaining resilience to climate change and extreme weather events like wildfire and flooding (Watson et al. 2018).

The Center urges the Board to revise the mitigation measure to incorporate the best available science to ensure that the required amount of stored carbon is met. The following recommendations are provided to help achieve this goal:

1. Provide more specificity regarding where the 248 acres of conservation easements within the 312 acres of identified available woodland will be located. Understanding that some flexibility in identifying appropriate easement areas is needed, the Project Proponent should provide more clarity regarding the possible configuration of the easements.
2. Prioritize conserving large areas of intact and contiguous habitats as much as possible to demonstrate they aim to optimize carbon sequestration and storage potential.
3. Demonstrate how conservation easements will be buffered from roads and vineyard development to minimize edge effects that will degrade the woodlands and reduce their carbon sequestration and storage potential.
4. Implement easements in consultation with local and regional biologists, government agencies, and other stakeholders.
5. Demonstrate that adequate resources will be set aside to protect, monitor, and adaptively manage the conservation easements in perpetuity.

Preservation of Contiguous Habitat Will Optimize Chances of Reaching Carbon Sequestration Mitigation Requirements

A review published in Nature highlights the irreplaceable environmental and social value of intact forest ecosystems and their importance for climate change mitigation and adaptation (Watson et al. 2018). They provide essential carbon sequestration and storage capacity, influence water availability, regulate local and regional weather regimes, and buffer human communities from the negative effects of extreme climatic events like drought and wildfire (Watson et al. 2018). When implementing habitat conservation for ecosystem service purposes like carbon sequestration and storage, it is important to take into account that optimal ecosystem services are the result of the functional integrity of healthy ecosystems. Degraded forests and forest edges have been found to have about 10 to 80% less carbon stored in above-ground biomass and soils compared to interior areas of intact forests (Ma et al. 2018; Wekesa et al. 2016; de Paula et al. 2011). This suggests that implementing conservation easements on woodland habitats under the

proposed mitigation measure must be carefully planned to avoid fragmentation and degradation, and buffers from current or future human-impacted landscapes should be incorporated to protect the easements in perpetuity. Yet, the Project Proponent only provides minimal information, stating that some 248 acres out of 312 available woodland habitat will be protected without providing sufficient details or prioritization criteria regarding how they plan to optimize (or at least prevent the degradation of) the carbon sequestration and storage potential of the conservation easements. The proposed mitigation measure should take into account the surrounding land use including the 64 remaining acres of woodland habitat as well as additional habitat (e.g., shrublands, grasslands) that would remain vulnerable to future development. Given the growing climate change emergency, the Project Proponent needs to demonstrate that their GHG mitigation measure has the highest chances as possible of successfully mitigating the required 27,528 $MTCO_2e$.

There is overwhelming evidence that edge effects from human disturbance like roads and development (including agriculture) impact plants and wildlife and degrade ecosystems (see Yap et al. 2021). Negative effects of human disturbance influence important ecosystem dynamics like food webs, nutrient cycling, pollination, and community structure, which, in turn, can disrupt carbon sequestration and storage (Watson et al. 2018; Sobral et al. 2017). Therefore, prioritizing the preservation of contiguous habitats will benefit biodiversity, which will help improve chances of maintaining ecosystem health and carbon sequestration and storage capacity. The proposed mitigation could and should be improved to minimize losses, maximize carbon storage and ecosystem health, and ensure the GHG mitigation requirements are met.

Despite the clear improvements over the previous GHG mitigation proposal, the new proposal still lacks sufficient evidence to support a finding that it will adequately mitigate the Project's significant GHG impacts. In accordance with the Court of Appeal's mandate, the County must show where the preserved areas will be, and ensure those areas provide the claimed carbon sequestration. This can be achieved by revising the current proposal to include specific criteria that prioritize the preservation of contiguous woodland areas that are protected from edge effects of development and managed for long term success. The rapidly escalating climate crisis demands every effort be made to ensure the continued functionality of carbon storying woodland habitats. The Center urges the Board to require a comprehensive and transparent GHG mitigation plan that complies with CEQA and meets the urgency of the moment.

Sincerely,



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Aruna Prabhala
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References

Damschen, E. I., Brudvig, L. A., Burt, M. A., Jr, R. J. F., Haddad, N. M., Levey, D. J., Orrock, J. L., Resasco, J., & Tewksbury, J. J. (2019). Ongoing accumulation of plant diversity through habitat connectivity in an 18-year experiment. Science, 365(6460), 1478–1480.

Delaney, K. S., Busteed, G., Fisher, R. N., & Riley, S. P. D. (2021). Reptile and Amphibian Diversity and Abundance in an Urban Landscape: Impacts of Fragmentation and the Conservation Value of Small Patches. Ichthyology and Herpetology, 109(2), 424–435.

de Paula, M. D., Costa, C. P. A., & Tabarelli, M. (2011). Carbon storage in a fragmented landscape of Atlantic forest: the role played by edge-affected habitats and emergent trees. Tropical Conservation Science, 4(3), 340–349.

Intergovernmental Panel on Cliamte Change (IPCC). (2022). Climate Change 2022 Impacts, Adaptation and Vulnerability Summary for Policymakers.

Ma, L., Shen, C., Lou, D., Fu, S., & Guan, D. (2017). Ecosystem carbon storage in forest fragments of differing patch size. Scientific Reports, 7(1).

Sobral, M., Silvius, K. M., Overman, H., Oliveira, L. F. B., Raab, T. K., & Fragoso, J. M. V. (2017). Mammal diversity influences the carbon cycle through trophic interactions in the Amazon. Nature Ecology and Evolution, 1(11), 1670–1676.

Watson, J. E. M., Evans, T., Venter, O., Williams, B., Tulloch, A., Stewart, C., Thompson, I., Ray, J. C., Murray, K., Salazar, A., McAlpine, C., Potapov, P., Walston, J., Robinson, J. G., Painter, M., Wilkie, D., Filardi, C., Laurance, W. F., Houghton, R. A., … Lindenmayer, D. (2018). The exceptional value of intact forest ecosystems. In Nature Ecology and Evolution (Vol. 2, Issue 4, pp. 599–610). Nature Publishing Group.

Wekesa, C., Leley, N., Maranga, E., Kirui, B., Muturi, G., Mbuvi, M., & Chikamai, B. (2016). Effects of Forest Disturbance on Vegetation Structure and Above-Ground Carbon in Three Isolated Forest Patches of Taita Hills. Open Journal of Forestry, 06(02), 142–161.

Yap, T. A., Rose, J. P., Anderson, I., & Prabhala, A. (2021). California Connections: How Wildlife Connectivity Can Fight Extinction and Protect Public Safety.

Attachment 5
Revised Mitigation Measure 6-1
Staff Recommendation

Revised Mitigation Measure 6-1, Staff Recommendation

Mitigation Measure 6-1: In order to offset the construction emissions from development of the Proposed Project, the Applicant shall place in permanent protection no less than 248 acres of woodland habitat. The 248 acres to be protected shall be identified from the woodland habitat depicted in the map and spreadsheet attached to this measure. All acreage designated for preservation shall be identified as such in a conservation easement with an accredited land trust organization such as the Land Trust of Napa County as the grantee, or other means of permanent protection. The conservation easement shall be prepared in a form acceptable to County Counsel and entered into and recorded with the Napa County Recorder's office prior to any ground disturbing activities, grading or vegetation removal, or within 12 months of project approval, or whichever occurs first.

Any request by the permittee for an extension of time to record the conservation easement shall be considered by the Planning Director and shall be submitted to Napa County prior to the 12 month deadline, and shall provide sufficient justification for the extension.

Land placed in protection shall be restricted from development and other uses that would potentially degrade the quality of the habitat (including, but not limited to, conversion to other land uses such as agriculture, residential, or urban development, and excessive off-road vehicle use that increases erosion), and should otherwise be restricted by the existing goals and policies of Napa County.

The Biological Resource Management Plan and MMRP shall be revised to incorporate the conservation easement required by this mitigation measure, including the map and spreadsheet attached hereto.

Guide to Assessor Parcel Numbers

1. 032-120-028	18. 032-480-027
2. 032-480-007	19. 032-480-028
3. 032-480-008	20. 032-490-004
4. 032-480-011	21. 032-490-005
5. 032-480-012	22. 032-490-006
6. 032-480-013	23. 032-490-008
7. 032-480-014	24. 032-490-009
8. 032-480-015	25. 032-490-010
9. 032-480-016	26. 032-490-011
10. 032-480-017	27.032-490-012
11. 032-480-018	28. 032-490-013
12. 032-480-019	29. 032-490-014
13. 032-480-020	30. 032-490-015
14. 032-480-021	31. 032-490-016
15. 032-480-022	32. 032-490-017
16. 032-480-023	33. 032-490-018
17. 032-480-024	34. 032-490-019
	35. 032-490-020

N
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0 550 1,100 2,200
Feet

Legend

Acceptable Woodland

Walt Ranch Parcels

1
032-120-028

8
032-480-015

18
032-480-027

9
032-480-016

10
032-480-017

7
032-480-014

12
032-480-019

2
032-480-007

11
032-480-018

13
032-480-020

19
032-480-028

6
032-480-013

3
032-480-008

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032-480-012

14
032-480-021

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032-480-011

16
032-480-023

15
032-480-022

33
032-490-018

20
032-490-004

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032-480-024

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032-490-011

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28
032-490-013

27
032-490-012

24
032-490-009

PPI ENGINEERING
2800 Jefferson Street
Napa, CA 94558
(707) 253-1806

Walt Ranch
Acceptable Woodland Available
for Conservation Easement
March 29, 2022

11:35:54 AM 3/29/2022 R:\KHWWAL\IMAGES\000 Post-Approval maps\Conservation Easement\2022-03-29 GHG Mitigation outside Milliken Watershed\2022-03-29 Acceptable Woodland by Parcel.mxd

N
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0 550 1,100 2,200
Feet

Legend

- Acceptable Woodland for GHG Mitigation outside Milliken
- Approved Vineyard
- Otherwise Protected or Has Slope Greater than 30%
- Property Boundary

PPI ENGINEERING
2800 Jefferson Street
Napa, CA 94558
(707) 253-1806

Walt Ranch
GHG Mitigation

March 29, 2022

9:17:29 AM 3/29/2022 R:\KHWWAL\IMAGES\000 Post-Approval maps\Conservation Easement\2022-03-29 GHG Mitigation outside Milliken Watershed\2022-03-29 Walt Ranch GHG Mitigation.mxd

Label	APN	GHG Acceptable Woodland (acres)
1	032-120-028	2.6
2	032-480-007	2.9
3	032-480-008	5.5
4	032-480-011	8.5
5	032-480-012	0.0
6	032-480-013	7.9
7	032-480-014	10.7
8	032-480-015	17.5
9	032-480-016	9.0
10	032-480-017	10.1
11	032-480-018	13.1
12	032-480-019	2.8
13	032-480-020	7.1
14	032-480-021	14.9
15	032-480-022	21.5
16	032-480-023	3.1
17	032-480-024	16.6
18	032-480-027	10.5
19	032-480-028	11.8
20	032-490-004	9.1
21	032-490-005	8.7
22	032-490-006	14.0
23	032-490-008	7.5
24	032-490-009	9.9
25	032-490-010	14.3
26	032-490-011	2.0
27	032-490-012	0.0
28	032-490-013	0.0
29	032-490-014	0.6
30	032-490-015	0.0
31	032-490-016	0.0
32	032-490-017	5.8
33	032-490-018	21.7
34	032-490-019	17.6
35	032-490-020	3.2
N/A*	N/A	2.1
	Total (acres):	292.6

*Note: Due to differences in GIS data for the internal parcel splits and outer property boundary, there are 2.1 acres of acceptable woodland within the surveyed outer property boundary that are not accounted for in the breakdown of individual parcels.

Attachment 6
April 8, 2022, Memorandum from Ascent Environmental

Memo

455 Capitol Mall, Suite 300
Sacramento, CA 95814
916.444.7301

Date: April 8, 2022

To: Jason Dooley and Brian Bordona (Napa County)

From: Sam Ruderman, Hannah Kornfeld, Brenda Hom, and Honey Walters (Ascent Environmental)

Subject: Revised Walt Ranch Greenhouse Gas Mitigation: Response to Comment Memorandum

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The Center for Biological Diversity (CBD) submitted a comment letter in response to the proposed revision to Mitigation Measure 6-1 (MM 6-1) of the Walt Ranch Vineyards Agricultural Erosion Control Plan (project) Environmental Impact Report (EIR). CBD's comment letter focuses on potential negative impacts to forest carbon sequestration potential resulting from "edge effects." CBD references several papers that point to reductions in carbon storage due to forest fragmentation and degradation or disturbance. However, edge effects are complex and significantly influenced by local factors. Additionally, the project's conservation easements will not result in conserved parcels to be disturbed or degraded, and it is likely that adjacent forest parcels will also remain intact, as there are no proposals to develop other areas of Walt Ranch.

CBD's letter states that "Protecting the integrity of remaining intact forest ecosystems and biodiversity is critical for effective carbon sequestration and storage (Watson et al. 2018)." While this article recognized the importance of intact forests, the authors also acknowledged that there are a variety of important solutions for protecting ecosystems and forest carbon sequestration: "Our call for an increased emphasis on intact forests does not imply that other forms of forest are unimportant. Given the scale of the environmental challenges facing humanity, there is also an undoubted need to cease deforestation and degradation at forest frontiers[11], and to promote large-scale reforestation[12]. We believe that coherent environmental policy should give due weight to intact forests, clearance frontiers and restoration opportunities, because all three have crucial and complementary roles to play" (Watson et al. 2018).

The CBD comment letter notes that "large intact forest areas have been shown to sequester more carbon than smaller, fragmented forest patches, and carbon density near forest edges has been found to be 'very low' compared to the interior core areas of forest (Ma et al. 2017)." The letter also states, "Degraded forests and forest edges have been found to have about 10 to 80% less carbon stored in above-ground biomass and soils compared to interior areas of intact forests (Ma et al. 2017; Wekesa et al. 2016; de Paula et al. 2011)." However, this phenomenon has been shown to vary considerably depending on climate and other factors; several studies point to differences in edge effects and fragmentation impacts on forest carbon dynamics based on geographies and biomes.
Edge effects create distinct growing conditions that vary across biomes, resulting in impacts to carbon cycles that differ in direction and magnitude, and changes in microclimates at the forest edge can create both favorable and adverse conditions for plant growth (Smith et al. 2018). For example, tropical forests have been shown to have 25 percent less biomass within 500 meters of an edge compared to the forest interior (Chaplin-Kramer et al. 2015). In

contrast, forest edge effects have been shown to substantially enhance aboveground forest growth and carbon storage in temperate broadleaf forests; in Massachusetts researchers found that biomass densities were 64% higher near the forest edge than the forest interior (Reinmann and Hutyra 2017). Another study concluded that "biomass density in a temperate coniferous forest was 31% higher near the edge relative to the interior" (Bowering, LeMay, and Marshall 2006). In some ways this is not surprising; foresters routinely alter the microenvironment to accelerate tree growth through efforts such as thinning stands (Meadows and Goelz 2002), which results in increased light and reduced competition, conditions that can be similar to those experienced at or near forest edges (Smith et al. 2018, Reinmann and Hutrya 2017).

The Ma et al. (2017) study cited by CBD was conducted in the Guangdong Province in southern China, a region that experiences a "typical sub-tropical monsoon climate" and is home to "sub-tropical forest." Ma et al. describe previous studies that have evaluated the impact of forest fragmentation on carbon storage: "intact tropical forests likely act as C [carbon] sinks, whereas fragmented forests may be vulnerable to C losses." Ma et al. reference a study by Pütz: "Using remote sensing, Pütz[10] estimated long-term C loss due to fragmentation in Neotropical forests. Pütz concluded that tropical forest fragmentation increased C loss and should be accounted for when attempting to understand the role of vegetation in the global C budget. In central and south America, major losses occur in the immediate aftermath of fragmentation, resulting from the death of large, old-growth trees, especially close to fragment edges that are exposed to wind and fire[14]." This research is not representative of oak woodlands that are found in the project area.

Similarly, CBD references de Paula et al. (2011), who studied carbon dynamics and impacts in three tropical forest habitats of a highly fragmented Atlantic forest landscape in northeast Brazil, a distinct biogeographic unit of the Atlantic Forest region. The study area consisted of 100 forest fragments, "all of [which are] completely surrounded by a monoculture of sugarcane" and are dominated by vegetation species that are native/endemic to tropical regions on other continents. Lastly, Wekesa et al. (2016) evaluated impacts to forest carbon storage potential in forests in Kenya. Due to the complex nature of edge effects and significant variations in carbon cycle dynamics associated with climate and other factors, the conclusions made by CBD cannot necessarily be applied to ecosystems in Napa County. Napa County has a Mediterranean climate, rather than a sub-tropical or tropical climate. Wekesa et al. make note of the importance of local conditions: "Moreover, development and implementation of effective mitigation strategies to reduce carbon emissions will require the use of local biomass models since they are accurate." In the first sentence of the Introduction the authors highlight distinctions between different climates and ecosystems: "Although forests can mitigate climate change through carbon sequestration and storage (Marland & Schlamadinger, 1997; Chhatre & Agrawal, 2009; Galik & Jackson, 2009), the contrary is increasingly manifested, particularly in tropical forests."

The concept that fragmentation causes detrimental effects on carbon sequestration has been based on previous studies in tropical systems. Recent research suggests that, "in contrast to tropical systems, temperate forest edges exhibit increased forest growth and biomass with no change in total mortality relative to the forest interior" (Morreale et al. 2021). In the northeastern United States, oak forests have been found to show a particularly positive relationship between biomass and proximity to forest edge relative to interior, compared to other species (Morreale et al. 2021). Researchers studying temperate forests in Europe (including sub-Mediterranean forests in central Italy) recently published similar results, finding that temperate forest edges exhibit a 95% increase in aboveground carbon stock within 5 meters of an edge (Meeussen et al. 2021). The results of these studies indicate that edges are associated with increased growth in temperate forests.

REFERENCES

Bowering, M., LeMay, V., and Marshall, P. 2006. Effects of forest roads on the growth of adjacent lodgepole pine trees. *Canadian Journal of Forest Research*, 36(4):919-929.

Chaplin-Kramer, R., Ramler, I., Sharp, R., Haddad, N. M., Gerber, J. S., West, P. C., Mandle, L., Engstrom, P., Baccini, A., Sim, S., Mueller, C., and King, H. 2015. Degradation in carbon stocks near tropical forest edges. *Nature Communications*, 6:10158.

Chhatre, A., and Agrawal, A. 2009. Trade-Offs and Synergies between Carbon Storage and Livelihood Benefits from Forest Commons. *Proceedings of the National Academy of Sciences of the United States of America*, 106:17667-17670.

de Paula, M. D., Costa, C. P. A., and Tabarelli, M. 2011. Carbon storage in a fragmented landscape of Atlantic forest: the role played by edge-affected habitats and emergent trees. *Tropical Conservation Science*, 4(3):340-349.

Galik, C. S., and Jackson, R. B. 2009. Risks to Forest Carbon Offset Projects in a Changing Climate. *Forest Ecology and Management*, 257:2209-2216.

Ma, L., Shen, C., Lou, D., Fu, S., and Guan, D. 2017. Ecosystem carbon storage in forest fragments of differing patch size. *Scientific Reports*, 7(1).

Marland, G., and Schlamadinger, B. 1997. Forests for Carbon Sequestration or Fossil Fuel Substitution? A Sensitivity Analysis. *Biomass and Bioenergy*, 13:389-397.

Meadows, J. S., and Goelz, J. C. G. 2002. Fourth-year effects of thinning on growth and epicormic branching in a red oak–sweetgum stand on a minor stream bottom site in west-central Alabama. *Proceedings of the Eleventh Biennial Southern Silvicultural Research Conference*; Knoxville, TN; March 20-22, 2001. Asheville, NC: US Department of Agriculture Forest Service Southern Research Station.

Meeussen, C., Govaert, S., Vanneste, T., Haesen, S., Meerbeek, K. V., Bollmann, K., Brunet, J., Calders, K., Cousins, S. A.O., Diekmann, M., Graae, B. J., Iacopetti, G., Lenoir, J., Orczewska, A., Ponette, Q., Plue, J., Selvi, F., Spicher, F., Sørensen, M. V., Verbeeck, H., Vermeir, P., Verheyen, K., Vangansbeke, P., and Frenne, P. D. 2021. Drivers of carbon stocks in forest edges across Europe. *Science of The Total Environment*, 759:143497.

Morreale, L. L., Thompson, J. R., Tang, X., Reinmann, A. B., and Hutyra, L. R. 2021. Elevated growth and biomass along temperate forest edges. *Nature Communications,* 12:7181.

Reinmann, A. B., and Hutyra, L. R. 2017. Edge effects enhance carbon uptake and its vulnerability to climate change in temperate broadleaf forests. *Proceedings of National Academy of Sciences of the United States of America*, 114(1):107-112.

Smith, I.A., Hutyra, L. R., Reinmann, A. B., Marrs, J. K., and Thompson, J.R. 2018. Piecing together the fragments: elucidating edge effects on forest carbon dynamics. *Frontiers in Ecology and the Environment*, 16(4):213-221.

Watson, J. E. M., Evans, T., Venter, O., Williams, B., Tulloch, A., Stewart, C., Thompson, I., Ray, J. C., Murray, K., Salazar, A., McAlpine, C., Potapov, P., Walston, J., Robinson, J. G., Painter, M., Wilkie, D., Filardi, C., Laurance, W. F.,

Houghton, R. A., … Lindenmayer, D. 2018. The exceptional value of intact forest ecosystems. *Nature Ecology and Evolution*, 2(4):599-610.

Wekesa, C., Leley, N., Maranga, E., Kirui, B., Muturi, G., Mbuvi, M., and Chikamai, B. 2016. Effects of Forest Disturbance on Vegetation Structure and Above-Ground Carbon in Three Isolated Forest Patches of Taita Hills. *Open Journal of Forestry*, 06(2):142–161.

Attachment 7
Witness Lists

REMY | MOOSE | MANLEY
LLP

Whitman F. Manley
wmanley@rmmenvirolaw.com

April 8, 2022

Jason M. Dooley
Deputy County Counsel
Office of the Napa County Counsel
1195 Third Street, Suite 301
Napa, CA 94559

Re: Walt Ranch appeal – witness list

Dear Mr. Dooley:

The applicant's witness list for the April 19, 2022, hearing on this matter is:

Craig Hall, Hall Brambletree Associates LP
Mike Reynolds, Hall Brambletree Associates LP
Whit Manley, Remy Moose Manley LLP

We will be dividing our time so that we adhere to the County's 20-minute limit.

Annalee Sanborn and Jim Bushey of PPI Engineering will attend the hearing on behalf of the applicant. They will be available to answer any questions County staff or the Board of Supervisors may have about the physical characteristics of Walt Ranch, including the surveys and mapping that were performed in connection with the certified Environmental Impact Report. At the time the surveys and mapping were performed, Ms. Sanborn managed this work on behalf of the County as the project manager for consultant that prepared the EIR.

Please contact us if you have any questions. Thank you for your attention.

Very truly yours,

Whitman F. Manley

cc: Ross Middlemiss
Aruna Prabhala

4/8/2022

Sent via email

Jason Dooley
Deputy County Counsel
Office of the Napa County Counsel
1195 Third Street, Ste. 301
Napa, CA 94559

Re: Appellant's Speaker List for the Walt Ranch Appeal Hearing

Dear Mr. Dooley:

The appellant, Center for Biological Diversity, submits the following list of speakers that will appear on its behalf at the April 19, 2022, appeal hearing.

Ross Middlemiss, Center for Biological Diversity
Tiffany Yap, D.Env/Ph.D., Center for Biological Diversity

Mr. Middlemiss will speak first, for approximately 5 minutes, providing an overview of the appeal and appellant's response to the revised mitigation proposal. Dr. Yap will then, for approximately 10 minutes, present the scientific criteria that should guide the selection of woodland easements in order to support long-term carbon sequestration. The speakers' share of the allotted time may vary from these estimates. Appellants will reserve the remainder of their time for rebuttal, if necessary. Both speakers will attend the hearing in person.

Please reach out if you have questions.

Thank you,

Ross Middlemiss, Staff Attorney
1212 Broadway, Suite #800
Oakland, CA 94612
Tel: (707) 599-2743
Rmiddlemiss@biologicaldiversity.org

cc: Whit Manley

Attachment 8
Applicant's Good Cause Request

RMM

REMY | MOOSE | MANLEY LLP

Whitman F. Manley
WManley@rmmenvirolaw.com

March 29, 2022

Via e-mail

Jason M. Dooley
Deputy County Counsel
Office of the Napa County Counsel
1195 Third Street, Suite 301
Napa, CA 94559

Re: Walt Ranch – Appeal of Director Morrison's approval; Mitigation Measure 6-1

Dear Mr. Dooley:

Pursuant to section 2.88.090(B) of the County Code, and as discussed more fully below, we request that the Board of Supervisors consider the attached materials in considering the appeal filed by the Center for Biological Diversity ("Appellant") at the hearing on April 19, 2022. The following materials are attached:

- Attachment 1 – Letter from Mike Reynolds to David Morrison, with attachments (March 8, 2022). This letter sets forth Hall Brambletree's revised proposal to address the project's GHG emissions.

- Attachment 2 – Revised Figures and Table showing woodland habitat available for conservation as GHG mitigation.

- Attachment 3 – Excerpts of transcript of the Board of Supervisors' hearing on December 14, 2022.

- Attachment 4 – Excerpt of Appellant's November 5, 2021, letter setting forth the bases for its appeal.

This letter sets forth the applicant's showing of good cause to consider these materials.

1. March 8 Letter

Mike Reynolds' March 8 letter, including its attachments, consists of Hall Brambletree's revised proposal for Mitigation Measure 6-1. The proposal includes a figure, labeled "Figure 1," showing +/- 312 acres of woodland habitat suitable as GHG mitigation. The figure was prepared using existing surveys and GIS mapping of the property. The surveys and GIS mapping are the same as those that the County relied upon in preparing the

Final EIR. Figure 1 to this letter portrays this information in ways that we believe will be useful to the Board because it identifies the specific woodland habitat acreage available as mitigation to address GHG impacts. This is the specific information that the Court of Appeal stated is needed to support the County's finding that GHG emissions would be mitigated. The figure thus provides the substantial evidence necessary to support the mitigation measure that the County already adopted when it approved the project. The figure is not based on new or different survey data or GIS mapping. It simply portrays this same data in a way that focuses on the issue at hand.

The March 8 letter also includes proposed revisions to Mitigation Measure 6-1. The revisions reflect the following proposed changes:

- The revised text states that the 248 acres of woodland habitat to be preserved must be located as shown in the figure attached to our March 8 proposal. This is to ensure that the land to be preserved is otherwise developable and thus meets the criteria identified by the Court of Appeal.

- The revised text requires that the BRMP be modified to include the conservation easement required by this measure. This revision strengthens the proposal.

Good cause exists to consider this proposal. The proposal responds directly to the Court of Appeal's decision, eliminates the tree planting program to which the Appellant objected, and provides GHG mitigation in a manner that all parties agree is appropriate.

2. Revisions to March 8 Proposal

We request that the County consider the following modifications to our March 8 proposal. The March 8 proposal states that none of the woodland habitat available as GHG mitigation is located in the Milliken Reservoir watershed. This statement is incorrect. Parcels 24, 25, 26, 29 and 32 straddle the Milliken Reservoir and Capell Creek watersheds. Parcels 27, 28, 30 and 31 are within the Milliken Reservoir watershed. Taken together, these parcels contain 19.4 acres of available woodland habitat within the Milliken Reservoir watershed.

The woodland habitat in the Milliken Reservoir watershed is available as GHG mitigation because this habitat can be converted to other uses, so long as at least 60% of the canopy cover is retained. (Napa County Code, § 18.108.027(b).) [1] Even if the woodland habitat acreage on Parcels 24 – 32 shown on our March 8 proposal were converted, over 60% of the canopy cover (indeed, over 70% of the canopy cover) would be retained. Because the County Code does not prohibit converting this woodland habitat, it could be converted to other uses and is therefore available as GHG mitigation.

[1] The 60% required canopy cover is the standard that existed at the time the County approved the Walt Ranch ECP. The County since increased the required canopy cover to 70%. The change is not relevant here; Walt Ranch retains over 70% of the canopy cover in the Milliken Creek watershed.

We nevertheless wish to revise our proposal to eliminate all woodland habitat in the Milliken Reservoir watershed. Our reasoning is straightforward: we want to make our proposal as simple as possible. Moreover, we do not need the woodland habitat in the Milliken Reservoir watershed to provide the requisite 248 acres of woodland habitat conservation. If the woodland habitat in the Milliken Reservoir watershed is excluded from our proposal, then 292.6 acres of suitable woodland habitat remain available as suitable conservation for GHG mitigation.

A revised figure, entitled "Walt Ranch GHG Mitigation (March 29, 2022)," appears at Attachment 2. This figure shows, shaded in green, the +/- 292.6 acres of woodland habitat that is eligible as GHG mitigation. The green-shaded area is identical to the figure attached to our March 8 letter, except that the woodland habitat in the Milliken Reservoir has been excluded.

We also include in Attachment 2 a revised spreadsheet breaking down the acreage of woodland habitat by parcel. The figure and table are identical to those we submitted on March 8, except that the woodland habitat acreage in the Milliken Reservoir watershed has been excluded from our proposal.

We also include in Attachment 2 an additional figure. This figure shows the same +/- 292.6 acres of woodland habitat eligible as GHG mitigation. This figure also shows, shaded in grey, all the areas on the property that are not considered available for conservation as GHG mitigation. The reasons why these areas are not considered available as GHG mitigation are: (1) they are within approved vineyard clearing limits, (2) they are within the Milliken Reservoir watershed, (3) they are protected under other, adopted mitigation (e.g., for biological resources), (4) they are within required stream setbacks, or (5) they consist of areas with slopes in excess of 30%. The areas shaded in grey are therefore considered "off the table" as woodland habitat potentially available for conservation to mitigate the project's GHG emissions.

Good cause exists to consider these materials. They revise our proposal to eliminate potential confusion regarding whether woodland habitat in the Milliken Reservoir watershed is available as suitable GHG mitigation. The figures and table also provide greater specificity regarding the location of the 248 acres of woodland habitat to be conserved.

The second figure is particularly helpful because it shows that there is no overlap between the areas shaded grey and those shaded green. Thus, all the +/- 292.6 acres meets the criteria necessary to serve as GHG mitigation, because (absent the conservation easement required by Mitigation Measure 6-1), this acreage is developable under County policy.

This figure presents only information that is already in the record and that was before Director Morrison when he approved the May 5, 2021, proposal. The figure presents, on a single map, information that currently appears in different figures addressing various resource areas. Because the information is presented in a way that focuses on the issue at

hand, we believe this figure will be useful to the Board. We therefore believe that good cause exists to consider this figure.

3. Excerpts of testimony before Board of Supervisors (December 14, 2021)

Attachment 3 consists of excerpts of the transcript of the Board's December 14, 2021, hearing. At that hearing, Appellant opposed our previous proposal to revise Mitigation Measure 6-1. Our previous proposal consisted of preserving 124 acres of woodland habitat, plus implementing a tree planting program. At the Board's hearing, Appellant attacked the tree planting program, and argued that we should instead preserve 248 acres of woodland habitat. Here is what Appellant's representative stated:

> We recognize the narrowness of this appeal. We have no illusions about that…. [¶]
>
> The last time [Hall] stood before the Board, they promised to preserve 248 acres of woodland. Now they're coming back and they want to cut that in half. The County should hold them to their initial promise.
>
> Effective mitigation in this case would be to identify 248 acres of otherwise developable woodland that is on the project site, and to protect it in perpetuity. Sometimes the most obvious option is also the best.
>
> We shouldn't complicate things here. There has been no demonstration that 248 acres of developable land cannot be preserved. That is what the County should require. [¶] … Preservation of developable land must be the priority. [¶] Preservation is not just sound policy. In this case, it's the only legally viable option because the planting program does not meet CEQA's requirements for mitigation.
>
> ⋆ ⋆ ⋆
>
> There [are] a lot of reasons for the County to not leave anything up to chance. There is a lot of chance involved in the planting program. But there's already a pathway on the table that can lead to successful mitigation – identifying land that would otherwise be developable on the project site and require that that be set aside in a conservation easement – 248 acres.
>
> [¶]
>
> So what we're urging for you to do is to send this to – back to staff, and let's have a demonstration of what is available, what is developable, and what can be set aside in a conservation easement. . . . That is what the science demands and it's what your citizens demand.

(Transcript, Napa County Board of Supervisors Public Hearing on Walt Ranch Appeal (December 14, 2021), pp. 26–29, 114–116.)

Attachment 4 is an excerpt of the transcript from this hearing. Good cause exists to consider this excerpt because it reflects Appellant's position concerning the efficacy of the mitigation that we now propose. Because Appellant made these statements to the Board at a public hearing, there is no basis for disputing whether these statements reflect Appellant's position.

4. Excerpts from Appellant's appeal (November 5, 2021)

On November 5, 2021, Appellant filed a packet setting forth the reasons why it opposed our previous proposal. As its first ground of appeal, Appellant states:

> The County's original approval of the Project required extensive oak woodland preservation as mitigation for both biological resources and GHG impacts. (Addendum at 2.) The Court of Appeal did not invalidate the practice of preserving existing oak woodlands as a viable means of mitigation, it simply held that the County's failure to identify the areas to be preserved made it impossible to determine whether or not the mitigation was additive. (Court of Appeal Decision at 52.) The logical fix for the EIR's shortcomings would be to identify 248 acres of oak woodland that would otherwise be developable, because the areas have slopes under 30% and are outside steam setbacks and permanently protect those lands through conservation easement.

(Letter from Ross Middlemiss, Center for Biological Diversity, to Napa County Board of Supervisors (November 5, 2021), p. 3.)

Attachment 4 is an excerpt of this letter. Good cause exists to consider this excerpt because it reflects Appellant's position concerning the efficacy of conserving woodland habitat that is less than 30% slope and outside of stream setbacks. In addition, the letter is already part of the County's record for this proceeding.

Thank you for the opportunity to submit this information. Please do not hesitate to contact us if you would like additional information or have any questions about this request. Thank you for your attention.

Very truly yours,

Whitman F. Manley

cc (with attachments): Ross Middlemiss
Aruna Prabhala

-FUUFS UP +BTPO . %PPMFZ
"UUBDINFOU

Hall Brambletree Associates
401 St. Helena Highway South
St. Helena, CA 94574

March 8, 2022

David Morrison
Director
Planning, Building & Environmental Services
Napa County
1195 Third Street, 2nd Floor
Napa, CA 94559

Re: Walt Ranch ECP – GHG Mitigation

Dear Mr. Morrison:

This letter sets forth Hall Brambletree's revised proposal to address the greenhouse gas emissions from the Walt Ranch Erosion Control Plan ("ECP").

As approved, Mitigation Measure 6-1 requires Hall to "place in permanent protection no less than 248 acres of woodland habitat." The Court of Appeal held that the requirement to place 248 acres of woodland habitat in a conservation easement was appropriate mitigation. The Court also held, however, that, because the EIR did not identify the specific acreage, there was insufficient evidence to show that such habitat could be converted to other uses. (Slip op., pp. 51-53.) Simply put, the Court said: show the County the acreage; and show that the woodland habitat could otherwise be converted.

With this revised proposal, we have done that. We have mapped +/- 312 acres of woodland habitat that could be converted to other uses under County policy. The location of this habitat is shown and described on the attached map and spread sheet. This information is based on the same surveys and mapping that was performed as part of the environmental review process. We encourage the County to review the mapping and data to confirm its accuracy.

We propose to place a conservation easement on not less than 248 acres out of the total of 312 acres. The difference between these numbers will provide Hall and the land trust flexibility to adjust the boundaries of the easement to account for roads or other features that would diminish a particular location's suitability as preserved woodland habitat. The final boundaries of the 248 acres of woodland habitat designated for protection will be subject to review and approval by the County. The essential point here, however, is that there is ample woodland habitat available on the site to meet the concerns expressed by the Court of Appeal. Specifically, the 312 acres shown and described on the attached map and spreadsheet meet the following criteria:

- They are all mapped as woodland habitat.
- They are not located on slopes of 30% or greater.
- They are not located in the Milliken Reservoir watershed.

- They are not located within required setbacks from riparian corridors.
- There is no overlap with the land to be converted to other uses as part of the project.
- They are not designated for preservation under adopted mitigation measures requiring the protection of other resources on the property (e.g., sensitive plants or habitats or cultural resources), as set forth in the approved Biological Resources Management Plan.

Thus, absent Mitigation Measure 6-1, 248 acres of this woodland habitat would be available for conversion to other uses. The 248 acres to be preserved are entirely additive and are on top of the acreage that will already be protected for other purposes.

In May 2021, we proposed that the County revise Mitigation Measure 6-1 to require preservation of 124 acres of identified woodland habitat. We also proposed an extensive tree planting program to accompany the 124-acre easement requirement. We thought this proposal made sense because it provided an opportunity restore the property in the wake of wildland fires in 2017 and 2020. To our surprise, our proposal met with resistance. We therefore propose to simply address, directly, the Court of Appeal's concern. This proposal also addresses the appellant's objections to our original proposal.

This is the same mitigation that the County approved unanimously in December 2016. The only difference is that now we are identifying the woodland habitat to be conserved. This is what the Court of Appeal asked us to do, and we are now doing it. We have also responded to the appellant's objections. There are no valid reasons why our proposal should be rejected.

We note that the information upon which this revised proposal is based is not new. The woodland habitat on the property was mapped as part of the EIR process, based on extensive surveys. The proposal is based on the same GIS data that the County relied upon in mapping biological resources and habitats on the property. This same data has been used to prepare the attached figure showing the location of woodland habitat available for conservation, meeting the criteria outlined above.

We request that the County revise Mitigation Measure 6-1 as shown in the attached document. These modifications are to make clear that the woodland habitat to be protected meets the criteria established by the Court of Appeal. We also wish to incorporate modifications to Mitigation Measure 6-1 made in response to our May 2021 proposal that we believe strengthen the mitigation.

We appreciate your consideration of this request. Please let us know if you would like additional information or have any questions. We look forward to hearing from you.

Very truly yours,

Mike Reynolds
Hall Brambletree Associates

Attachments:

Figure 1 – location of conservation easement for woodland habitat for GHG mitigation

Attachment 1 – spreadsheet identifying woodland habitat for GHG mitigation

Attachment 2 – proposed revisions to Mitigation Measure 6-1

Figure 1

Guide to Assessor Parcel Numbers

1. 032-120-028	18. 032-480-027
2. 032-480-007	19. 032-480-028
3. 032-480-008	20. 032-490-004
4. 032-480-011	21. 032-490-005
5. 032-480-012	22. 032-490-006
6. 032-480-013	23. 032-490-008
7. 032-480-014	24. 032-490-009
8. 032-480-015	25. 032-490-010
9. 032-480-016	26. 032-490-011
10. 032-480-017	27.032-490-012
11. 032-480-018	28. 032-490-013
12. 032-480-019	29. 032-490-014
13. 032-480-020	30. 032-490-015
14. 032-480-021	31. 032-490-016
15. 032-480-022	32. 032-490-017
16. 032-480-023	33. 032-490-018
17. 032-480-024	34. 032-490-019
	35. 032-490-020

0 550 1,100 2,200 Feet

Legend

Acceptable Woodland

Walt Ranch Parcels

1 032-120-028
8 032-480-015
18 032-480-027
9 032-480-016
10 032-480-017
7 032-480-014
12 032-480-019
2 032-480-007
11 032-480-018
13 032-480-020
19 032-480-028
6 032-480-013
3 032-480-008
5 032-480-012
14 032-480-021
4 032-480-011
16 032-480-023
15 032-480-022
33 032-490-018
20 032-490-004
17 032-480-024
22 032-490-006
32 032-490-017
21 032-490-005
34 032-490-019
31 032-490-016
35 032-490-020
30 032-490-015
29 032-490-014
23 032-490-008
26 032-490-011
25 032-490-010
28 032-490-013
27 032-490-012
24 032-490-009

PPI ENGINEERING
2800 Jefferson Street
Napa, CA 94558
(707) 253-1806

Walt Ranch
Acceptable Woodland Available
for Conservation Easement
February 17, 2022

8:52:13 AM 2/17/2022 \\ppi-dc-2\ranches\KHWWAL\IMAGES\000 Post-Approval maps\Conservation Easement\2022-02-14 Acceptable Woodland by Parcel for Mike\2022-02-14 Woodland by Parcel.mxd

Attachment 1

Label	APN	GHG Acceptable Woodland (acres)
1	032-120-028	2.6
2	032-480-007	2.9
3	032-480-008	5.5
4	032-480-011	8.5
5	032-480-012	0.0
6	032-480-013	7.9
7	032-480-014	10.7
8	032-480-015	17.5
9	032-480-016	9.0
10	032-480-017	10.1
11	032-480-018	13.1
12	032-480-019	2.8
13	032-480-020	7.1
14	032-480-021	14.9
15	032-480-022	21.5
16	032-480-023	3.1
17	032-480-024	16.6
18	032-480-027	10.5
19	032-480-028	11.8
20	032-490-004	9.1
21	032-490-005	8.7
22	032-490-006	14.0
23	032-490-008	7.5
24	032-490-009	9.9
25	032-490-010	15.0
26	032-490-011	4.7
27	032-490-012	0.0
28	032-490-013	0.5
29	032-490-014	3.8
30	032-490-015	0.9
31	032-490-016	7.0
32	032-490-017	12.5
33	032-490-018	21.7
34	032-490-019	17.6
35	032-490-020	3.2
	Total (acres):	312.3

Attachment 2

Proposed Revisions to Adopted Mitigation Measure 6-1
(new text underlined)

6-1: In order to offset the construction emissions from development of the Proposed Project, the Applicant shall place in permanent protection no less than 248 acres of woodland habitat. The 248 acres to be protected shall be provided from the woodland habitat depicted in the map and spreadsheet attached to this measure. All acreage designated for preservation shall be identified as such in a conservation easement with an accredited land trust organization such as the Land Trust of Napa County as the grantee, or other means of permanent protection. The conservation easement shall be prepared in a form acceptable to County Counsel and entered into and recorded with the Napa County Recorder's office prior to any ground disturbing activities, grading or vegetation removal, or within 12 months of project approval, or whichever occurs first.

Any request by the permittee for an extension of time to record the conservation easement shall be considered by the Planning Director and shall be submitted to Napa County prior to the 12 month deadline, and shall provide sufficient justification for the extension.

Land placed in protection shall be restricted from development and other uses that would potentially degrade the quality of the habitat (including, but not limited to, conversion to other land uses such as agriculture, residential, or urban development, and excessive off-road vehicle use that increases erosion), and should otherwise be restricted by the existing goals and policies of Napa County.

The Biological Resource Management Plan and MMRP shall be revised to incorporate the conservation easement required by this mitigation measure, including the map and spreadsheet attached hereto.

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Guide to Assessor Parcel Numbers

1. 032-120-028	*18. 032-480-027*
2. 032-480-007	*19. 032-480-028*
3. 032-480-008	*20. 032-490-004*
4. 032-480-011	*21. 032-490-005*
5. 032-480-012	*22. 032-490-006*
6. 032-480-013	*23. 032-490-008*
7. 032-480-014	*24. 032-490-009*
8. 032-480-015	*25. 032-490-010*
9. 032-480-016	*26. 032-490-011*
10. 032-480-017	*27.032-490-012*
11. 032-480-018	*28. 032-490-013*
12. 032-480-019	*29. 032-490-014*
13. 032-480-020	*30. 032-490-015*
14. 032-480-021	*31. 032-490-016*
15. 032-480-022	*32. 032-490-017*
16. 032-480-023	*33. 032-490-018*
17. 032-480-024	*34. 032-490-019*
	35. 032-490-020

0 550 1,100 2,200 Feet

Legend

Acceptable Woodland

Walt Ranch Parcels

1
032-120-028

8
032-480-015

18
032-480-027

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032-480-016

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032-480-017

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032-490-009

PPI ENGINEERING
2800 Jefferson Street
Napa, CA 94558
(707) 253-1806

Walt Ranch
Acceptable Woodland Available for Conservation Easement
March 29, 2022

11:35:54 AM 3/29/2022 R:\KHWWAL\IMAGES\000 Post-Approval maps\Conservation Easement\2022-03-29 GHG Mitigation outside Milliken Watershed\2022-03-29 Acceptable Woodland by Parcel.mxd

Label	APN	GHG Acceptable Woodland (a
1	032-120-028	2.6
2	032-480-007	2.9
3	032-480-008	5.5
4	032-480-011	8.5
5	032-480-012	0.0
6	032-480-013	7.9
7	032-480-014	10.7
8	032-480-015	17.5
9	032-480-016	9.0
10	032-480-017	10.1
11	032-480-018	13.1
12	032-480-019	2.8
13	032-480-020	7.1
14	032-480-021	14.9
15	032-480-022	21.5
16	032-480-023	3.1
17	032-480-024	16.6
18	032-480-027	10.5
19	032-480-028	11.8
20	032-490-004	9.1
21	032-490-005	8.7
22	032-490-006	14.0
23	032-490-008	7.5
24	032-490-009	9.9
25	032-490-010	14.3
26	032-490-011	2.0
27	032-490-012	0.0
28	032-490-013	0.0
29	032-490-014	0.6
30	032-490-015	0.0
31	032-490-016	0.0
32	032-490-017	5.8
33	032-490-018	21.7
34	032-490-019	17.6
35	032-490-020	3.2
N/A*	N/A	2.1
	Total (acres):	292.6

*Note: Due to differences in GIS data for the splits and outer property boundary, there are 2.1 acres of acceptable woodland within the surveyed outer property boundary that are not accounted for in the breakdown of individual parcels.

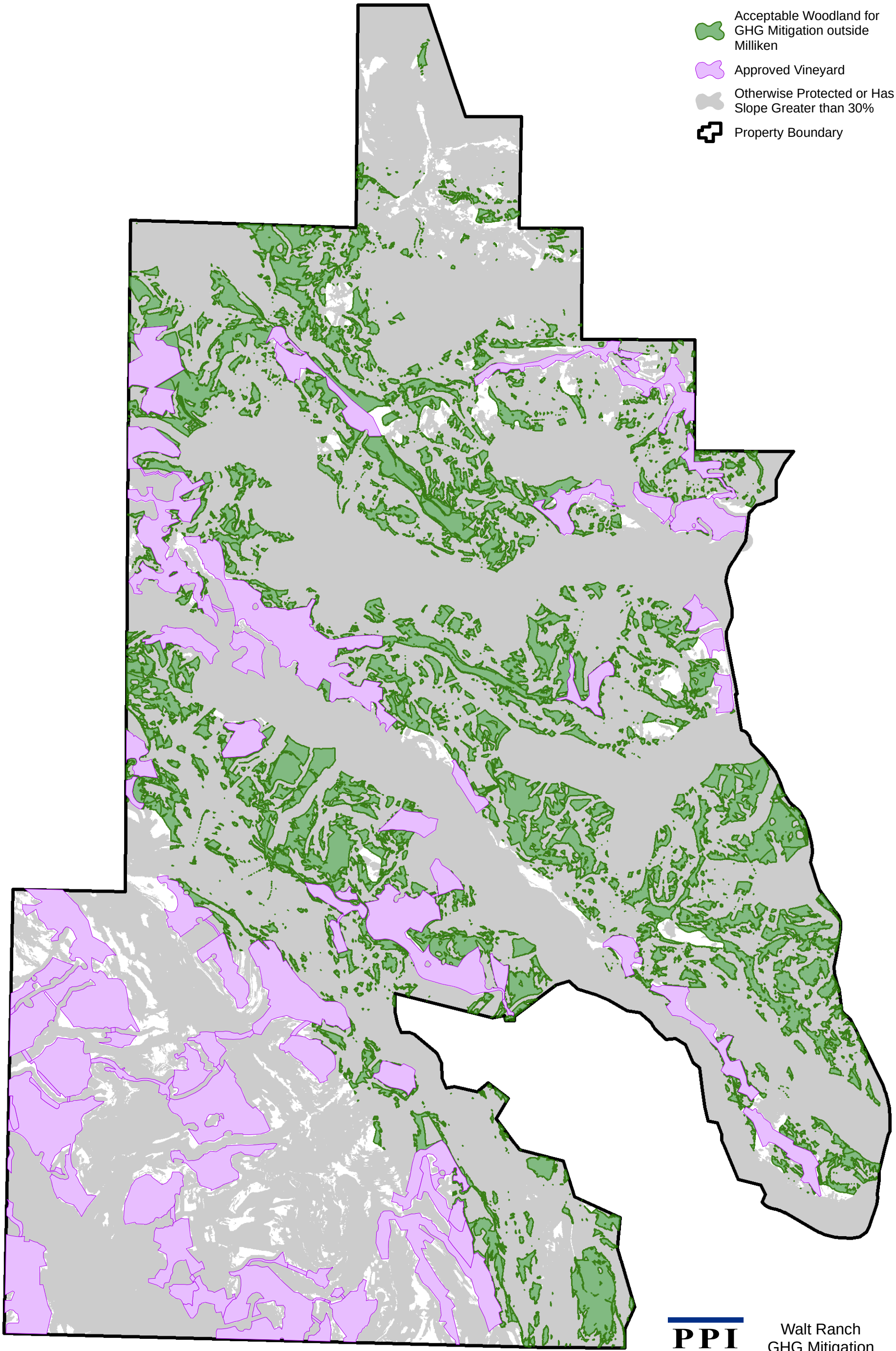
μ

0 550 1,100 2,200

Feet

Legend

- Acceptable Woodland for GHG Mitigation outside Milliken
- Approved Vineyard
- Otherwise Protected or Has Slope Greater than 30%
- Property Boundary



PPI ENGINEERING
2800 Jefferson Street
Napa, CA 94558
(707) 253-1806

Walt Ranch
GHG Mitigation

March 29, 2022

615

9:17:29 AM 3/29/2022 R:\KHWWAL\IMAGES\000 Post-Approval maps\Conservation Easement\2022-03-29 GHG Mitigation outside Milliken Watershed\2022-03-29 Walt Ranch GHG Mitigation.mxd

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"UUBDINFOU

Napa County Board of Supervisors

December 14, 2021

PUBLIC HEARING 2:00 P.M.

Walt Ranch Appeal

21-1269

On the second challenge, the court upheld the County's reliance on the Bay Area Air Quality Management District guidelines used to calculate greenhouse gas emissions. Neither the calculation of carbon sequestration loss or greenhouse gas emissions are before the Board of Supervisors today.

Those issues have been decided by the Court. On the third challenge, the court found that under the US Forest Protocols, conservation easements can only be used to mitigate carbon sequestration only if the forest being protected is under significant threat of conversion.

Because the EIR did not specify the location of the easements, and because it may have included development on 30 percent slopes, the court found the County did not provide substantial evidence to show that the land proposed for conservation is subject to the threat of development.

Therefore, consistent with the direction of the Appellate Court and the order of the Superior Court, the recommended mitigation measure before you today has removed all conservation easements on slopes of more than 30

percent, and specifies location of the easement, as you saw in this slide earlier.

The mitigation measure's also been revised and recommended by staff to incorporate the Biological Resource Management Plan, which includes detailed monitoring and reporting criteria to ensure and enforce that the measure is fully implemented.

I would like to reiterate real -- very briefly in their May 6th, 2020 decision, the Appellate Court issued Judgment 3.b, which stated the County shall not consider -- I'm sorry -- the County shall not reconsider whether it adopts such findings unless and until they are supported by substantial evidence in the record, emphasis without making changes to other aspects of the project and our EIR that have been approved and are not subject to the partial (indiscernible) mandate.

What that means is, that the County has already vacated Measure 6.1. They have to approve another Mitigation Measure 6.1 that is consistent with a court order. But you have to do that without changing substantially the project or the EIR.

So as Mr. Dooley indicated, this is a very, very narrow scope within which the Board is being asked to operate today. Consistent with that very narrow scope of the court order, staff has the following options provided for the Board's consideration -- deny the appeal in its entirety and uphold the approval of the revised mitigation Measure 6.1 with or without modification, uphold one or more grounds of the appeal and reverse the decision, or remand the matter back to the Planning and Building and Environmental Services Department with direction for further consideration.

In staff's opinion, the revisions to Mitigation Measure 6.1, including the modifications recommended are supported by substantial evidence and notwithstanding the arguments in the appeal are sufficient to reduce the greenhouse gas emissions to a less than significant level.

We recommend that the Board deny the appeal and uphold the approval of the revised Mitigation Measure 6.1 as shown in Attachment 8.

And that concludes staff's presentation. Both Mr. Dooley and Mr. Bordone and myself and the

Ascent team are all available for any questions that the Board may have.

CHAIR ALFREDO PEDROZA: Thank you, Director Morrison. Board, is there any initial questions? I don't see any. I'm officially going to open up the public hearing and invite the Appellant to provide their testimony.

Mr. Middlemiss and Ms. Yap, you have 30 minutes. We'll remind you at 15 minutes. And again, if you want to preserve any time for rebuttal, that's for you to manage your time. Go ahead. And we won't start the clock, Mr. Middlemiss, until we load up your PowerPoint.

ROSS MIDDLEMISS: Thank you. And Mr. Dooley, if I ask you to change slides?

CHAIR ALFREDO PEDROZA: We can give you a clicker, (indiscernible). Ms. Hoskins, as soon as they start, you can go ahead and start the timer, please.

ROSS MIDDLEMISS: All right. Thank you, Chair Pedroza, Supervisors. My name is Ross Middlemiss, an attorney with Appellant Center for Biological Diversity. I'm joined today by my colleague, Dr. Tiffany Yap, Senior Scientist with the Center, who will speak shortly after myself.

I appreciate Staff's presentation. Thank you for laying out the background and the history. Taking a step back, I'd like to say, you know, since the moment the Center began our work in Napa, particularly with this project a number of years ago, our goal has been simple. It is to maximize conservation benefits, to protect the ecosystems and the unique biodiversity that makes Napa such a beautiful and cherished place for its residents and visitors alike.

Those same goals have brought us to file this appeal, to maximize conservation outcomes and environmental benefit. No matter how inevitable project approval may seem, we will always push for scientifically guided decision making that complies with the law.

We brought this appeal because the revised mitigation measure as approved is neither scientifically nor legally acceptable. We brought this appeal because we are in a climate crisis, and the County has a legal and moral obligation to mitigate the destructive projects that it approves.

We recognize the narrowness of this

appeal. We have no illusions about that. But properly mitigating the destruction of over 14,000 trees is of critical importance.

The revised mitigation has two parts -- the preservation of over -- or of 124 acres of woodland that is otherwise developable, and the planting program, which will plant 16,790 oak saplings.

Our appeal focuses on the planting program. Those two parts together must address the -- or must sequester enough carbon to offset the project's impacts over its 30 year lifespan -- 27,528 metric tons of carbon equivalent.

And because of the flawed planting program, which we will detail throughout our presentation, the math simply does not add up. In the past, the post approval appeal or -- sorry. The post approval revisions suggested by the Applicant and the recently added information from the County and the County's consultants don't change this reality.

Dr. Yap and I will demonstrate why the planting program falls short, both legally, scientifically and informationally. Also, this is my portion on why the legal requirements of

CEQA are not met, and Dr. Yap will follow by showing that the program is not capable of achieving the sequestration that's claimed by the Applicant and the County's consultants.

Before addressing the specific grounds of our appeal, I think it's important to take a step back and discuss why we're here and what options are presented to the County.

The key question for the Applicant and the County is how to make up for the destruction of over 14,000 trees that will forever change the character and nature of the beautiful property that's at stake here.

The last time the Holl stood before the Board, they promised to preserve 248 acres of woodland. Now they're coming back and they want to cut that in half. The County should hold them to their initial promise.

Effective mitigation in this case would be to identify 248 acres of otherwise developable woodland that is on the project site, and to protect it in perpetuity. Sometimes the most obvious option is also the best.

We shouldn't complicate things here. There has been no demonstration that 248 acres of

developable land cannot be preserved. That is what the County should require.

Because even with some fixes to the glaring issues in the planting program, which we'll lay out, it may still not be enough. Preservation of developable land must be the priority.

Preservation is not just sound policy. In this case, it's the only legally viable option because the planting program does not meet CEQA's requirements for mitigation.

There are four main issues with the planting program. The carbon calculations are misleading, 80 percent survival rate is unrealistic and unsupported, current site conditions are misrepresented, and there's a lack of enforcement and unclear funding of the program.

Again, I will touch on the CEQA violations and why the requirements for mitigation are not met, and Dr. Yap will talk about how the factual and scientific shortcomings undermine the mitigation's effectiveness.

CEQA was enacted to prioritize environmental protection. It pursues this goal

the way it is for a reason. That's how nature evolved and adapted.

There aren't more trees for various reasons, and some -- the young trees don't always survive. We should let nature, you know, let it be. We should stop thinking that we can go in and change everything just because we say we'll reach 80 percent.

And beyond that, it -- for the purposes of this mitigation, it doesn't matter what happens after 30 years. The scope of this EIR is 30 years. After that, the County doesn't have control over this anymore.

We need those mitigation measures now. We need that mitigation to occur now. Your community has demanded as much of you. You've heard today in the emails, in the public comment. This is urgent.

There is a lot of reasons for the County to not leave anything up to chance. There is a lot of chance involved in the planting program. But there's already a pathway on the table that can lead to successful mitigation -- identifying land that would otherwise be developable on the project site and require that

that be set aside in a conservation easement -- 248 acres.

And if that isn't feasible, then make that known and we'll go from there. But don't just jump straight to a speculative uncertain planting program, where there's not been a demonstration that will be effective.

And again, just addressing a few other points about our appeal. We haven't asked for the GHG emissions calculations to be changed. We acknowledged that what was in the EIR is the universe within which our appeal operates, just to clarify that.

So you know, I'll finish with, again, what we're asking for. We understand, Mr. Manley put it well, we don't like the project. We don't like that this is a common occurrence in Napa. But again, CEQA has certain requirements and it doesn't prohibit the approval of vineyard development projects. That's the reality.

What CEQA does require is effective mitigation and a clear demonstration to the public and decision makers that mitigation can occur and that will be followed through. There are clear methods that are available to

demonstrate that we can achieve that mitigation.

So what we're urging for you to do is to send this to -- back to staff, and let's have a demonstration of what is available, what is developable, and what can be set aside in a conservation easement. Okay. That is what the science demands and it's what your citizens demand.

CHAIR ALFREDO PEDROZA: You have less than a minute, Mr. Middlemiss.

ROSS MIDDLEMISS: Thank you. So again, we urge you to prioritize the preservation of existing woodland that would otherwise be cut down. Don't allow the Applicant to hold aside some lands with the slope below 30 percent to develop at a later date and rely on this uncertain planting plan. Thank you.

CHAIR ALFREDO PEDROZA: Thank you, Mr. Middlemiss and Dr. Yap as well, for your presentation. So at this point, we're going to take a quick break and we'll be back at 4:45. And then the Board will start our deliberation and ask any questions of all parties. So again, we'll be back at 4:45. Thank you all.

AUTOMATED VOICE: Recording stopped.

(Recess)

AUTOMATED VOICE: Progress.

CHAIR ALFREDO PEDROZA: All right. We are back from our short break. Thank you to the public. So now, we've heard from the Appellant. We've heard from the public. We've heard from the Applicant. At this time, I'll bring it back to the Board to initiate some initial questions we may have for staff. Supervisor Ramos?

VICE CHAIR BELIA RAMOS: Thank you. Thank you to the Applicants, Appellants and to all of the public who contributed to this dialogue today. I have two questions, possibly three, depending on your answers specifically.

One is, the survival rate of 80 percent that is in the assumptions by Ascent has been mentioned many times as not attainable, and therefore, does not meet the requirement of CEQA. Can someone, maybe at Ascent, speak to whether that -- what science was used to determine the 80 percent survivability of the tree planting program? Do you want me to keep adding questions or do you want me to let you do one?

JASON DOOLEY: Is Josh available on our panel? Or Brenda?

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6. Require a minimum 7-year monitoring program for plantings with specific, measurable, performance criteria and adaptive management strategies to accommodate climate change conditions (e.g., extended drought, increased wildfire frequency) and ensure an 80% success rate 16,790 of planted seedlings surviving to maturity.
7. Provide a clear definition of how tree planting survival is determined.

I. Preservation of Existing Oak Woodland Must be Prioritized

The County's original approval of the Project required extensive oak woodland preservation as mitigation for both biological resources and GHG impacts. (Addendum at 2.) The Court of Appeals did not invalidate the practice of preserving existing oak woodlands as a viable means of mitigation, it simply held that the County's failure to identify the areas to be preserved made it impossible to determine whether or not the mitigation was additive. (Court of Appeals Decision at 52.) The logical fix for the EIR's shortcoming would be to identify 248 acres of oak woodland that would otherwise be developable, because the areas have slopes under 30% and are outside stream setbacks and permanently protect those lands through a conservation easement. County policy demonstrates a preference for preserving existing habitat, and the Board should not depart from this scientifically-backed approach now.

Instead of the preservation route set forth in the EIR, Applicants proposed, and the County approved, a revised measure that halves the preserved acreage and commits to planting 16,790 oak seedlings. (Addendum at 3.) There is no discussion of why this approach is favored now, nor is there discussion of why preserving 248 developable acres within the project site is infeasible. The Center urges the County to reconsider this approach, and instead follow the science and prioritize the preservation of existing oak woodland, either within or outside the Project site, over the uncertain and risky tree planting proposal. As discussed more fully below, unless the County can provide substantial evidence demonstrating the effectiveness and adequacy of the tree planting program, the County should require the conservation of existing habitats to mitigate the Project's GHG emissions as required by CEQA. (*Sacramento Old City Assn. v. City Council* (1991) 229 Cal.App.3d 1011, 1027.)

The amendment is also uuclear regarding the locations of the different land uses planned for the Project in relation to the GHG mitigation lands. The failure to include the revised project footprint and the areas of undevelopable land (including the 525 acres the letters refer to) precludes a determination of whether or not development will occur within the proposed easement area or the available acceptable woodland area, or that 124 acres of oak woodland that is outside riparian setbacks on slopes less than 30% will be protected. The original project footprint provided in the FEIR appears to show a substantial amount of project footprint within and adjacent to the proposed easement area (FEIR at Figure 3-4), which would have direct and indirect impacts to the proposed mitigation. The amendment should be revised to provide more information so that the public can determine that at least 124 acres of oak woodlands outside riparian setbacks on slopes under 30% will be avoided for the purposes of GHG mitigation.

Attachment 9
Appellant's Good Cause Request

03/29/2022

Sent via email

Ryan Gregory
Chairman
Napa County Board of Supervisors
1195 3rd Street, Ste. 310
Napa, CA 94559

Re: Request to Augment the Record for the Walt Ranch Appeal Hearing

Dear Chair Gregory:

The Center for Biological Diversity (the "Center") requests that the documents discussed below be included in the documentary record that will inform the Board of Supervisors' consideration of the Center's appeal of the County's approval of the Addendum to the Walt Ranch Vineyard Conversion EIR (hereinafter "Addendum"). Pursuant to section 2.88.090(B) of the County Code, and as discussed more fully below, good cause exists to include these documents in the administrative record for the appeal. The documents consist of a letter that responds directly to the revised mitigation proposal, submitted to the County by the Applicant on March 8, 2022, and reference material cited within the letter. The Center's letter and supporting evidence are relevant to the newly revised mitigation proposal, and good cause exists for their inclusion.

The March 8 proposal makes substantial changes to the proposed mitigation that was approved by the Director on October 4, 2021. The Center's appeal, and the appeal packet submitted in support thereof, addressed the Director's approval of a mitigation plan that is no longer being considered in this proceeding. The good cause submission process represents the Center's only opportunity to respond to the new information, and to provide evidence in support of that response, prior to the appeal hearing scheduled for April 19, 2022. The letter and attached references are offered to inform the Board's consideration of the revised proposal, specifically the effectiveness of carbon sequestration via woodland preservation. In the interest of equity and informed, transparent decision making, the Center requests the Chair find good cause exists to include the letter and references in the record for this appeal.

The following nine documents are discussed in the letter and listed in the refence section. Full copies of the references can be downloaded from the following location:

https://centerforbiologicald-my.sharepoint.com/:f:/g/personal/rmiddlemiss_biologicaldiversity_org/Eh5mCo__Q05MgkWfdv0fLoABKCSMn_Bq9VzjzF1RZU798w?e=GDSyCD

A. Damschen et al. 2019
B. Delaney et al. 2021IPCC 2022
C. de Paula et al. 2011
D. IPCC 2022 *due to the size of the complete report, the summary is included in the document submission, and the full report is incorporated by reference
E. Ma et al. 2017
F. Sobral et al. 2017
G. Watson et al. 2018
H. Wekesa et al. 2016
I. Yap et al. 2021

Thank you for considering the Center's request. The inclusion of these documents will better enable the Supervisors' understanding of the appeal issues. A full and complete record on appeal will also ensure that a comprehensive discussion of the mitigation proposal and the appeal's merits, so that all parties can be fully heard at the upcoming Board of Supervisors' hearing.

Sincerely,



Ross Middlemiss, Staff Attorney
Aruna Prabhala, Senior Attorney & Program Director
1212 Broadway, Suite #800
Oakland, CA 94612
Tel: (707) 599-2743
Rmiddlemiss@biologicaldiversity.org

Attachment 10
Chair's Good Cause Determination

A Tradition of Stewardship
A Commitment to Service

Board of Supervisors

1195 Third St.
Suite 310
Napa, CA 94559
www.countyofnapa.org

Main: (707) 253-4421
Fax: (707) 253-4176

Ryan Gregory
Chair

DETERMINATION REGARDING GOOD CAUSE REQUESTS BY APPELLANT AND APPLICANT TO AUGMENT THE DOCUMENTARY RECORD ON APPEAL WITH NEW EVIDENCE REGARDING THE WALT RANCH MITIGATION APPEAL HEARING

April 1, 2022

TO: Ross Middlemiss, Esq., on behalf of Appellant
Whit Manley, Esq., on behalf of Applicant

FROM: Chair Ryan Gregory

RE: Walt Ranch Mitigation Appeal Hearing – Record on Appeal

A. Background.

Napa County Code Chapter 2.88 governs the conduct of appeals heard by the Board of Supervisors. The rules and policies established by the Board outline the procedure for the designation of the record on appeal, the scope of additional evidence, deadlines for submittal of materials and other matters. These rules and procedures ensure that the parties and the public understand the expectations of the Board regarding the appeals process and prohibit late materials by the parties.

County Code Section 2.88.090 (B) provides that if the appeal pertains to a decision for which a record on appeal exists, the Board, in hearing the appeal, shall base its consideration of the appeal on the record on appeal and any extrinsic evidence allowed by the Chair for "good cause" shown. In this case, the Walt Ranch Mitigation appeal will be based on the record of the decision by the Director of the Department of Planning, Building and Environmental services and the extrinsic evidence allowed below by the Chair for "good cause" shown.

In accordance with the prehearing procedures and timelines established at the Prehearing Conference held on March 17, 2022, the parties submitted requests to include additional information or evidence, based on good cause. The specific requests are discussed below. It should be noted that a determination to include additional information or evidence into the record on appeal does not reflect any consideration of the weight or value of that information or evidence with respect to the Board's decision on the merits of the appeal.

This particular project had a different procedural context than many projects that reach the Board on appeal. There was no public hearing to allow oral comments. Instead, the County opened a public comment

period after notifying the public of the intended decision and making the environmental document publicly available. The County did receive numerous comments during this period, but the timeframe was limited, as was appropriate for such a limited issue. Additionally, after the appeal was filed, the Applicant submitted a revised proposal that addresses many of the grounds raised in the appeal, but was not previously reviewed by the Appellant. Nevertheless, while the Napa County Code provides that this decision must be based on the record, I am committed to ensuring that the parties get a full and fair opportunity to make their cases before the Board.

B. Applicant's Good Cause Requests.

On March 8, 2022, the Applicant submitted a revised proposal for Mitigation Measure 6-1 to mitigate the Greenhouse Gas Emissions impacts of the Project. The revision proposes reverting back to the approved mitigation, but specifically identifying the woodland habitat that is suitable for mitigation according to the conditions identified by the Court of Appeal. The proposal included a map showing the areas suitable for conservation as well as a table identifying the acreage of such habitat on each parcel within the project property.

On March 29, 2022, the Applicant submitted additional information, including a revision to the Figures and Table previously submitted with the March 8, 2022, letter. The Applicant also requested the inclusion of excerpts from the transcript of the December 14, 2022, hearing, as well as excerpts from the Appellant's appeal packet.

As the Chair of the Napa County Board of Supervisors, I have reviewed and considered the Applicant's March 29, 2022, request that the following materials be included in the record on appeal: the March 8, 2022, revised proposal; the revised Figures and Table reflecting the conservation easement; the excerpts from the December 14, 2021, hearing; and the excerpts from the Appellant's appeal packet. My determinations are as follows.

1) March 8, 2022, Revised Proposal.

Decision and Rationale: Granted. The revised proposal was not before the PBES Director at the time the Director made the decision on appeal. The proposal includes maps with specific areas of land identified as woodland habitat that the Applicant contends meets the requirements identified by the Court of Appeal. It also includes a table showing the amount of woodland habitat available for conservation on each parcel within the Project Property. While some of this information was already included in the record, as part of the certified EIR (i.e., the tree survey and GIS mapping of the Property,) the specific identification of qualifying woodland habitat was not previously on the record. Good cause does exist to include this information in the record, as the revised proposal responds directly to the requirements of the Court of Appeal, as well as claims set forth in the appeal. Denying the request to modify a project proposal in response to an appeal based on an evidentiary rule would discourage applicants from making good faith project revisions to address concerns from appellants.

2) Revised Figures and Table.

Decision and Rationale: Granted. The revised Figures and Table identified in the Applicant's March 29, 2022, request modify and refine the revised proposal from March 8, 2022. For the same reasons set

forth in connection with that request, discussed above, good cause exists to include this information in the record.

3) Excerpts from December 14, 2021, Hearing.

Decision and Rationale: Granted. While the December 14, 2021, hearing addressed the proposal as approved by the PBES Director, and did not reflect the revised proposal submitted on March 8, 2022, the statements excerpted from the transcript are relevant to the consideration of the revised proposal. Good cause exists to include this evidence in the record on appeal. The decision to include these excerpts does not reflect any consideration of their weight or value with respect to the merits of the appeal.

4) Excerpts from November 5, 2021, Appeal Packet.

Decision and Rationale: Granted. Generally, the appeal packet is considered part of the record on appeal, in the sense that the Board must consider the arguments set forth in the appeal packet. Any evidence attached or referenced in the appeal packet would be subject to the good cause procedures in the Appeals Ordinance in the Napa County Code, but the argument set forth by the Appellant is not. Since it appears the excerpts identified by the Applicant contain the Appellant's argument with citation to information already in the record, no determination of good cause is necessary.

C. Appellant's Good Cause Requests.

The Appellant submitted a request to include a letter, dated March 29, 2022, setting forth the Appellant's response to the Applicant's revised proposal, discussed above. The Appellant also requested the inclusion of the following documents, referenced in the March 29, 2022, letter, and identified by the primary author of the study: (1) Damschen et al. 2019; (2) Delaney et al 2021 IPCC 2022; (3) de Paula et al. 2011; (4) IPCC 2022; (5) Ma et al. 2017; (6) Sobral et al. 2017; (7) Watson et al. 2018; (8) Wakesa et al. 2016; and (9) Yap et al. 2021. Appellant claims that good cause exists for inclusion of the letter and the referenced studies because the letter is the only opportunity for the Appellant to comment on the revised proposal from the Applicant.

In addition, the Appellant requested that two studies identified and referenced in the Appeal Packet be included in the record on appeal. These include: (1) Stephenson et al. 2014; and (2) U.S. Department of Energy (1998). The Appellant claims that these materials were referenced, discussed and linked in public comments submitted to the PBES Director before the decision on the original proposal in October 2021.

As the Chair of the Napa County Board of Supervisors, I have reviewed and considered the requests from the Appellant. My decision on Appellant's March 29, 2022, good cause requests is as follows:

1) March 29, 2022, Letter.

Decision and Rationale. Granted. The Appellant's letter is responding to a revised proposal submitted by the Applicant well after the decision was made by the PBES Director. Because of that, the Appellant's argument, in the exercise of reasonable diligence, could not have been produced to the decision maker prior to the decision. Therefore, good cause exists to include the letter here.

2) Studies Referenced in March 29, 2022, Letter.

Decision and Rationale. Granted. Like the Appellant's letter, the referenced articles and studies respond to the revised proposal for Mitigaiton Measure 6-1. The good cause grounds are less clear, however. Many of the articles predated the decision at issue on appeal, some by several years, and the articles relate equally to the previously-proposed 124-acre conservation easement as to the revised 248-acre proposal. Nevertheless, the Appellant should have an opportunity to respond to the revised proposal and these articles are integral to that response. In the interest of ensuring the Appellant has a full opportunity to be heard, I find that good cause exists to allow these references into the record on appeal.

3) Studies Referenced in Appeal Packet.

Decision and Rationale. Granted. The Appellant requested that two articles cited in pre-decision comments be included in the record on appeal. The tentative decision by the Director indicated that the final decision would be made by close of business on October 1, 2021. However, due to the volume of comments received by the public, much of which was received on that day, the Director did not make the decision until October 5, 2021. Prior to making the decision, but after October 1, 2021, the Director received additional comment, including a letter from the Applicant dated October 4, 2021, responding to previously submitted comments. While the County does not have an obligation to allow the public and the Applicant to respond indefinitely, the circumstances of this decision suggest that these articles, which are proffered to support arguments by the Appellant, should be allowed. The fact that the Applicant can respond to the arguments at the appeal hearing reduces any prejudice that may result from their inclusion in the record on appeal.

D. Right to Request an Overrule.

Pursuant to County Code Section 2.88.090 (B), at the beginning of the appeal hearing, prior to opening the public hearing, the chair shall announce any decision regarding the introduction of extrinsic evidence to the record and the whole Board, by majority vote, may overrule any such decision upon request by an appellant or the permittee. The Chair set a deadline of April 5, 2022, for either Appellant or Applicant to inform County Counsel's office in writing of their request that the whole Board overrule the Chair's prior determination regarding the extrinsic evidence. Upon receipt of such request, the parties shall each be given three minutes to orally address the Board at the appeal hearing on their request to overrule the Chair. No written arguments are allowed.

Chairgoodcausedet.4.1.22

Brad Wagenknecht District 1 | **Ryan Gregory** District 2 | **Diane Dillon** District 3 | **Alfredo Pedroza** District 4 | **Belia Ramos** District 5

Attachment 11
Appeal Packet – Bracketed

ORIGINAL

NAPA COUNTY CLERK OF THE BOARD'S OFFICE
1195 Third Street, Suite 310, Napa, California, 94559 (707) 253-4421

A Tradition of Stewardship
A Commitment to Service

RECEIVED
NOV 05 2021
NAPA COUNTY
EXECUTIVE OFFICE

APPEAL PACKET COVER SHEET
(Section 2.88.050 of Napa County Code)

Deadline for filing with the Clerk of the Board's office: no later than 2 p.m. on the 10th working day after the filing of the Notice of Intent to Appeal. (Napa County Code sec. 2.88.050(A).)

TO BE COMPLETED BY APPELLANT
(Please type or print legibly)

Action Being Appealed: Approval of Amendment to Mitigation Measure 6.1 in the Walt Ranch Vineyards Agricultural Erosion Control Plan and EIR documents

Permittee Name: Hall Brambletree Associates, LP

Permittee Address: c/o Mike Reynolds 401 St. Helena Highway South, St. Helena, CA 94574
(No. / Street / City / State / Zip)

Project Site Address/Location (if different from Permittee Address):
Walt Ranch-Napa County Napa CA 94558
(No. / Street / City / State / Zip)

Assessor's Parcel No.: 032-120-028, 032-480-007, -008, -011, -012, -013, -014,-015,-016,-017,-018,-019,-020, -021, -022, -023,-024, -027, -028, 032-490-004, -005, -006, -008, -009, -010, -011, -012, -013, -014, -015, -016, -017,-018,-019,-020

Permit Number: P11-00205-ECPA **Date of Decision:** October 11, 2021

Nature of Permit or Decision: Approval of Amendment to Erosion Control Plan and EIR

Appellant's Name: Center for Biological Diversity

Appellant's legal status (check one): ☐ Individual ☒ Corporation/registered nonprofit
☐ Individual on behalf of unofficial organization (e.g., neighborhood group, special interest group, etc.)
Specify organization name: _____

Telephone #: (707) 599-2743 **Fax #:** (510) 844-7150

E-Mail Address: rmiddlemiss@biologicaldiversity.org

Mailing Address: 1212 Broadway, Suite 800 Oakland CA 94612
(No. / Street / City / State / Zip)

Appellant's Qualification as Interested Person:
Submitted Comment letter on the Addendum to the EIR–no financial or real interest
project applicant, adjacent property owner, other (describe)

Primary Point(s) of Contact for Appellant: ☒ **Check here if Appellant is sole point of contact and will be the prehearing conference representative**

Contact # 1 Name: Ross Middlemiss
Telephone # (707) 599-2743 **Email:** rmiddlemiss@biologicaldiversity.org
Mailing Address: 1212 Broadway, Suite 800 Oakland CA 94612
(No. / Street / City / State / Zip)

☒ **Check here if this contact will be your representative at the prehearing conference**

Contact # 2 Name: Aruna Prabhala
Telephone # (408) 691-6272 **Email:** aprabhala@biologicaldiversity.org
Mailing Address: 1212 Broadway, Suite 800 Oakland CA 94612
No. Street City State Zip

☐ **Check here if this contact will be your representative at the prehearing conference**

Attach additional sheet(s) for additional contacts if needed.

Reason for Appeal. Be specific – **factual or legal basis for such grounds of appeal must be expressly stated or they are waived.** At a minimum, you must include: (1) identification and description of the specific factual or legal determination(s) made as part of the decision that are the focus of the appeal; and (2) express assertion of all arguments, contentions, and facts that form the grounds for your appeal. If the basis of the appeal will be, in whole or in part, that there was a prejudicial abuse of discretion on the part of the approving authority, or that there was a lack of a fair and impartial hearing, this must be expressly stated. ***(attach additional sheets and/or supporting documentation if necessary)***

Please see attached.

Are you appealing a decision relating to real property? (check one) ☒ Yes ☐ No
If Yes, please ensure that you attach the required Ownership Report, including list of owners and Assessor's map page(s) as indicated on the Checklist.

Evidence of payment of required fees (check one): ☒ **Attached** ☐ **Will be submitted later***

* Pursuant to Napa County Code sec. 2.88.050, evidence of payment **must** be received by the Clerk of the Board no later than the 2 p.m. deadline.

	November 5, 2021	Ross Middlemiss
Signature of Appellant	Date	Print Name

November 5, 2021

Napa County Board of Supervisors
1195 Third Street, Ste. 310
Napa, CA 94559

Re: Appeal of Approval of Addendum to the Environmental Impact Report for the Walt Ranch Vineyards Conversion (No. P11-00205-ECPA).

The Center for Biological Diversity challenges the Napa County Planning, Building and Environmental Services Director's (County) decision to approve the Addendum amending Mitigation Measure 6.1 ("MM 6.1") of the Walt Ranch vineyard (Project) environmental impact report (EIR) and its corresponding Erosion Control Plan (application number P11-00205-ECPA). The County's conclusion that the amendment to the project's greenhouse gas (GHG) mitigation would offset the Project's 27,528 $MTCO_2e$ of GHG emissions is not supported by substantial evidence, and therefore does not comply with the Napa County Superior Court's Peremptory Writ of Mandate and Judgment Granting Peremptory Writ of Mandate (attached as Exhibit 1) or the California Environmental Quality Act (CEQA). For the reasons outlined below, the County's Board of Supervisors should grant this appeal and revoke the County's approval of the amended GHG mitigation measure and revise the measure to take into account the best available science and ensure compliance with CEQA.

The Center is a non-profit, public interest environmental organization dedicated to the protection of native species and their habitats through science, policy, and environmental law. The Center has over 1.7 million members and online activists throughout California and the United States. The Center and its members have worked for many years to protect imperiled plants and wildlife, open space, air and water quality, and overall quality of life for people in Napa County.

This appeal challenges the County's revision to the Project's GHG mitigation, made in light of the September 30, 2019 Court of Appeal decision that invalidated the EIR's approach to mitigating the Project's extensive GHG emissions. (Court of Appeals Decision at 51-53.) The Court of Appeal invalidated the EIR's conclusion that setting aside 248 acres of unspecified oak woodlands pursuant to MM 6.1 would reduce GHG impacts to a less than significant level. (Court of Appeals Decision at 53.) The Court reasoned that without a demonstration that the preserved acres were under threat of development, or development possible under County regulations, the mitigation measure would not be additive, as required by CEQA. (Court of Appeals Decision at 52.) Following the Court of Appeal's judgment, the Napa County Superior Court issued a Peremptory Writ of Mandate directing the County to vacate and set aside its findings concerning whether the project will have a less-than-significant impact with respect to greenhouse gas ("GHG") emissions." (Exhibit 1.) The Writ prohibits any Project-related activities that cause or contribute to GHG emissions until such time as a revised GHG mitigation measure is presented for their consideration. (Exhibit 1.) In accordance with the Writ, the County

can only approve a revised mitigation measure if the findings contained therein are supported by substantial evidence. (Exhibit 1.)

The question before the Board now is whether or not there is substantial evidence demonstrating that the amended mitigation measure will reduce the Project's GHG emissions impacts to a less than significant level. The Board's review is the last chance for the County to assure the public that it has done everything within its discretion to mitigate the Project's impacts. The Applicant's claims of "going above and beyond" are not enough to meet CEQA's legal burden, nor are they sufficient to satisfy the Board's duty to protect the County's natural landscapes and the public trust.

As discussed below, as well as in the comments submitted by the Center on October 1, 2021, incorporated herein by reference, the amended mitigation measure does not meet CEQA's standards for mitigation. (Exhibit 2.) This appeal identifies the legal and factual shortcomings of the County's approval decision, but also recommends actions the County can take to rectify the measure's flaws and ensure on the ground conservation benefits.

First and foremost, the Addendum and supporting documents fail to include enough information on how the revised mitigation measure will be implemented, and whether implementation will successfully mitigate the Project's GHG emissions. The Addendum fails to clearly identify where either the preservation acreage or the planting areas are to be located. The Addendum doesn't demonstrate how the preserved acreage and the planting areas under MM 6.1 will be located in relation to the Project's development footprint and the 525 acres already slated for conservation under County conservation policies. The Addendum lacks any on the ground survey data depicting the actual condition of the Project site, instead relying on generic modeling and unsupported assumptions about fire damage and the carbon sequestration capacity of seedlings planted in the proposed planting program. Critically, the Addendum fails to put forward evidence showing the 80% survival rate of the proposed planting program can be achieved and would sequester the amount of carbon the Applicants purport it will. Lastly, the Addendum allows monitoring to cease far sooner than is required to truly know if planting has been successful and provides the County no oversight and enforcement mechanisms to ensure the Applicants will make good on their planting promises.

In addition to filling the informational gaps described in this letter, the Center urges the Board to revise the mitigation measure based on the following recommendations:

1. Prioritize establishing contiguous conservation easements of 248 acres on-site or alternatively within the watershed.
2. If moving forward with only 124 acres of on-site mitigation lands and the tree planting program, demonstrate that the conservation easements for the 124 acres of woodlands and the tree planting program would be protected from development by providing mapped areas of the revised project footprint, undevelopable lands with >30% slope and within riparian setbacks, and proposed Biological Resources mitigation lands.
3. Provide a live and dead tree inventory and propose specific locations for tree planting based on the inventory and in consultation with wildlife agencies, NGOs, academics, and Native Tribes.
4. Provide a specific plan for propagating and planting tens of thousands of seedlings.
5. Provide a specific timeline for tree plantings and designate milestone markers that outline goals for number of trees planted and number of successful plantings.

6. Require a minimum 7-year monitoring program for plantings with specific, measurable, performance criteria and adaptive management strategies to accommodate climate change conditions (e.g., extended drought, increased wildfire frequency) and ensure an 80% success rate 16,790 of planted seedlings surviving to maturity.
7. Provide a clear definition of how tree planting survival is determined.

I. Preservation of Existing Oak Woodland Must be Prioritized

The County's original approval of the Project required extensive oak woodland preservation as mitigation for both biological resources and GHG impacts. (Addendum at 2.) The Court of Appeals did not invalidate the practice of preserving existing oak woodlands as a viable means of mitigation, it simply held that the County's failure to identify the areas to be preserved made it impossible to determine whether or not the mitigation was additive. (Court of Appeals Decision at 52.) The logical fix for the EIR's shortcoming would be to identify 248 acres of oak woodland that would otherwise be developable, because the areas have slopes under 30% and are outside stream setbacks and permanently protect those lands through a conservation easement. County policy demonstrates a preference for preserving existing habitat, and the Board should not depart from this scientifically-backed approach now.

Instead of the preservation route set forth in the EIR, Applicants proposed, and the County approved, a revised measure that halves the preserved acreage and commits to planting 16,790 oak seedlings. (Addendum at 3.) There is no discussion of why this approach is favored now, nor is there discussion of why preserving 248 developable acres within the project site is infeasible. The Center urges the County to reconsider this approach, and instead follow the science and prioritize the preservation of existing oak woodland, either within or outside the Project site, over the uncertain and risky tree planting proposal. As discussed more fully below, unless the County can provide substantial evidence demonstrating the effectiveness and adequacy of the tree planting program, the County should require the conservation of existing habitats to mitigate the Project's GHG emissions as required by CEQA. (*Sacramento Old City Assn. v. City Council* (1991) 229 Cal.App.3d 1011, 1027.)

1

The amendment is also unclear regarding the locations of the different land uses planned for the Project in relation to the GHG mitigation lands. The failure to include the revised project footprint and the areas of undevelopable land (including the 525 acres the letters refer to) precludes a determination of whether or not development will occur within the proposed easement area or the available acceptable woodland area, or that 124 acres of oak woodland that is outside riparian setbacks on slopes less than 30% will be protected. The original project footprint provided in the FEIR appears to show a substantial amount of project footprint within and adjacent to the proposed easement area (FEIR at Figure 3-4), which would have direct and indirect impacts to the proposed mitigation. The amendment should be revised to provide more information so that the public can determine that at least 124 acres of oak woodlands outside riparian setbacks on slopes under 30% will be avoided for the purposes of GHG mitigation.

2

II. The Effectiveness of the Amended Mitigation Measure is not Supported by Substantial Evidence

The approval of revised MM 6.1 was not based on substantial evidence demonstrating the measure will effectively reduce the impact of the project's GHG emissions to a less than significant level. CEQA requires that feasible mitigation measures be adopted (CEQA Guidelines § 15126.4(a)), and that the effectiveness of those measures is supported by substantial evidence. *(See Gray v. County of Madera* (2008) 167 Cal.App.4th 1099, 1116-17 [An agency's finding that a mitigation measure will be effective will not be granted deference if the finding is not supported by substantial evidence]; *see also Tracy First v. City of Tracy* (2009) 177 Cal.Ap.4th 912, 937.) Successful tree planting programs require careful planning with "a multiyear commitment to maintaining trees, monitoring whether project goals have been achieved, and providing funding for corrective actions if they are not." (Holl & Brancalion, 2020). The Addendum is lacking critical details about where the mitigation actions will be implemented and how the existing conditions of the Project site affect that process; and fails to demonstrate the seedling planting plan will be effective over the lifespan of the Project. For these reasons, explained more fully below, this appeal should be granted so that the County can address these shortcomings and prepare a mitigation measure that fully complies with CEQA. (Cal. Pub. Res. Code § 21002; § 21081.6(b); Guidelines § 15126.4(a)(2).)

As a preliminary matter, it's important to clarify what the revised mitigation measure must do, and the lens through which the Board will review the measure when considering this appeal. The revised mitigation must offset the GHG emissions that were estimated in the EIR. That is what the County certified, and what each reviewing court considered. The Applicant summed it up well in its October 4th letter, "[t]he estimate is therefore settled and cannot be challenged." (October 2021 Hall Letter at 4.) Any speculation about how much carbon was released during the 2017 and 2020 fires and how it would lower the Applicant's mitigation obligation, is a distraction. The Applicant's attempts to portray the revised mitigation as an altruistic endeavor should be ignored. The Applicant must mitigate for the GHG emissions calculated in the EIR, "[t]here is no reduction in the Applicant's mitigation obligation because of the fire damage." (Notice of Decision at 2.)

A. The effectiveness of planting oak seedlings is undermined by the lack of information of where planting will occur and the existing conditions in those areas

The revised mitigation was approved despite failing to include information critical to understanding how MM 6.1 would be implemented and whether or not it would be successful, in violation of CEQA. (*See Preserve Wild Santee v. City of Santee* (2012) 210 Cal.App.4th 260.) The addendum fails to clearly and adequately provide specific locations of where 16,790 to 33,580 trees would be planted. The Ascent Report states that there are 1,023 acres of eligible planting area, of which 901 acres were originally oak woodland. The October 2021 Hall Letter asserts that "Ascent has identified specific locations on the property where a tree replanting program can be successfully implemented" (October 2021 Hall Letter at 5), but these specific areas are not provided to the public. If it was infeasible to delineate specific planting areas at the time the Addendum was approved, CEQA requires such an explanation. (*See San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, 671.)

The uncertainty around specific planting areas is compounded by the amendment's failure to provide sufficient, science-based information concerning the current state of the project site following the 2017 and 2020 fires. This lack of detail is exemplified by the unsupported assumption in the Ascent GHG Mitigation Report ("Ascent Report") that all trees in the burn areas were lost. (Ascent Report Table 3, at 6.) As discussed in the Center's October 1, 2021 letter ("Center Letter"), oaks are fire-adapted and much of the Project area likely survived the wildfires. (See Center Letter at 3-5, attached as Exhibit 2.) Figure 1 below demonstrates that areas with the 2020 burn area, identified as an eligible planting area, either survived the fire or are likely regenerating.



Figure 1: An aerial view of a portion of the proposed eligible planting area from October 2020, after the Hennessey Fire was contained. Photo credit: Bryant Baker

Therefore, much of the area in the proposed eligible planting areas are likely naturally regenerating and will continue to sequester large amounts of carbon on their own. Planting seedlings in these areas will likely fail or result in the destruction of existing, intact, carbon-storing habitat with little to no gains. The County must revise the mitigation measure to include on-the-ground vegetation inventories of the proposed planting areas.

The informational shortcomings of the amended MM 6.1 undermine the validity of the County's approval. MM 6.1 must be revised to include, at a minimum, the specific locations of where tree planting will occur, and survey data concerning the current condition of those areas.

3

Without such information, the Addendum as approved fails to ensure that the tree planting portion of the MM 6-1 is effective, adequate and meets CEQA's requirements. (*Sierra Club v. County of San Diego* (2014) 231 Cal.App.4th 1152; *POET, LLC v. State Air Resources Bd.* (2013) 218 Cal.App.4th 681.)

B. The amended mitigation relies on flawed sequestration calculations

The approved MM 6.1 undercounts the number of trees that would need to be planted in order to sequester the necessary amount of carbon. Based on the numbers provided in Table 4 of the Ascent Report, the calculation of 16,790 trees for the planting program is incorrect because it does not take the 80% survival (i.e., 20% death) rate into account. Using the average carbon sequestration rate per tree provided in Table 4 of the Ascent Report and assuming an 80% success rate, 20,965 trees are required to meet the 27,528 MTCO2e total over 30 years, as the Applicant asserts. (May 2021 Hall Letter at 3.)

$$\text{X trees} = \frac{27{,}528{,}000 \text{ kg carbon}}{54.7 \text{ kg carbon/tree/year} * 30 \text{ year} * 0.8}$$

X trees = 20,965 trees

The 16,790 trees would result in the sequestration of 27,552 MTCO2e only if there is 100% survival. But when accounting for an 80% survival rate, 16,790 planted trees would only result in sequestering 22,042 MTCO2e by the surviving 13,432 trees. The addendum provides incorrect information that both undercuts and oversells the mitigation measure. The Notice of Decision's conclusion "that planting 16,790 trees, with an 80% survival rate after five years, will, over the Project horizon of 30 years, achieve the required GHG offset to reduce the impact of the project to a less-than-significant level[.]" is not supported by substantial evidence. (Notice of Decision at 2-3.)

4

C. The Ascent Report overestimates how much sequestration the planted trees achieve over the 30-year planning horizon

To make matters worse, beyond misapplying the average yearly sequestration of each tree, the actual sequestration averages themselves were improperly calculated. The inappropriate use of the i-Tree model resulted in an overestimation of how much carbon the planted trees would sequester over the project's 30-year lifetime. According to the Ascent Report, the average carbon sequestration rates per tree per year provided in Table 4 were calculated using a project lifetime of 99 years. (Ascent Report at 6; see also Appendix A i-Tree report at 1.) Oaks have varying growth rates, but they are generally slow-growing. Therefore, accumulating biomass takes time, and early years of growth have relatively little carbon gains. Including trees 31 to 99 years old to estimate the amount of carbon stored within 30 years of planting seedlings will result in skewed and misleading results because the seedlings and saplings store much less carbon

compared to mature trees. The age/size[1] of the trees is critical to calculating an accurate prediction of how much carbon will be stored within 30 years of planting a seedling. Trees store carbon in their biomass (above-ground trees and below-ground roots) by taking in carbon dioxide and using it to photosynthesize. As trees get older and bigger they store more carbon. Not only are trees able to remove more carbon from the atmosphere as they get bigger, but their storage capacity/accumulation of carbon also increases over time (Stephenson et al., 2014). Therefore, including trees up to 99 years old when calculating the average carbon sequestration of trees between 1 and 30 years old is inappropriate and will result in substantially inflating the carbon sequestration predictions.

5

This issue is clear in Napa RCD's Acorns to Oaks program. After planting 5,525 acorns over 8 years, they recorded 936 surviving seedlings. Based on calculations following the U.S. Department of Energy's method for calculating carbon sequestration by trees in urban and suburban settings,[2] 936 seedlings sequestered 1,498 lbs (679 kg) of carbon, compared to 2814 lbs (1276 kg) of stored carbon in one 100-year-old oak tree (See Jim Wilson Comments, October 1, 2021; Stilwell 2021 [Exhibit 3].). According to the U.S. Department of Energy (1998), one-year-old seedlings sequester carbon at a rate of 1.6 to 4.0 lbs/tree/year (0.73 to 1.8 kg/tree/year), which is vastly different from the 54.7 kg average provided in the Ascent Report, In fact, trees with slow and moderate growth rates are estimated to take longer than 60 years to reach a point when they are sequestering at least 54 kg/tree/year, and fast-growing trees don't reach sequestering 54 kg/tree/year until about 49 years (U.S. Department of Energy 1998). Therefore, including carbon storage potential of trees 31 to 99 years old in the model skews the average carbon sequestration rate to be much higher compared to what the average would be if only 1- to 30-year-old trees were included in the calculation. This puts into question whether an average annual sequestration rate is what should be used to predict carbon storage potential of planted trees. Instead, a calculation that incorporates the dynamic and cumulative nature of tree growth and carbon sequestration should be implemented. The flawed sequestration calculations undermine the Notice of Decision's conclusion that the tree planting plan will offset the required 27,528 MTCO2e over the 30-year life of the project.

D. Achievement of the 80% survival performance standard is not supported by substantial evidence

The conclusion that 80% survival of planted oak seedlings will be achieved is not supported by substantial evidence. Nowhere in the Addendum or the Ascent Report is there an explanation of why the 80% survival rate was selected, nor is there evidence that such a standard

[1] Tree age is often used as a proxy for size even though growth rates can vary depending on the available resources (e.g., water, sunlight) and grazing pressure. For example, a 2007 study found that 21 years after blue oak seedlings were planted, individuals ranged from 6 to 112 cm in height and 0.6 to 2.8 cm in diameter (Koenig & Knops, 2007). And 41 years after blue oak seedlings were planted, individuals ranged from 28 to 200 cm in height and 0.7 to 7.7 cm in diameter (Koenig & Knops, 2007). This demonstrates the slow growth of some oaks and that, even after decades of planting, they may not sequester as much carbon as predicted.

[2] https://www3.epa.gov/climatechange/Downloads/method-calculating-carbon-sequestration-trees-urban-and-suburban-settings.pdf

can realistically be met. (*See Cleveland National Forest Foundation v. San Diego Assn. of Governments* (2017) 17 Cal.App.5th 413, 433 ["Unrealistic mitigation measures, similar to unrealistic project alternatives, do not contribute to a useful CEQA analysis" (citations omitted)].) The only evidence as to the effectiveness of oak planting programs that was before the County when it approved the amended mitigation was data from the recent Acorns to Oaks program. (See Jim Wilson Comments; Exhibit 3.) That program experienced a survival rate of 17% for the 5,525 acorns planted over the course of 8years. (*Ibid.*) While the survival rate of seedlings is likely higher than acorns, the gap between 80% and 17% is significant, and requires at the very least a demonstration of how the 80% standard was selected. While the Applicant's October 4th letter claims that "a recommendation by an acknowledged expert [Ascent] constitutes substantial evidence that the program will be successful[.]" CEQA requires more. (*See North Coast Rivers Alliance v. Marin Municipal Water Dist. Bd. Of Directors (*2013) 216 Cal.App.4th 614, 639-40 [An EIR must contain sufficient information and analysis to enable the public to discern the analytic[al] route the agency traveled from evidence to action" (citations omitted)].)

6

E. The planting plan's monitoring period is inadequate.

The amendment should include, at a minimum, the Public Resources Code §21083.4 requirement of a seven-year monitoring period. That provision, titled "Conversion of oak woodlands," requires that any planting effort to mitigate a project's impacts to oak woodland must be monitored for no less than 7 years from planting. (Pub. Res. Code § 21083.4(b)(2)(B).) The Applicant's attempt to dismiss the applicability of section 21083.4 is nonsensical. (See Hall Letter, October 4, 2021.) The goal of section 21083.4 is to provide mitigation for the removal of oak trees; and to constitute mitigation trees planted pursuant to this provision must survive. Section 21083.4 requires a 7-year monitoring period so that the goal of the mitigation, survival of planted trees to replace those lost to development, can be achieved. The planting program here seeks to achieve the same goal, plant trees that will survive and replace the trees destroyed by the vineyard conversion. The 7-year monitoring period should act as a minimum, since, as discussed above, seedlings and saplings have a much lower survival rate than the Applicant assumes, and they sequester relatively small quantities of carbon compared to mature oaks that sequester the majority of carbon in woodlands. More substantial carbon sequestration might not occur for decades; longer monitoring with specific, measurable performance criteria and adaptive management would help to ensure the planted trees are able to survive in the long-term and reach the size required to sequester large amounts of carbon (Holl & Brancalion, 2020). Scientists recommend 15-20 years or more of monitoring with adaptive management to determine the success, or lack thereof, of enhanced, restored, or created habitat. (See Exhibit 2 at 7.) In addition, simply taking a photo of plantings every year without active care of the plantings is insufficient to ensure an 80% survival rate of the new plantings (FEIR BRMP at 80). The amended mitigation measure provides no evidence to support the effectiveness of the 5-year monitoring period, and as noted above, the undocumented "recommendation" of the Applicant's consultant does not constitute substantial evidence.

7

F. The planting plan is vague and lacks adequate enforcement measures

The approved mitigation is vague as to how monitoring of the planting plan will be carried out, and ultimately lacks key details concerning recourse if the performance standards are

not met. (*See Preserve Wild Santee v City of Santee* (2012) 210 CA4th 260, 281.) The Ascent Report states that "replanting can occur over a period of a few years, or shorter depending on the level of participation from partners." (Ascent Report at 9.) There is no definition or guidance for what constitutes "a few years." It does not give a timeline for the GHG mitigation to be completed and seemingly passes accountability of implementing the planting program to "partners." The measure must be revised to provide a specific timeline for tree plantings and designate milestone markers that outline goals for number of trees planted and number of successful plantings and provide a clear definition of how tree planting survival is determined. In its current form, the planting program's lack of detail and vague language provides an unacceptable amount of post-approval discretion to whomever it is that will implement the program, in violation of CEQA. (*See Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70, 93 [success criteria based on the post-approval, subjective judgment of agency violates CEQA]; *see also Golden Door Props. v. County of San Diego* (2020) 50 Cal.App.5th 467, 520-24 [invalidating measure lacking standards governing director's discretion].)

8

Critically, MM 6.1, as amended, is silent on what happens after 5 years of monitoring. If less than 80% of the 16,790 seedlings (20,965 seedlings if calculated accurately, see above) survive after 5 years, there are no mechanisms in place for the County to hold the Applicant accountable for the unrealized GHG mitigation. The measure must be revised to include concrete, evidence-based and enforceable performance standards so that the public is assured the project's significant GHG emissions will in fact be mitigated.

III. Conclusion

Taken together, MM 6.1 in its current form inspires more questions than it answers and fails to meet CEQA's standards for acceptable mitigation. The stakes are too high for speculative and undefined measures to be accepted in return for the destruction of carbon-sequestering oak woodlands and other native habitats. We urge the Board to grant this appeal and reject the amended mitigation measure in its current form. The Board has authority to demand a scientifically-sound, effective and enforceable mitigation measure to account for the project's significant GHG emissions. The Board should use its authority to require mitigation that prioritizes preservation of existing habitats via contiguous conservation easements, includes clear mapping of the Project's components and how they overlap with land cover types and the development footprint, and provides an account of existing trees and their condition within the Project site. If the Board decides to allow seedling planting as part of the mitigation, a planting plan must include specific details for implementation, such as a timeline for planting and preestablished milestone markers and adaptive strategies if milestones are not met and a clear definition of "survival" by which success is measured. Lastly, the planting plan should include monitoring of no less than 7 years and include adaptive management strategies that account for the impacts of climate change, while providing the County with enforcement mechanisms to ensure that the Applicant is held responsible for any failure to meet its sequestration obligations under the mitigation measure.

The County is not bound by the Applicant's preferences or motives, it must instead follow the law and act on behalf of Napa residents that demand action to combat the escalating

effects of climate change. The recommendations provided in this letter provide a roadmap to legally and scientifically sound mitigation, and we hope the Board does all in its power to fully mitigate the Project's negative impacts. The effects of the climate crisis are already being felt in Napa, and the Board must take urgent action to halt rising temperatures and avert a climate catastrophe. This monumental struggle will not be won with a business as usual approach. Protecting Napa's ecological wonders and ensuring a livable future for its residents requires immediate and resolute action, and a half-baked tree planting plan simply won't cut it.

Sincerely,



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References

Holl, K. D., & Brancalion, P. H. S. (2020). Tree planting is not a simple solution. *Science*, *368*(6491), 580–581.

Koenig, W. D., & Knops, J. M. H. (2007). Long-term Growth and Persistence of Blue Oak (*Quercus douglasii*) Seedlings in a California Oak Savanna. *Madroño*, *54*(4), 269–274.

Stephenson, N. L., Das, A. J., Condit, R., Russo, S. E., Baker, P. J., Beckman, N. G., Coomes, D. A., Lines, E. R., Morris, W. K., Rüger, N., Álvarez, E., Blundo, C., Bunyavejchewin, S., Chuyong, G., Davies, S. J., Duque, Á., Ewango, C. N., Flores, O., Franklin, J. F., … Zavala, M. A. (2014). Rate of tree carbon accumulation increases continuously with tree size. *Nature*, *507*(7490), 90–93.

Exhibits

Exhibit 1 – Napa Superior Court Peremptory Writ of Mandate and Judgment Granting Peremptory Writ of Mandate, May 8, 2020.

Exhibit 2 – Center for Biological Diversity comments on Walt Ranch Notice of Tentative Decision, October 1, 2021

Exhibit 3 - Jim Wilson comments on Walt Ranch Notice of Tentative Decision, October 1, 2021

Exhibit 1

NAPA SUPERIOR COURT
825 BROWN STREET • NAPA, CALIFORNIA 94559-3031

RETURN SERVICE REQUESTED



John P Rose
1212 Broadway
STE 800
OAKLAND CA 94612

94612$1810 C035

FILED
MAY 06 2020
CLERK OF THE NAPA SUPERIOR COURT
BY J. Olivas
DEPUTY

SUPERIOR COURT FOR THE STATE OF CALIFORNIA,
COUNTY OF NAPA

CENTER FOR BIOLOGICAL DIVERSITY, and SIERRA CLUB, Petitioners, vs. NAPA COUNTY, NAPA COUNTY BOARD OF SUPERVISORS, NAPA COUNTY DEPARTMENT OF PLANNING BUILDING AND ENVIRONMENTAL SERVICES; and DOES 1 through 20, inclusive, Respondents. HALL BRAMBLETREE ASSOCIATES, LP, and Does 21 through 40, inclusive, Real Parties in Interest.	Case No.: 17CV000060 PEREMPTORY WRIT OF MANDATE

TO RESPONDENTS NAPA COUNTY, NAPA COUNTY BOARD OF SUPERVISORS AND NAPA COUNTY DEPARTMENT OF PLANNING, BUILDING AND ENVIRONMENTAL SERVICES:

The Court having entered judgment in this proceeding ordering that a peremptory writ of mandate issue under seal of this Court:

YOU ARE HEREBY COMMANDED, on receipt of this writ, as follows:

1. Within 60 days of service of this writ, Respondents shall vacate and set aside their findings concerning whether the project will have a less-than-significant impact with respect to greenhouse gas ("GHG") emissions.

2. Respondents shall not reconsider whether to adopt such findings unless and until those findings are supported by substantial evidence in the record without making substantive changes to other aspects of the Project and/or EIR that have already been approved and are not subject to this partial writ of mandate.

3. Respondents shall not approve, and Real Party in Interest Hall Brambletree Associates LP shall not commence, Project-related activities that cause or contribute to GHG emissions, unless and until the Court discharges this peremptory writ of mandate.

4. Respondents shall file the following returns to this peremptory writ of mandate:

a. Respondents shall file an initial return to the writ of mandate within 90 days of service of this writ setting forth the steps taken to comply with paragraph 1 of this writ.

b. Respondents shall file a supplemental return to the writ of mandate within 30 days of completing the activities, if any, mandated by paragraph 2 of this writ setting forth those actions.

5. This Court retains jurisdiction over Respondents' proceedings by way of the returns to the peremptory writ of mandate until the Court has determined that Respondents have complied with CEQA as specified herein or that Respondents have determined not to approve the Project.

6. Nothing in this writ shall be understood to direct Respondents to exercise their discretion in any particular way. (Pub. Resources Code, § 21168.9, subd. (c).)

Dated: 05/06/2020

Victoria Wood, Judge

Superior Court of California

County of Napa
825 Brown Street
Napa. CA 94559

Case #: 17CV000060 **Center for Biological Diversity and Sierra Club vs Napa County et al**

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OAKLAND, CA 94612

Elizabeth Rachel Pollock
555 Capitol Mall STE 800
SACRAMENTO, CA 95814

Jeffrey Michael Brax
1195 Third Street
Suite 301
Napa, CA 94559

Certificate of Mailing/Service

I hereby certify that I am not a party to this cause and that a copy of the foregoing document was:

- ☒ **mailed** (first class postage pre-paid) in a sealed envelope
- ☐ **certified copy faxed** to Napa Sheriff's Department at (707) 253-4193
- ☐ **personal service** – personally delivered to the party listed above
- ☐ **placed in attorney/agency folders** in the ☒ Criminal Courthouse ☐ Historic Courthouse

at Napa, California on this date and that this certificate is executed at Napa, California this Date. I am readily familiar with the Court's standard practice for collection and processing of correspondence for mailing within the United States Postal Service and, in the ordinary course of business, the correspondence would be deposited with the United States Postal Service on the day on which it is collected at the Courthouse.

Date: 5/6/2020

Robert E Fleshman, Court Executive Officer

J. Oliver

Julie Oliver, Deputy Court Executive Officer

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CLERK OF THE NAPA SUPERIOR COURT
BY
DEPOTY

SUPERIOR COURT FOR THE STATE OF CALIFORNIA,

COUNTY OF NAPA

CENTER FOR BIOLOGICAL DIVERSITY, and SIERRA CLUB, Petitioners, vs. NAPA COUNTY, NAPA COUNTY BOARD OF SUPERVISORS, NAPA COUNTY DEPARTMENT OF PLANNING BUILDING AND ENVIRONMENTAL SERVICES; and DOES 1 through 20, inclusive, Respondents.	Case No.: 17CV000060 JUDGMENT GRANTING PEREMPTORY WRIT OF MANDATE
HALL BRAMBLETREE ASSOCIATES, LP, and Does 21 through 40, inclusive, Real Parties in Interest.	

I. PROCEDURAL HISTORY

The Petition of Center for Biological Diversity (CBD) and Sierra Club (each a Petitioner and collectively Petitioners) came on for hearing February 13, 2018, and March 1, 2018, before the Honorable Thomas E. Warriner in Department G of this Court. Aruna Prabhala of the Center for Biological Diversity appeared on behalf of Petitioners. Jason Dooley appeared on behalf of Respondents County of Napa, Napa County Board of Supervisors, and Napa County Department

of Planning, Building and Environmental Services ("Entity Respondents"). Whitman Manley appeared on behalf of Real Parties in Interest Hall Brambletree Associates, LP ("Real Party")(Entity Respondents and Real Party will hereinafter be referred to collectively as "Respondents"). On April 5, 2018, the Court entered judgment in favor of Respondents and Real Parties (Original Judgment).

Petitioners appealed the Original Judgment to the Court of Appeal, First Appellate District. On September 30, 2019, the Court of Appeal affirmed the Original Judgment in part and reversed in part. (See *Living Rivers Council v. County of Napa*, 2019 Cal. App. Unpub. LEXIS 6612 (*Opinion*).) Specifically, the Court of Appeal found that Petitioner CBD demonstrated a lack of substantial evidence supporting the inference that the trees to be permanently conserved would not reasonably have remained on the property. (*Id.* at 87.) "CBD has accordingly satisfied its burden of showing that substantial evidence does not support the EIR's conclusion that the project would have a less-than-significant GHG emission impact." (*Ibid.*) On all other claims, the Court of Appeal affirmed the Original Judgment of this Court. Accordingly, the Court of Appeal reversed the judgment denying Petitioners' petition for a writ of mandate and remanded the matter to this Court to grant the petition as to the EIR's failure "to ensure that the GHG emissions associated with the Project, as mitigated, constitute a less-than-significant-impact, as set forth in [this Opinion]." (Opinion at 87-88.)

On February 11, 2020, this Court invited the parties to submit additional briefing regarding the appropriate nature and scope of the writ of mandate and judgment, consistent with the Opinion of the Court of Appeal. Hearing on the matter was held on March 4, 2020, with the following attorneys appearing: Jason Dooley on behalf of the entity Respondents; Aruna Prabhala and Ross Middlemiss on behalf of Petitioner; and Whitman Manley on behalf of Real Party. Following the hearing, the matter was submitted.

Having read and considered the parties' briefs and arguments at hearing, the Court now orders as follows.

II. LEGAL ANALYSIS

When a public agency's decision, determination, or finding does not comply with CEQA, a peremptory writ of mandate must be issued. (Pub. Resources Code § 21168.9, subd. (a).) As noted above, pursuant to the *Opinion* of the Court of Appeal, "substantial evidence does not

support the EIR's conclusion that the project would have a less-than-significant GHG emission impact." (*Opinion* at p. 87.)

Respondents urge the Court to issue a so-called "partial writ" and judgment directing the County to reconsider its finding of substantial evidence on this single issue. (See Memorandum of Points and Authorities in Support of Proposed Judgment (Respondent's Memo) at 5:4-7.) Respondents further argue that "the judgment and writ need not direct the County to decertify the EIR. (*Id.* at 5:9-10.)

Respondents' position appears to find support in the following language of the *Opinion*. "We remand the CBD matter to the trial court to grant the petition *as to the following EIR issue*: to ensure that the GHG emissions associated with the Project, as mitigated, constitute a less-than-significant impact, as set forth in Section II.F of this opinion." (*Opinion* at 87-88. Emphasis added.)

Partial writs are authorized under Public Resources Code section 21168.9. Subsection (b) of the statute specifically requires that a mandate order under subsection (a) "shall be limited to that portion of a determination, finding, or decision or the specific project activity or activities found to be in noncompliance only if a court finds that (1) the portion or specific project activity or activities are severable, (2) severance will not prejudice complete and full compliance with this division, and (3) the court has not found the remainder of the project to be in noncompliance with this division. The trial court shall retain jurisdiction over the public agency's proceedings by way of a return to the peremptory writ until the court has determined that the public agency has complied with this division."

As to the first finding of the three that cumulative necessitate issuance of only a partial writ, Petitioner contends that a severability finding cannot be made in this case, because the Project itself is not severable. For this contention, Petitioner relies heavily on the Fifth Appellate District's decision in *Landvalue 77, LLC v. Board of Trustees of California State University* (*Landvalue 77*) (2011) 193 Cal.App.4th 675. Implementing plain language interpretation of section 21168.9, this Court disagrees with Petitioner, as well as with the Fifth District in *Landvalue 77*. When section 21168.9 subsection (b)(1) requires a finding that the "the portion *or* specific activity or activities" are severable, the Court interprets this language to allow for the severability finding to be as to a portion not only of project activity/ies, but alternatively to a portion of the "determination, finding, or decision," as indicated in the prefatory language of the

sentence identifying the three requisite findings. This Court's interpretation seems to be supported by the Second Appellate District in *Preserve Wild Santee v. City of Santee* (2012) 210 Cal.App.4th 260, at page 287, when it critiqued the *Landvalue 77* Court's "perfunctory" conclusion that the "in part" language in subdivision (a)(1) does not apply to EIR certification decisions. Applying this interpretation of severability under section 21168.9, the Court easily concludes the portion of the County's decision pertaining to mitigation for GHG emissions is severable from the remainder of the Project decisions, as the First District seemed to contemplate in its *Opinion* as well.

The Court also believes it should make the second and third findings that require it to issue only a partial writ in this case. Obviously, the court has not found the remainder of the Project to be in noncompliance with CEQA, since the First District has upheld all other aspects of the Project approval. Whether the Court can make the second finding that severance of this portion of the County's approval would not prejudice complete and full compliance with CEQA is a closer question for consideration.

The First District found deficient the County's approval of the EIR's GHG mitigation measure, number 6-1, because there was insufficient evidence that the unspecified 248 acres of trees to be preserved as mitigation would not reasonably have remained on the property under "business as usual circumstances," i.e. without the proposed Project. (*Opinion* at 87.) It is possible Respondent will be able to approve the same mitigation measure, by simply identifying 248 acres of the 524 to be preserved and finding sufficient evidence in the record that those acres would not reasonably have remained without the preservation contemplated by the Project. Petitioner's concern that a partial writ could result in modifications to the mitigation measure that may require "changes to the scope and scale of the Project" can be alleviated by a mandate that the County shall not readopt findings of a less than significant GHG emissions impact, unless and until such findings are supported by substantial evidence in the record *without making substantive changes to other aspects of the Project and/or EIR that have already been approved and are not subject to the partial writ of mandate.* Petitioner's concern that Respondent may be required to adopt a Statement of Overriding Considerations, is alleviated by the fact that such a statement would be subject to separate CEQA compliance. Under these circumstances, the Court concludes that severance of the County's decision [that mitigation measure 6-1 sufficiently supported approval of the Project] will not prejudice complete and full compliance with CEQA.

III. JUDGMENT

IT IS THEREFORE ORDERED that:

1. As set forth in the *Opinion*, the Petition for Writ of Mandate, filed by Petitioners is granted in part as to the following EIR issue: to ensure that the greenhouse gas ("GHG") emissions associated with the project, as mitigated, constitute a less-than-significant impact. As set forth in Section II.F of the *Opinion*, substantial evidence does not support the County of Napa's (the "County's") conclusion that the conservation easement that the Project must provide will provide sufficient mitigation to reduce the Project's GHG emissions to less-than-significant levels.

2. In all other respects, the petition is denied.

3. A peremptory writ of mandate shall issue under the seal of the Court commanding:

a. The County shall vacate and set aside its findings concerning whether the Project, as mitigated, will have a less-than-significant impact with respect to GHG emissions.

b. The County shall not reconsider whether to adopt such findings unless and until they are supported by substantial evidence in the record without making substantive changes to other aspects of the Project and/or EIR that have already been approved and are not subject to the partial writ of mandate.

c. The County shall not approve, and Real Party in Interest Hall Brambletree Associates LP ("Real Party") shall not commence, Project-related activities that cause or contribute to GHG emissions.

4. The Court retains jurisdiction to ensure compliance with the writ issued pursuant to this judgment. If the County responds to the writ by re-adopting its finding concerning GHG emissions, then the County shall file a return to the peremptory writ of mandate issued pursuant to this judgment setting forth the steps taken by the County to respond to the writ.

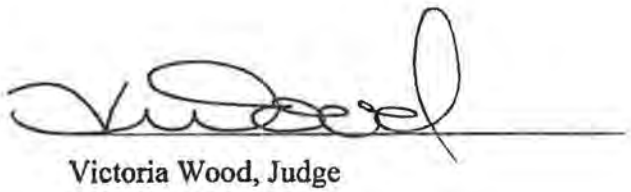
5. Nothing in this judgment shall be understood to direct the County to exercise its discretion in any particular way. (Pub. Resources Code, § 21168.9, subd. (c).)

6. Unless and until this Court has determined that the County has taken the actions specified herein to bring the Project approvals into compliance with CEQA, the County and Real Party shall not undertake, and are enjoined from undertaking, any Project-related activities that may cause or contribute to GHG emissions.

7. The portion of the Project decision affected by this judgment is severable under Public Resources Code section 21168.9, subdivision (b). Paragraph (6) of this judgment ensures that no GHG emissions will occur as a result of the project, unless and until the County has addressed, to the Court's satisfaction, the adequacy of the steps taken to offset the project's GHG emissions. The EIR's analysis of GHG emissions has been found to be otherwise adequate. The EIR has also been found be to adequate with respect to its analysis of all other issues. Issuing this partial writ will not prejudice complete and full compliance with CEQA.

8. Each party shall bear its own costs.

Dated: 05/06/2020



Victoria Wood, Judge

Superior Court of California

County of Napa
825 Brown Street
Napa. CA 94559

Case #: 17CV000060 **Center for Biological Diversity and Sierra Club vs Napa County et al**

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Certificate of Mailing/Service

I hereby certify that I am not a party to this cause and that a copy of the foregoing document was:

☒ **mailed** (first class postage pre-paid) in a sealed envelope
☐ **certified copy faxed** to Napa Sheriff's Department at (707) 253-4193
☐ **personal service** – personally delivered to the party listed above
☐ **placed in attorney/agency folders** in the ☒ Criminal Courthouse ☐ Historic Courthouse

at Napa, California on this date and that this certificate is executed at Napa, California this Date. I am readily familiar with the Court's standard practice for collection and processing of correspondence for mailing within the United States Postal Service and, in the ordinary course of business, the correspondence would be deposited with the United States Postal Service on the day on which it is collected at the Courthouse.

Date: 5/6/2020

Robert E Fleshman, Court Executive Officer

J. Oliver

Julie Oliver, Deputy Court Executive Officer

Exhibit 2

October 1, 2021

Sent via email and FedEx

David Morrison
Director
Napa County Planning, Building, and Environmental Services
1195 Third Street, 2nd Floor
Napa, CA 94559

Re: Comments on the Addendum to the Environmental Impact Report for the Walt Ranch Vineyards Conversion (No. P11-00205-ECPA).

Dear David Morrison,

On behalf of the Center for Biological Diversity ("Center"), we are writing to express our concerns regarding the Addendum to the Environmental Impact Report for the Walt Ranch Vineyard Conservation ("Addendum") addressing the greenhouse gas ("GHG") emissions mitigation for the Walt Ranch Vineyards Conversion (No. P11-00205-ECPA) ("Project"). The proposed revisions to Mitigation Measures 6-1 ("MM 6-1") fail to use the best available science and fall short of the California Environmental Quality Act's ("CEQA") requirements to adequately mitigate the GHG impacts of the project. As detailed further below, the proposed mitigation is inadequate in part, because of the following:

- The Addendum fails to demonstrate that the Project's GHG emissions will be adequately mitigated with effective and enforceable measures. As proposed, the revised Mitigation Measure 6-1 does not comply with CEQA.
- The Addendum lacks substantial evidence that the proposed tree planting program is viable and would adequately mitigate the project's impacts. The Addendum needs to provide more information on the current Project site condition to analyze the adequacy and effectiveness of the proposed tree planting program.
- The proposed conservation easements are insufficient and are not clearly presented.
- The Addendum's carbon calculations are unclear and uncertain.

The Center is a non-profit, public interest environmental organization dedicated to the protection of native species and their habitats through science, policy, and environmental law. The Center has over 1.7 million members and online activists throughout California and the United States. The Center and its members have worked for many years to protect imperiled plants and wildlife, open space, air and water quality, and overall quality of life for people in Napa County.

I. CEQA requires a project's significant environmental impacts to be mitigated with effective and enforceable measures.

CEQA was enacted for the state to "take all action necessary to protect, rehabilitate, and enhance the environmental quality of the state" and to "[e]nsure that the long-term protection of the environment . . . shall be the guiding criterion in public decisions." (Cal. Pub. Res. Code § 21001.) Mitigation of a project's environmental impacts is one of the "most important" functions of CEQA. (*Sierra Club v. Gilroy City Council* (1990) 222 Cal.App.3d 30, 41.) Therefore, it is the "policy of the state that public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures which will avoid or substantially lessen the significant environmental effects of such projects." (Pub. Res. Code § 21002.) Ultimately, "the public agency bears the burden of affirmatively demonstrating that, notwithstanding a project's impact on the environment, the agency's approval of the proposed project followed meaningful consideration of alternatives and mitigation measures." (*Mountain Lion Foundation v. Fish & Game Com.* (1997) 16 Cal.4th 105, 134.) Here, if the County chooses to approve the Addendum and Mitigation Measure 6.1 as drafted, the County will not have fully met that burden.

The Environmental Impact Report ("EIR") for the Project concluded Walt Ranch will result in 105,849 metric tons of greenhouse gas emissions (GHG), largely due to the removal of trees to plant vineyards. At the time of Project approval, the County required the Project proponent Hall-Brambletree to mitigate for a little more than a quarter of those emissions, or approximately 27,528 $MTCO_2e$, through the preservation of 248 acres of oak woodland. Now, many years later and as the climate crisis only continues to worsen, the County has failed to ensure that the Project proponent will fully mitigate even those emissions by allowing a scientifically unsupported tree planting proposal and reducing the total number of preserved oak woodlands to 124 acres. Any substantive carbon gains from planting seedlings as part of the proposed tree planting program will not be seen for decades (Dybala et al., 2019), and as detailed further below, the gains are not guaranteed. The Addendum contains significant information gaps and uncertainties raising questions about the adequacy and effectiveness of the revised mitigation plan for the Project's significant GHG emissions. The CEQA Guidelines and relevant case law requires the County to make substantive revisions to the proposed MM 6-1 before adopting the Addendum. (Cal. Pub. Res. Code § 21002; § 21081.6(b); Guidelines § 15126.4(a)(2).)

II. The Addendum lacks substantial evidence that the proposed tree planting program is viable and would adequately mitigate the project's impacts.

According to the Addendum, the amended mitigation would include a tree planting program that would plant 16,790 oak trees as mitigation for the project's GHG impacts (from chopping down 14,281 trees) as well as an additional 16,790 oak trees to discourage an administrative appeal of the Project. (Hall Letter at 4) This would add up to a total of 33,580 replanted oak trees. However, there are a number of concerns regarding the validity and adequacy of the proposed tree planting program.

A. The Addendum lacks necessary information on the current Project site condition to analyze the adequacy and effectiveness of the proposed tree-planting program.

As an initial matter, the Addendum does not include vital information on the current conditions of the Project site, but instead makes unsupported assumptions and conclusions to support the inclusion of tree planting in MM 6-1. This approach violates CEQA and calls into question the reliability and adequacy of tree planting as a mitigation measure. (*City of Long Beach v. City of Los Angeles* (2018) 19 Cal.App.5th 465, 487.) The May 5, 2021 letter from Hall Brambletree Associates to Napa County in Attachment A of the Addendum ("Hall Letter") states that "[m]ost of the sequestered carbon that would be emitted by clearing trees and planting vines is already in the atmosphere" because 97% of the property burned either in the 2017 Atlas Fire and/or the 2020 Hennessey Fire. (Hall Letter at 1.) This is an unsubstantiated representation of the conditions of the Project area. This inaccurately assumes that the fires burned everything to the ground, no trees (or other vegetation) survived, no ecosystems that are either resilient to or dependent on wildfire, and that no carbon is stored in the soils or remaining tree trunks or other vegetation types. Neither the Addendum nor Hall Letter provide evidence to support this conclusion, nor could they. Nonetheless, this assumption is echoed throughout the Hall Letter and is used to bolsters the benefits and efficacy of the tree planting component of MM 6-1. (See Table 3 of the April 28, 2021 Walt Ranch Erosion Control Plan: Greenhouse Gas Mitigation Report in Attachment A of the Hall Letter ["Ascent Memo"].)

The Hall Letter assumes that fires burned uniformly throughout the area, which is inaccurate and not substantiated with any meaningful evidence. Fires are not uniform across a landscape. They have many different properties that affect their impacts on the environment. The frequency, intensity, severity, spatial complexity, and seasonality of wildfires all play a role in how ecosystems respond. Complete annihilation of oak woodlands in wildfires rarely happens, and the Project proponent provides no substantive analyses or evidence to support their assertions that most of the sequestered carbon has been emitted into the atmosphere already. Oak woodlands have evolved with wildfire due to lightning strikes and Indigenous cultural burning for millennia. For example, even when oaks are completely burned or topkilled, much of the stored carbon remains in dead tree trunks, and they can resprout basally (from the base of the tree) or epicormically (from the remaining tree trunk or branches) (see Figure 1 below). They are well adapted to wildfire, with trees and saplings often surviving wildfires, though survival rates can vary with fire severity and fire frequency (Ackerly et al., 2019; Holmes et al., 2008; Nemens et al., 2018).

Analysis of the 2017 Tubbs Fire provides an example of the varying wildfire characteristics and impacts to oak woodlands (Ackerly et al., 2019). According to the study, the Tubbs Fire was a mixed severity fire that burned 14,895 ha, of which 13,351 ha were in Sonoma County. Of the area burned in Sonoma County, 13.2% was unchanged, 22.1% experienced low-severity fire, 35.8% experienced medium-severity fire, and 28.9% experienced high-severity fire. Based on data from plots within Pepperwood Preserve, 73% of trees (diameter at breast height [DBH] > 1cm) and 50% of saplings (height > 50cm, DBH < 1cm) survived the fire, with higher

survival in the low- and medium-severity fire patches (Ackerly et al., 2019). Many of the trees had crown survival, meaning the trunks and top branches outlasted the fire and green foliage was observed during surveys conducted a year later in the summer of 2018, while those that were burned more severely or top-killed often had basal resprouting, which means they survived the fire and were regrowing within a year of burning (Ackerly et al., 2019). Other studies have also shown the resilience of oak species to wildfire; a review found that wildfire mortality rates were 1-11% for mature oaks, 2-10% for saplings (with 75-90% top-killed and resprouting), and 17-52% for seedlings (Holmes et al., 2008), and after multiple fires 97% of top-killed oaks resprouted (Nemens et al., 2018).



Figure 1. Basal resprouting of topkilled coast live oak sapling (top left) and black oak mature trees (top right). Epicormic sprouting of the same coast live oak tree 4 and 17 months after fire (bottom left and bottom right, respectively). Photos: Bryant Baker.

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Therefore, not only is there carbon still being stored in the remaining tree trunks or boles that did not burn to ash in the fire, but many of the trees may still be alive and continuing to capture carbon (in their above-ground biomass as regrowth and in their roots and soils). In addition, the soils and other vegetation types are also carbon sinks, and digging them up to plant

vines would release even more carbon. Stating that the Project would not have any impacts on carbon emissions because the recent fires already released most of the sequestered carbon in the Project area is an inaccurate representation of the conditions at the site as well as the Project's impacts to GHG emissions and climate change. The assertion fails to account for the fire resilience of oak woodlands and other habitat types and the fire severity throughout the site. Such assertions have the potential to overestimate the benefits of and over-credit the proposed tree planting mitigation.

According to the "Ascent Memo," areas that were burned solely by the Atlas Fire are already regrowing. But oaks in areas burned in the Hennessey Fire are likely also recovering. And although the condition of the areas burned by both fires is unclear, fire return intervals in oak woodlands are estimated to be less than 20 years (Van de Water & Safford, 2011) and a recent study found that 97% of top-killed oaks resprouted in an area that had burned twice in a short timeframe (Nemens et al., 2018). The areas that burned in the Hennessey Fire or both the Hennessey and Atlas fires should not be immediately written off as a dead zone of oaks or other fire-resilient vegetation. The oak woodlands in these areas will likely recover on their own.

Therefore, the assertions in the Hall Letter and Table 3 of Ascent Memo that such plantings would have additive carbon storage value are based on the assumption that no trees or other vegetation survived the recent fires. This assumption is not substantiated or grounded in the best available science. More analyses regarding fire severity and tree survival in the Project area are needed to more accurately estimate the number of individual oaks that did not survive in the burned areas. Without knowing the severity of the fires that burned through the Project area or the number of trees that survived (by remaining standing and/or resprouting), the public is unable to determine if the proposed tree planting program will truly be additive or effectively mitigate the Project's GHG impacts and if the Addendum meets CEQA's mandates.*(City of Long Beach v. City of Los Angeles* (2018) 19 Cal.App.5th 465.)

Additionally, the estimated oak woodland tree densities and number of trees lost provided in Table 3 of the Ascent Memo are unsubstantiated in science and lack evidentiary support. The Ascent Memo calculates the tree densities and trees lost without differentiating between mature trees, saplings and seedlings. (Ascent Memo at 6). But the carbon in these ecosystems is stored mostly in large, mature oak trees that have massive trunks and branches, and those trees likely survived the wildfire(s). Smaller saplings and seedlings make up a small proportion of the stored carbon and could be lost to wildfire, herbivory, or competition, with little impact on the amount of carbon storage in the ecosystem. Therefore, these calculations should have been more refined with mature trees, saplings, and seedlings separated out so that a more accurate estimate of carbon gains from the tree planting program could be provided. The County should take into account that, due to the proposed Project, carbon loss of tree removal will be immediate, while any gains from mitigation is slow and uncertain. The effectiveness and adequacy of the mitigation from the proposed tree planting program is questionable, and any substantive carbon gains from planting seedlings will not be seen for decades (Dybala et al., 2019). Carbon storage gains need to be more immediate to combat the climate crisis. Therefore, unless the County can provide substantial evidence demonstrating the effectiveness and adequacy of the tree planting

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program, the County should require the conservation of existing habitats to mitigate the Project's GHG emissions as required by CEQA. (*Sacramento Old City Assn. v. City Council* (1991) 229 Cal.App.3d 1011, 1027.)

B. The tree planting mitigation is inconsistent, flawed and inadequate.

In addition to the significant information gaps in the Addendum, the proposed revision to MM 6-1 to replace oak woodland preservation with tree planting is inconsistent, flawed and inadequate for a number of reasons.

First, according to the Ascent Memo, "[o]ak woodlands accounted for … 68% of the burned area eligible for planting," (Ascent Memo at 6) which suggests 32% consisted of other habitat types. However, this is inconsistent with the concluding paragraph of the Ascent Memo, which states that "the total area of eligible planting areas is 1,025 acres, 901 acres of which were originally oak woodlands prior to the recent wildfires" (Ascent Memo at 9), which would be 88% of the burned area eligible for planting. This is inconsistent and should be clarified.

Second, if we consider 12-32% of the eligible planting area, there is a substantial portion of the eligible planting area that did not support oak woodlands at the pre-2016 baseline. Planting oak trees in areas that are comprised of grasslands and shrublands and did not historically have oaks could involve removing other carbon-sequestering vegetation that we know can grow there and replacing it with oak trees that may or may not survive there. Other areas where planting oaks would have added benefits to carbon storage and biodiversity, including fallowed agricultural lands, previously logged lands, or urban areas, could be considered as potential planting areas. Replanting and restoration of oaks require thoughtful planning to ensure the appropriate conditions are present to increase the chances of successful mitigation. As proposed, the Addendum fails to meet CEQA's requirement that the efficacy of an adopted mitigation measure must be supported by substantial evidence. (*Tracy First v. City of Tracy* (2009) 177 Cal.App.4th 912, 937.) 11

Third, the Project proponent's threat to reduce the number of trees that will be planted based on whether a challenge is filed against the Addendum raises significant concerns. According to the Addendum, "the applicant is proposing to reduce the number of trees to be planted from 33,580 to 16,790 trees in the event the County's decision to approve the revised GHG mitigation is appealed or challenged in court." (Addendum at 2-3.) Courts have rejected attempts by government agencies to discourage citizens from initiating legal remedies because such actions violate an individual's First Amendment rights. (*See BE&K Constr. Co. v. NLRB* (2002) 536 U.S. 516, 524-525; *Western Nat'l Mut. Ins. Co. v. Lennes [In re Workers' Compensation Refund]* (8th Cir. 1995) 46 F.3d 813, 823.) The Project proponent's attempt and the County's apparent acquiescence to hold hostage environmental mitigation and conservation benefits to the community in exchange for silence from concerned citizens is undemocratic. The Project proponent's apparent ability to plant an additional 16,790 trees also raises concerns whether all feasible mitigation measures to address the Project's significant GHG emissions were 12

adopted. Regardless of whether an appeal is filed, the Addendum should require the planting of 33,580 trees and any alternative approach would be contrary to public policy and case law.

And finally, the Addendum's requirement that monitoring for survival of seedlings last only five years is wholly inadequate. Oak mitigation plantings must be maintained for a minimum of seven years per Public Resources Code §21083.4. Scientists recommend 15-20 years or more of monitoring to determine the success, or lack thereof, of enhanced, restored, or created habitat (Mitsch & Wilson, 1996; Zedler & Callaway, 1999). Higher mitigation ratios coupled with extended years of effective monitoring and adaptive management strategies are needed to improve chances of successfully mitigating impacts (Ambrose et al., 2006; Moilanen et al., 2009; Sudol & Ambrose, 2002). We urge the County to revise the Addendum to address these concerns to ensure that the tree planting portion of the MM 6-1 is effective, adequate and meets CEQA's requirements. (*Sierra Club v. County of San Diego* (2014) 231 Cal.App.4th 1152; *POET, LLC v. State Air Resources Bd.* (2013) 218 Cal.App.4th 681.) 13

III. The proposed conservation easements are insufficient and are not clearly presented.

The Addendum includes a reduction in required mitigation in MM 6-1 from 248 acres to 124 acres of woodland habitat, arguing that the 124 acres "would be in addition to the 525 acres required to be permanently protected offset impacts related to biological resources, ultimately resulting in the protection of no less than 649 acres." (Addendum at 2.) The Hall Letter attempts to further justify this approach by claiming that that the acreage protected is "well over double the size of the project footprint of 316 acres." (Hall Letter at 2). However, the preservation of 525 acres to address the Project's significant impacts to wildlife and other biological resources should not be used to downplay the Project's significant GHG emissions or that much of the Project site is not suitable for vineyard development. The fact remains that the revised MM 6-1 reduces the acres of oak woodland the project proponent will be required to permanently protect, raising significant concerns about the efficacy of the MM 6-1 to reduce the Project's GHG emissions. 14

For example, it is not clear from the Addendum or the Hall Letter how the Project proponent will fully meet the now reduced requirement to preserve 124 acres. The Hall Letter "estimate[s] there will be at least 110 acres of woodland habitat" within the proposed conservation easement provided in Figure 1, which is 14 acres less than the proposed 124 acres. (Hall Letter at 2). The Hall Letter then goes on to state that the Project proponent has identified "a total of over 35 acres of suitable woodland habitat" as available outside of the proposed 110-acre easement. (Hall Letter at 2). However, Figures 1 and 2 of the Letter do not support these statements. First, the figures show 124.2 acres of "Available Acceptable Woodland in Easement" in dark green within the proposed easement area. But according to the text, that area only covers 110 acres. Second, the light green areas identified as "Available Woodland Outside of Easement" seem to cover much more than 35 acres. Third, the hatched purple polygons in Figure 2 are labeled as "Acceptable Woodland Habitat in Mitigation Easement (35.1 acres)," but many 15

of those polygons do not appear to include the light green polygons that indicate the "Acceptable Woodland Outside of Easement."

Therefore, the figures and the text do not match, making it difficult to understand what or where the mitigation will actually be. This lack of clarity and uncertainty violates CEQA's requirements for mitigation. (See *Cleveland Nat'l Forest Found. v San Diego Ass'n of Gov'ts* (2017) 17 Cal.App.5th 413, 433.) The location of the remaining 35 acres is important because disconnected small patches of land will be subject to edge effects and degradation, which will make them less effective at carbon storage compared to healthy woodlands. The public would be better able to understand the effectiveness of the proposed mitigation if the development footprint and the undevelopable areas were included in the maps. As currently presented, this information is insufficient to determine if this mitigation is adequate or meets CEQA requirements. (*San Joaquin Raptor* Rescue *Center v. County of Merced* (2007) 149 Cal.App.4th 645.) To the extent feasible, large, contiguous conservation areas and connectivity among the heterogeneous habitats should be prioritized to minimize habitat degradation that could negatively affect carbon storage capacity. That could include preserving appropriate mitigation lands adjacent to undevelopable lands. However, in contravention of CEQA's requirements, the public cannot ascertain the adequacy, certainty or effectiveness of the proposed mitigation as it is currently presented. (See *Preserve Wild Santee v. City of Santee* (2012) 210 Cal.App.4th 260.)

The Hall Letter also argues that "[i]dentifying 248 acres of woodland habitat that is not otherwise restricted due to steep slopes, watersheds, or the existing easement...would result in a patchwork of small "blobs" scattered throughout the property," which led them to "focus[] primarily on a large contiguous area that can be better-preserved, monitored and enforced through conservation easements" and "arrive[] at the not-less-than-124-acre proposal." While the preservation of more contiguous and connected conservation lands is a laudable goal, it is unclear why a contiguous 110-acre easement combined with other smaller areas throughout the Project site could not have been used to meet the original 248-acre mitigation requirement. As originally drafted and adopted, MM 6-1's requirement to conserve 248 acres to mitigate impacts to 316 acres of habitat was only a 0.78:1 mitigation ratio, and the proposed amendment of 124 mitigation acres is a 0.39:1 mitigation ratio. Both of these ratios are severely insufficient in light of the on-going climate crisis and extinction crisis. 16

The Addendum and proposed revisions to MM 6-1 requirements to preserve oak woodlands are inadequate, unclear and potentially ineffective. CEQA requires the Addendum be revised to address these outstanding concerns with the proposed revisions to MM 6-1. (*See* CA Pub. Res. Code § 21002, Guidelines § 15364; *Gray v. County of Madera* (2008) 167 Cal.App.4th 1099.)

IV. The Addendum's carbon calculations are inconsistent, unclear, and confusing.

According to the Ascent Memo, GHG emissions due to tree removal were calculated using the CalEEMod emissions factor for sequestration loss of 0.0367 $MTCO_2e$/tree over 100 years for 28,616 trees, which came out to 105,021 (Report, Table 1, at 2). But the preservation of

248 acres of woodland carbon sequestration was calculated using the CalEEMod emissions factor for land use change of 111 $MTCO_2e$/acre for an estimated 248 acres, which came out to 27,528 (26% of the calculated carbon emissions from construction). It is unclear why the calculation methods differ between calculating losses and gains. Why is one calculation based on trees and the other calculation based on acres? The calculation for loss of carbon sequestration from tree removal and gains in carbon sequestration from preservation should be calculated consistently so that the public can fully assess the adequacy of the mitigation for the Project's GHG emissions. (*City of Long Beach v. City of Los Angeles* (2018) 19 Cal.App.5th 465, 487.) 17

V. Conclusion

We urge the County to reject, or at a minimum substantially revise, the proposed Addendum until the issues discussed above are adequately addressed. The County is not limited to measures proposed by the Applicant but must instead adopt an addendum that reflects the best available science and fully complies with the requirements of CEQA. Given the recent IPCC report emphasizing the severity of the climate crisis and predicting that global warming will reach or exceed 1.5C if we do not take immediate, rapid, and large-scale action to reduce GHG emissions (IPCC, 2021), the County can and should do more to address, reduce, and mitigate the GHG emissions from the Project.

Thank you for the opportunity to submit comments on the proposed Addendum.

Sincerely,



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References

Ackerly, D. D., Kozanitas, M., Papper, P., Oldfather, M., & Clark, M. (2019). Mortality and Resprouting in California Oak Woodlands Following Mixed-Severity Wildfire. *International Oaks, 30*, 23–30.

Ambrose, R. F., Callaway, J. C., & Lee, S. F. (2006). An evaluation of compensatory mitigation projects permitted under Clean Water Act Section 401 by the Los Angeles Regional Quality Control Board, 1991-2002. In *California State Water Resources Control Board* (Issue August).

Axelrod, J. (2017, December 13). California Wildfires Spark Issues of Bilingual Emergency Communications. *American City and County*.

Balch, J. K., Bradley, B. A., Abatzoglou, J. T., Nagy, R. C., Fusco, E. J., & Mahood, A. L. (2017). Human-started wildfires expand the fire niche across the United States. *Proceedings of the National Academy of Sciences, 114*(11), 2946–2951.

Banse, T. (2018, April 20). How Do You Say 'Evacuate' in Tagalog? In a Disaster, English Isn't Always Enough. *Northwest Public Broadcasting*.

Davies, I. P., Haugo, R. D., Robertson, J. C., & Levin, P. S. (2018). The unequal vulnerability of communities of color to wildfire. *PLoS ONE, 13*(11), 1–15.

Davis, M. (2018, December 5). A tale of two wildfires: devastation highlights California's stark divide. *The Guardian*.

Delfino, R. J., Brummel, S., Wu, J., Stern, H., Ostro, B., Lipsett, M., Winer, A., Street, D. H., Zhang, L., Tjoa, T., & Gillen, D. L. (2009). The relationship of respiratory and cardiovascular hospital admissions to the southern California wildfires of 2003. *Occupational and Environmental Medicine, 66*(3), 189–197.

Dybala, K. E., Steger, K., Walsh, R. G., Smart, D. R., Gardali, T., & Seavy, N. E. (2019). Optimizing carbon storage and biodiversity co-benefits in reforested riparian zones. *Journal of Applied Ecology, 56*(2), 343–353. https://doi.org/10.1111/1365-2664.13272

Fothergill, A., & Peak, L. A. (2004). Poverty and disasters in the United States: A review of recent sociological findings. *Natural Hazards, 34*, 89–110.

Gerety, R. M. (2015, September 1). Farm Workers in Wildfire Areas Aren't Always Aware of Evacuation Plans. *National Public Radio Morning Edition*.

Harnett, S. (2018, September 19). Low-Income Communities Struggle to Recover After a Wildfire. *KQED*.

Herrera, J. (2018, November 14). As Wildire Smoke Fills the Air, Farmworkers Continue to Labor in the Fields. *Pacific Standard*.

Holmes, K. A., Veblen, K. E., Young, T. P., & Berry, A. M. (2008). California Oaks and Fire: A Review and Case Study. *Proceedings of the Sixth California Oak Symposium: Today's Challenges, Tomorrow's Opportunities.*, 551–565.

Hutchinson, J. A., Vargo, J., Milet, M., French, N. H. F., Billmire, M., Johnson, J., & Hoshiko, S. (2018). The San Diego 2007 wildfires and Medi-Cal emergency department presentations, inpatient hospitalizations, and outpatient visits: An observational study of smoke exposure periods and a bidirectional case-crossover analysis. *PLoS Medicine, 15*(7), e1002601.

IPCC. (2021). *Climate Change 2021: The Physical Science Basis*.

Jones, C. G., Rappold, A. G., Vargo, J., Cascio, W. E., Kharrazi, M., McNally, B., & Hoshiko, S.

(2020). Out-of-Hospital Cardiac Arrests and Wildfire-Related Particulate Matter During 2015-2017 California Wildfires. *Journal of the American Heart Association*, *9*(8), e014125.
Kardas-Nelson, M., Alvarenga, J., & Tuirán, R. A. (2020, October 6). Farmworkers forced to put harvest over health during wildfires. *Investigate West*.
Künzli, N., Avol, E., Wu, J., Gauderman, W. J., Rappaport, E., Millstein, J., Bennion, J., McConnell, R., Gilliland, F. D., Berhane, K., Lurmann, F., Winer, A., & Peters, J. M. (2006). Health effects of the 2003 Southern California wildfires on children. *American Journal of Respiratory and Critical Care Medicine*, *174*, 1221–1228.
Liu, J. C., Wilson, A., Mickley, L. J., Ebisu, K., Sulprizio, M. P., Wang, Y., Peng, R. D., Yue, X., Dominici, F., & Bell, M. L. (2017). Who among the elderly is most vulnerable to exposure to and health risks of fine particulate matter from wildfire smoke? *American Journal of Epidemiology*, *186*(6), 730–735.
Mitsch, W. J., & Wilson, R. F. (1996). Improving the success of wetland creation and restoration with know-how, time, and self-design. *Ecological Applications*, *6*(1), 16–17.
Mobley, E. (2020, October 9). Wildfires have ravaged Napa Valley. Will California's wine industry survive? *National Geographic*.
Moilanen, A., Van Teeffelen, A. J. A., Ben-Haim, Y., & Ferrier, S. (2009). How much compensation is enough? A framework for incorporating uncertainty and time discounting when calculating offset ratios for impacted habitat. *Restoration Ecology*, *17*(4), 470–478.
Morris, B. (2019, April 23). How the Ultra-Wealthy are Making Themselves Immune to Natural Disasters. *LA Magazine*.
Morrison, P. H. (2007). *Roads and Wildfires*.
Napa County. (2010). *Napa County Voluntary Oak Woodland Management Plan*.
Nemens, D. G., Varner, J. M., Kidd, K. R., & Wing, B. (2018). Do repeated wildfires promote restoration of oak woodlands in mixed-conifer landscapes? *Forest Ecology and Management*, *427*, 143–151.
Parshley, L. (2018, December 7). The Lingering Effects of Wildfires Will Disproportionately Hurt People of Color. *Vice*, 1–11.
Radeloff, V. C., Helmers, D. P., Kramer, H. A., Mockrin, M. H., Alexandre, P. M., Bar-Massada, A., Butsic, V., Hawbaker, T. J., Martinuzzi, S., Syphard, A. D., & Stewart, S. I. (2018). Rapid growth of the US wildland-urban interface raises wildfire risk. *Proceedings of the National Academy of Sciences*, *115*(13), 3314–3319.
Reid, C. E., Jerrett, M., Tager, I. B., Petersen, M. L., Mann, J. K., & Balmes, J. R. (2016). Differential respiratory health effects from the 2008 northern California wildfires: A spatiotemporal approach. *Environmental Research*, *150*, 227–235.
Richards, R. (2019, July 25). After the Fire: Vulnerable Communities Respond and Rebuild. *Center for American Progress*.
Sudol, M. F., & Ambrose, R. F. (2002). The US Clean Water Act and habitat replacement: Evaluation of mitigation sites in Orange County, California, USA. *Environmental Management*, *30*(5), 727–734.
Syphard, A. D., & Keeley, J. E. (2020). Why are so many structures burning in California. *Fremontia*, *47*(2), 28–35.
Syphard, A. D., Radeloff, V. C., Keeley, J. E., Hawbaker, T. J., Clayton, M. K., Stewart, S. I., Hammer, R. B., Syphard, A. D., Radeloff, V. C., Keeley, J. E., Hawbaker, T. J., Stewart, S. I., & Hammer, R. B. (2007). Human influence on California fire regimes. *Ecological Society of America*, *17*(5), 1388–1402.

Van de Water, K. M., & Safford, H. D. (2011). A summary of fire frequency estimates for California vegetation before Euro-American settlement. *Fire Ecology*, *7*(3), 26–58.
Wilkinson, F. (2021, July 4). The burning question for California wine country. *Bloomberg*.
Yap, T. A., Rose, J. P., Broderick, P., & Prabhala, A. (2021). *Built to Burn: California's Wildlands Developments Are Playing With Fire*.
Zedler, J. B., & Callaway, J. C. (1999). Tracking wetland restoration: Do mitigation sites follow desired trajectories? *Restoration Ecology*, *7*(1), 69–73.

Exhibit 3

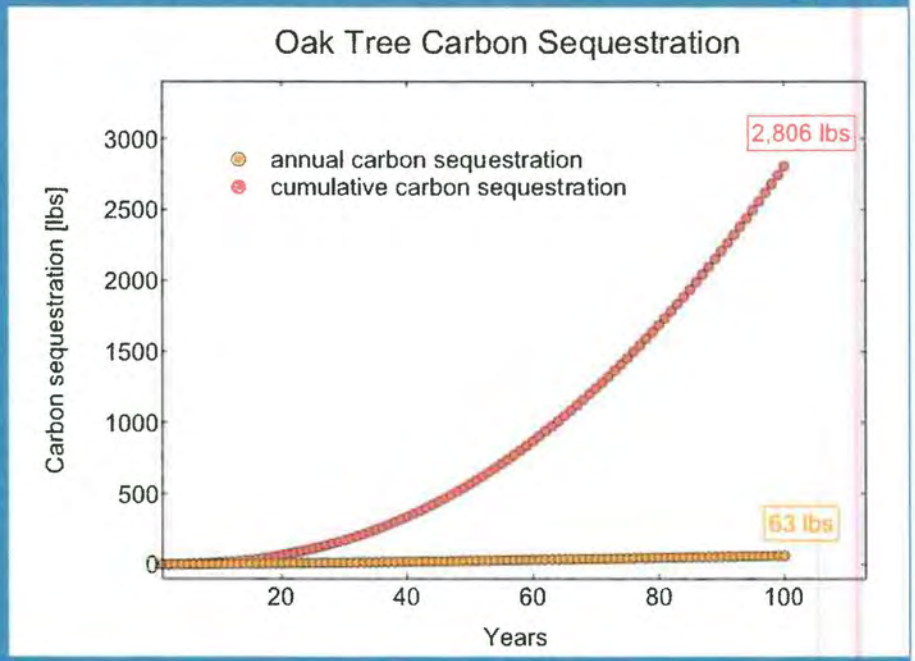
Are We Losing Faster Than We're Gaining?

Katie Stilwell
with Napa Climate NOW!

In Napa County, we're losing faster than we're gaining!

We are losing the ability to sequester carbon faster than we're gaining sequestration potential with newly planted trees.

Because we need to get to net zero emissions by/before 2030, we can no longer cut down forests and take decades to regrow that lost carbon sequestration and stocking.

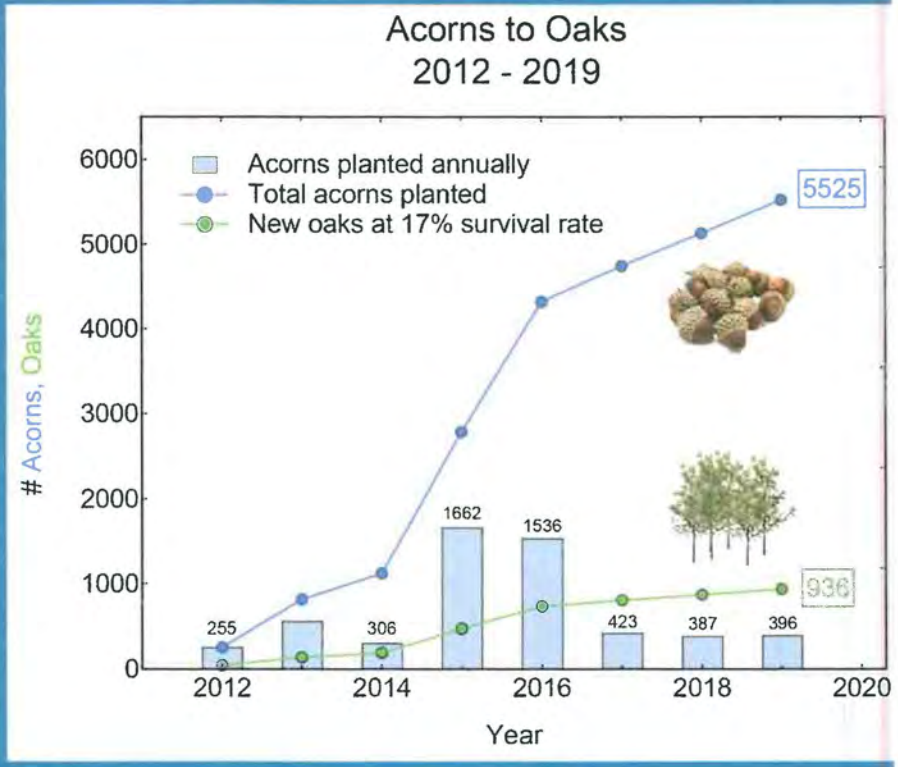


Placing responsibility on our youth

Acorns to Oaks Program 2012-2019[1]

Instilling a conservation ethic in youth
5,525 acorns planted
17% survival rate -- 936 surviving oaks
4 years average seedling age

All of the surviving seedlings have sequestered roughly half the CO2 that a mature oak has sequestered.



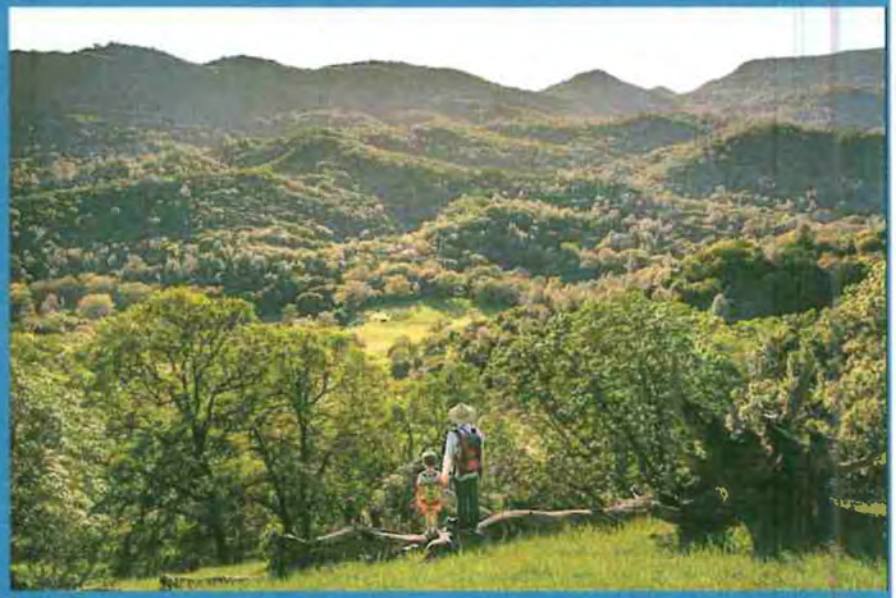
WHY IT'S A PROBLEM

Rational/Emotional connection to home

Increasing anxiety among youth regarding climate crisis

Politicized science > Env crisis and COVID

It's become about ethics: **short-term private gain vs. long-term health of the commons** (air, environment)



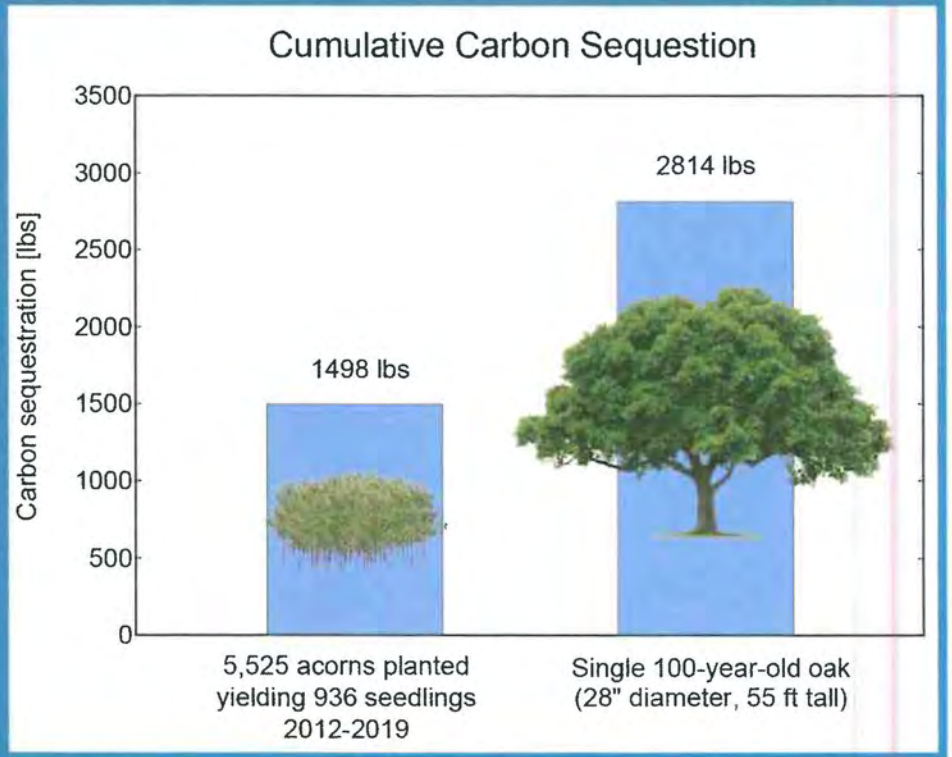
WE URGENTLY NEED TO:

Practice proforestation

Proforestation: "growing existing forests intact to their ecological potential" [5]

Stop deforestation of Napa Valley

Deforestation causes a loss of sequestration potential and also re-releases carbon

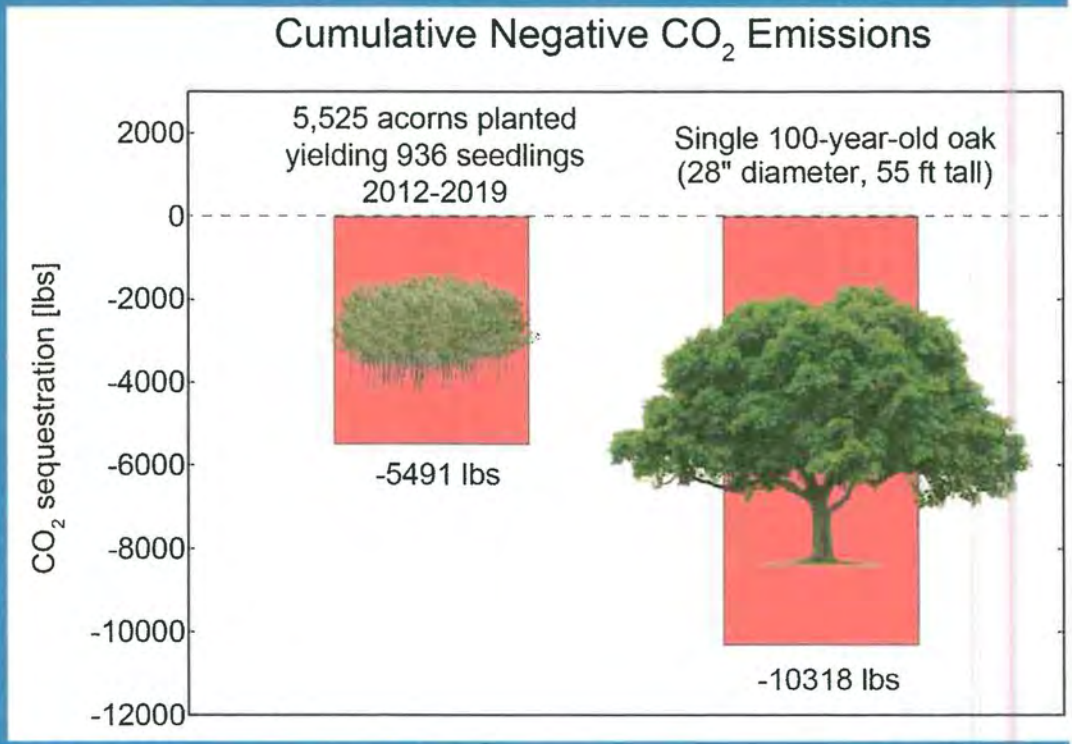


WE URGENTLY NEED TO:

You can also think of it like this!

-negative emissions: trees taking carbon dioxide out of the air

Bottom line: there's a difference of about half the environmental benefit between a single mature oak and all the surviving seedlings.



WE URGENTLY NEED TO:

Respect Napa County's Policy CON-65:

"the County shall ...strive to maintain and enhance the County's current level of carbon sequestration functions" [4]



Appendix:

1: https://naparcd.org/

2: https://naparcd.org/wp-content/uploads/2017/10/8-Calculating-CO2-Sequestration.pdf

3: http://www.unm.edu/~jbrink/365/Documents/Calculating_tree_carbon.pdf

4: https://www.countyofnapa.org/DocumentCenter/View/3334/Napa-County-General-Plan---Complete-Document-PDF

5: https://www.frontiersin.org/articles/10.3389/ffgc.2019.00027/full

Photo Credits: Hardy Wilson (slide 4); Duane Cronk (slide 7)

References

PERSPECTIVES

ECOLOGY

Tree planting is not a simple solution

Tree planting must be carefully planned and implemented to achieve desired outcomes

By **Karen D. Holl**[1] *and* **Pedro H. S. Brancalion**[2]



This mixed-species tree-planting project is part of a larger-scale initiative to restore 15 million hectares of Brazil's Atlantic Forest.

PHOTO: HOLL ET AL.

A plethora of articles suggest that tree planting can overcome a host of environmental problems, including climate change, water shortages, and the sixth mass extinction (*1*–*3*). Business leaders and politicians have jumped on the tree-planting bandwagon, and numerous nonprofit organizations and governments worldwide have started initiatives to plant billions or even trillions of trees for a host of social, ecological, and aesthetic reasons. Well-planned tree-planting projects are an important component of global efforts to improve ecological and human well-being. But tree planting becomes problematic when it is promoted as a simple, silver bullet solution and overshadows other actions that have greater potential for addressing the drivers of specific environmental problems, such as taking bold and rapid steps to reduce deforestation and greenhouse gas emissions.

These ambitious tree-planting efforts (examples in supplementary table S1) are mostly well intentioned and have numerous potential benefits, such as conserving biodiversity, improving water quality, providing shade in urban areas, and sequestering carbon (*1*, *3*). Nonetheless, the widespread obsession over planting trees can lead to negative consequences, which depend strongly on both how and where trees are planted (see the table). For example, whereas tree planting often enhances floral and faunal diversity, planting trees in historic grasslands and savannas can harm native ecosystems and species (*4*). Likewise, trees are often suggested as an important income source for small landholders but may increase social inequity and dispossess local people from land if tree-planting programs are imposed by governments and external investors without stakeholder engagement (*5*). Repeatedly, top-down reforestation projects have failed because the planted trees are not maintained, farmers use the land for livestock grazing, or the land is recleared.

The massive Chinese government Grain-for-Green tree-planting program, which cost an estimated $66 billion, illustrates a number of these trade-offs. The program is credited with increasing tree cover by 32% and reducing soil erosion by 45% in southwestern China over a 10- to 15-year period (*6*). But like many large-scale reforestation programs, most new tree cover is composed of one or a few non-native species that have much lower biodiversity than native forests (*6*). Moreover, large-scale tree planting in the semiarid Loess Plateau in central China has reduced river runoff and in turn the amount of water available for human activities, owing to the large amount of water transpired by rapidly growing trees (*7*). Most of the trees for this program were planted in former agricultural land, resulting in a 24% decrease in cropland. During the same time period, native forest cover decreased by 7% (*6*). This illustrates a major overarching concern about tree planting, which is the displacement of agriculture from the land being reforested to areas occupied by native forests, thus resulting in further deforestation (*8*).

Reforestation projects can be an important component of ensuring the well-being of the planet in coming decades, but only if they are tailored to the local socioecological context and consider potential trade-offs. To achieve the desired outcomes, tree-planting efforts must be integrated as one piece of a multifaceted approach to address complex environmental problems; be carefully planned to consider where and how to most effectively realize specific project goals; and include a long-term commitment to land protection, management, and funding.

The first priority to increase the overall number of trees on the planet must be to reduce the current rapid rate of forest clearing and degradation in many areas of the world. The immediate response of the G7 nations to the 2019 Amazon fires was to offer funding to reforest these areas, rather than to address the core issues of enforcing laws, protecting lands of indigenous people,

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and providing incentives to landowners to maintain forest cover. The simplistic assumption that tree planting can immediately compensate for clearing intact forest is not uncommon. Nonetheless, a large body of literature shows that even the best-planned restoration projects rarely fully recover the biodiversity of intact forest, owing to a lack of sources of forest-dependent flora and fauna in deforested landscapes, as well as degraded abiotic conditions resulting from anthropogenic activities (*9*).

Tree planting is not a substitute for taking rapid and drastic actions to reduce greenhouse gas emissions. Certainly, planting trees in formerly forested lands is one of the best options to offset a portion of anthropogenic carbon emissions, but increasing global tree cover will only constitute a fraction of the carbon reductions needed to keep temperature increases below 1.5° to 2°C (*4*). Potential carbon sequestration estimates of increasing tree cover range more than 10-fold, depending on assumptions about the rate of carbon uptake, the amount of land considered appropriate for reforestation, and how long those trees remain on the land (*2*, *3*, *10*). Moreover, much uncertainty remains about how much carbon trees will sequester in the future, given that increasing drought and temperatures from climate change can lead to substantial tree mortality either directly or indirectly through feedback loops involving fire and insect outbreaks (*11*). Conversely, some high-latitude areas that were unsuitable for trees may become favorable in the future.

Maximizing the benefits of tree planting requires balancing multiple ecological and social goals to prioritize where to increase tree cover regionally and globally. Some global maps estimate potential land area for reforestation without factoring in that people need places to live, produce food, and extract natural resources (*12*). Large-scale reforestation may be feasible in some areas, particularly those in public ownership, but reforestation will mostly occur in multiuse landscapes. Several recent studies suggest that prioritizing forest restoration on the basis of criteria, such as past land use, potential for natural regrowth of forest, conservation value, and opportunity cost from other land uses, can increase feasibility and improve reforestation success (*13*). For example, choosing appropriate locations for tree planting in the Brazilian Atlantic Forest biome can triple conservation gains and halve costs (*14*). Large-scale planning is more likely to result in successful reforestation projects over the long term and prevent deforestation elsewhere. But recognizing competing land uses means that the actual land area feasible for reforestation is much lower than the amount proposed by some ambitious global reforestation maps and national commitments (*12*).

Contrasting tree-planting outcomes

Tree-planting efforts can have both negative and positive ecological and social outcomes depending on whether the location-specific pros and cons of different alternatives are rigorously evaluated, and projects are comprehensively planned in consultation with all stakeholders.

Unintended negative effects

- Reduced water supply
- Destruction of native grasslands and spread of invasive tree species
- Increased social inequity
- Displacement of farmland
- Increased deforestation

Potential beneficial outcomes

- Greater carbon and water storage
- Reduced soil erosion
- Increased landscape connectivity and native biodiversity
- Provision of food, wood, and shade
- Income generation

Successful tree planting requires careful planning at the project level, which starts by working with all stakeholders to clearly identify project goals. People plant trees for many different reasons, such as restoring forest, sequestering carbon, providing income from timber harvesting, or improving water quality. A single tree-planting project may achieve multiple goals, but it is rarely possible to simultaneously maximize them all, because goals often conflict, and prioritizing one goal may result in other undesirable outcomes. Clear goals are key to being able to evaluate whether the project was successful and to selecting the most cost-effective way to increase the number of trees. For example, if a primary project goal is to restore historically forested habitat, simply allowing the forest to regrow naturally often results in the establishment of more trees at a much lower cost than actively planting trees, particularly in locations with nearby seed sources and less-intensive previous land use. By contrast, if the goal is to provide landowners with fruit trees or species with valuable timber, then plantations of non-native species may be the most suitable approach. Many additional questions must be addressed prior to project implementation, such as potential unintended consequences of tree planting, which species to plant, how landowners will be compensated for lost income, and who is responsible for maintaining trees over the long term.

Most projects set targets of how many trees to plant (table S1), rather than how many survive over time or, more importantly, whether the desired benefits are achieved. By contrast, most tree-planting goals, such as carbon sequestration and providing timber and nontimber forest products to landowners, require decades to achieve. This short-term view has resulted in large expenditures on tree-planting efforts that have failed. For example, approximately $13 million were spent to plant mangrove trees in Sri Lanka following the Indian Ocean tsunami in 2004, yet monitoring of 23 restoration planting sites five or more years later found that more than 75% of the sites had <10% tree survival because of poor project planning and lack of seedling maintenance (*15*).

Hence, successful tree-planting projects require a multiyear commitment to maintaining trees, monitoring whether project goals have been achieved, and providing funding for corrective actions if they are not. Using this adaptive management approach will certainly increase the price tag of tree planting, but it is money better spent than simply planting trees that mostly do not survive.

To realize the potential benefits of increasing tree cover, it is essential that tree-planting projects include thorough goal setting, community involvement, planning, and implementation, and that the time scale for maintenance and monitoring is sufficient. Otherwise the extensive human energy and financial resources invested in tree planting are likely to be wasted and have undesirable consequences, thus undermining the potential of this activity to deliver the expected environmental benefits that are critically needed for humans and nature in this time of rapid global change.

REFERENCES AND NOTES

1. W. D. Newmark *et al.*, *Proc. Natl. Acad. Sci. U.S.A.* **114**, 9635 (2017).
2. J.-F. Bastin *et al.*, *Science* **365**, 76 (2019).
3. B. W. Griscom *et al.*, *Proc. Natl. Acad. Sci. U.S.A.* **114**, 11645 (2017).
4. J. W. Veldman *et al.*, *Science* **366**, eaay7976 (2019).
5. A. Scheidel, C. Work, *Land Use Policy* **77**, 9 (2018).
6. F. Hua *et al.*, *Biol. Conserv.* **222**, 113 (2018).
7. X. Feng *et al.*, *Nat. Clim. Chang.* **6**, 1019 (2016).
8. P. Meyfroidt *et al.*, *Proc. Natl. Acad. Sci. U.S.A.* **107**, 20917 (2010).
9. M. Curran *et al.*, *Ecol. Appl.* **24**, 617 (2014).
10. S. Fuss *et al.*, *Environ. Res. Lett.* **13**, 063002 (2018).
11. W. R. L. Anderegg *et al.*, *Nat. Clim. Chang.* **3**, 30 (2013).
12. R. Delzeit *et al.*, *Science* **366**, 316 (2019).
13. P. H. S. Brancalion *et al.*, *Sci. Adv.* **5**, eaav3223 (2019).
14. B. B. N. Strassburg *et al.*, *Nat. Ecol. Evol.* **3**, 62 (2019).
15. K. A. S. Kodikara *et al.*, *Restor. Ecol.* **25**, 705 (2017).

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SUPPLEMENTARY MATERIALS

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Science

Tree planting is not a simple solution

Karen D. Holl and Pedro H. S. Brancalion

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LONG-TERM GROWTH AND PERSISTENCE OF BLUE OAK (*QUERCUS DOUGLASII*) SEEDLINGS IN A CALIFORNIA OAK SAVANNA

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ABSTRACT

We report on growth and survivorship of two cohorts of blue oaks *Quercus douglasii* Hook. & Arn. (Fagaceae) monitored at Hastings Reservation in Monterey County, California, the first growing in an unprotected old field and measured as seedlings in 1965 and the second planted as acorns in 1985 in several sites differing in their degree of protection from grazing. Growth of all individuals was extremely slow: among those surviving in the first cohort, mean (± SD) height in 2006 was only 76.7 ± 45.0 cm for an average growth rate of 1.8 cm yr $^{-1}$, and only one of the original 73 oaks had grown taller than 1.5 m while one was still a seedling 28 cm in height 41 yr after being first marked. Of the second cohort, mean height 21 yr after planting was 54.3 ± 31.4 cm. None of these latter individuals had grown out of the sapling stage while 25% were still seedlings < 30 cm in height. Growth of this second cohort was significantly greater when protected from grazing and when growing in the open rather than in the shade. Although growth was slow, survivorship of oaks first measured in 1965 was high, indicting that individuals can live for decades despite significant grazing pressure. Our results confirm the difficulties of inferring age from size of blue oaks, since individuals just achieving the height at which they are typically cored may be 50 or more years old. They also indicate that regeneration, although very slow, can occur in open oak savannas in California despite significant grazing pressure. Whether the observed amount of regeneration is sufficient for long-term sustainability will require continued monitoring and modeling of oak demography.

Key Words: blue oak, *Quercus douglasii*, regeneration, seedling growth, survivorship.

The health and status of California's vast oak woodlands is one of the more vexing questions currently facing the state's ecologists and rangeland managers. Are they declining, and if so, is it due to grazing, competition from exotic grasses, fire suppression, climate change, or some combination of factors (Griffin 1981; Muick and Bartolome 1987; Gordon and Rice 2000; Kueppers et al. 2005; Tyler et al. 2006)? In the case of the blue oak *Quercus douglasii* Hook. & Arn. (Fagaceae), a species dominating nearly 2 × 10^6 ha in the state (Standiford 2002), the evidence is mixed, as demographic surveys almost uniformly reveal limited recruitment but long-term studies have generally shown no decline in tree density (Tyler et al. 2006).

Resolving this problem lies in obtaining more extensive data on the demography of the species in question. Unfortunately this has not proved to be easy, since individuals can live hundreds of years and are logistically difficult to age, making it virtually impossible to estimate when prior regeneration events occurred, much less the extent to which such events are episodic and dependent on particular ecological circumstances.

Here we report on the persistence and growth of blue oaks planted as acorns or first marked as natural seedling recruits as part of studies going back to 1965. Our results indicate that the relationship between size and age in this species may be even more problematical than previously suspected. They also confirm the remarkable degree to which blue oak saplings can cling to what appears to be a precarious existence over many years until such time that they are able to achieve sufficient height to escape browsing.

METHODS

The study was conducted at Hastings Reservation, Monterey County, California, established in 1937. Thus, although cattle grazing, clearing, and various agricultural activities occurred historically, no such disturbances took place during the time period covered by this study. Hastings is located approximately 50 km from the coast and averages 53.3 cm of rain year^{-1} (mean of 67 yr between 1 July 1939–30 June 1940 and 1 July 2005–30 June 2006; records from Reserve headquarters). Individual oaks followed were either planted or monitored in two areas of the Reserve. The first, North Field, was an old field cleared around 1900 and used until 1937 for hay and grapes. North Field was left open the entire time

and was thus regularly grazed by mule deer (*Odocoileus hemionus*) as well as smaller mammals including gophers and mice. The second area (Arnold Road Flat) was within a large exclosure built in 1983 for a separate study and thus was not grazed by large herbivores during the study, but was open to smaller mammals.

Two sets of oaks were examined. The first, called the "White" cohort, consisted of 73 naturally-recruiting blue oak seedlings in North Field that were tagged and measured (height only) in April 1965 by K. L. White. Three of the seedlings were new in spring 1965. All others were pre-1965 seedlings when tagged. Their ages were not known, but all were short (mean ± SD = 6.5 ± 3.2 cm, range 2–18 cm) and were presumably thought to have been from acorns produced in fall of 1963 that sprouted in spring 1964. It was not possible to identify the original 1965 vs. pre-1965 seedlings, and thus all individuals in the White cohort are assumed to have been at least 42 yr old in 2006.

Subsequent to marking, seedlings and saplings were monitored and measured by J. R. Griffin on 10 occasions (June 1969, January 1976, September 1979, January 1984, June 1986, June 1987, August 1988, June 1989, June 1990, and February 1991). With some exceptions, at each sampling period the height of tallest sprout from each remaining seedling was measured, while starting in 1988, the greatest width of each seedling was measured. Finally, on 5 October 2006, we examined all individuals whose identity we could be confident of and measured their height, width, and the basal diameter of stems > 0.5 cm at 5 cm above the ground. When multiple stems were present, they were combined to yield a single value for the overall diameter that matched the total basal area of all stems. Size and growth rates are based on the 14 individuals we identified and measured in 2006.

The second set of oaks used in the study, called the "Menke" cohort, consisted of individuals from a study of water relations of California oaks by J. W. Menke initiated in 1985. Blue oak acorns were planted in several 5 × 5 blocks varying in their degree of protection from grazing and openness. Block 1 (not protected; shaded) was planted adjacent to several blue oak trees near North Field, but otherwise not protected from grazing in any way. Block 2 (protected; open), also near North Field, consisted of acorns planted in the open, but protected by wire mesh baskets up to 40 cm in height that were opened up in 1992 to allow free growth of saplings that had in some cases had grown out of or up to the top of the baskets. Two additional sets of acorns were planted within a deer exclosure on Arnold Road Flat. Block 3 (protected; open) was planted in an open area within the plot, while block 4 (protected; shaded) was planted under partial cover of a mature blue oak within the plot; seedlings in both these blocks were also protected by wire mesh baskets 40 cm in height. For analysis, we divided individuals into those that were not protected (block 1) vs. protected (blocks 2–4)(variable "protection"), and those that were growing in the open (blocks 2 and 3) vs. those that were shaded (blocks 1 and 4)(variable "shade").

We measured the maximum height, maximum width, and basal diameter at 5 cm above ground on 5 October 2006 of all individuals we could unambiguously identify as having been from the original set of acorns based on remaining wooden stakes and their location within the original grid on which acorns were originally planted (Fig. 1). All individuals were thus known to be 21 yr old at the time they were measured. No data from prior years was available. We used the two categories of "protection" and "shade" to quantify the effects of these variables on growth of the saplings using general linear models. Survivorship could not be measured in these oaks, as we could not be certain how many had been planted initially.

Following Phillips et al. (1997), we classify individuals as "seedlings" (<30 cm in height), "saplings" (30–150 cm in height), "poles" (150–300 cm in height), and "adults" (taller than 3 m). Significant browsing by deer, where present, is expected up until individuals reach the pole size class (McCreary 2001). Values presented are means ± SD.

Results

White Cohort

Of the original 73 seedlings marked in 1965, J. R. Griffin found 64 (88%) in June 1969 and 18 (24.7%) in February 1991, while we successfully located 14 (19.2%) in 2006 (Fig. 2). These values represent minimum survivorship of the original seedlings, since other seedlings and saplings were present in the plot and it is possible that some lost their tags during the course of the study and could no longer be identified.

Growth of the seedlings varied considerably, with individuals at the end of the study an average of 76.7 ± 45.0 cm (range 28 to 200 cm) in height (Fig. 3), 90.6 ± 43.8 cm (range 13 to 174 cm) in width, and 4.3 ± 2.0 cm (range 0.7 to 7.7 cm) in basal diameter. The rate of growth was < 1 cm yr^{-1} in height during the first three decades (Fig. 4), and in one case (7% of surviving individuals) the oak was still in the seedling category (28 cm in height) in 2006, 41 yr after being initially marked. Of the remaining 13 oaks, 12 (86%) graduated to the sapling size class by 2006 and one (7%) achieved pole status, thereby being the only one of the original 73 seedlings to



FIG. 1. One of the Menke plots in December 2006. The wire mesh exclosures are approximately 40 cm in height. Note the wooden stakes and grid spacing of the seedlings used to identify them in 2006.

have completely escaped likely grazing by deer after (at least) 42 yr. Overall, the mean increase in height over the 42 yr was 1.83 cm yr^{-1} (range 0.67–4.76 cm yr^{-1}) and the mean increase in basal diameter of the 14 oaks (conservatively assuming that their original diameter was 0) was 0.10 cm yr^{-1} (range 0.05–0.18 cm yr^{-1}).

Although overall growth was slow, growth rate increased considerably near the end of the study (Fig. 4), presumably as height or width finally became sufficiently large to provide some protection against grazing. Overall, height was relatively well predicted by models including age as either a squared or exponential term (quadratic model: height = -0.866 * age + 0.054 * age^2 + 15.1, $F_{2,160} = 81.7$, $R^2 = 0.50$, $P < 0.0001$; exponential model: height = 9.27 * $e^{0.0399*age}$, $F_{1,161} = 140.8$, $R^2 = 0.46$, $P < 0.0001$).

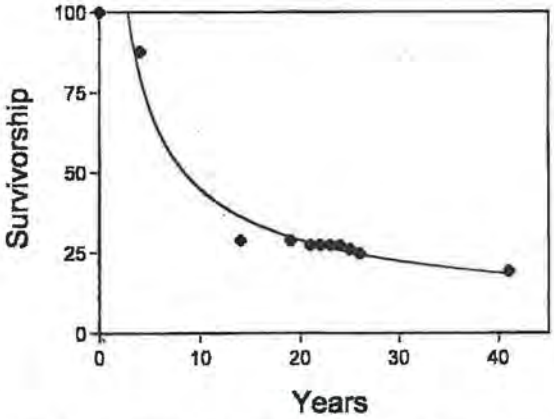


FIG. 2. Survivorship curve for the 73 White cohort first marked in 1965 as seedlings. The overall annual survivorship between 1965 and 2006 based on this sample is 96.1% year $^{-1}$. Line drawn is fit by a power curve: percent survivorship = 193.3 × (years) $^{-0.634}$.

Menke Cohort

We identified and measured a total of 32 oaks in the four Menke plots (Fig. 4). Overall, the mean height of the individuals in 2006 was 54.3 ± 31.4 cm (range 6–112 cm), while the mean diameter was 1.6 ± 0.5 cm (range 0.6–2.8) cm. After 21 yr, 8 of 32 (25%) were still seedlings < 30 cm in height, while the majority were saplings < 150 cm in height. Mean increase in height was 2.59 cm yr^{-1} (range 0.29–5.33 cm yr^{-1}) and mean increase in diameter was 0.074 cm yr^{-1} (range 0.029–0.133 cm yr^{-1}). Both protection (positively) and shade (negatively) affected height of the oaks, while only shade (negatively) influenced diameter (Table 1). At 21 yr of age, the height of these individuals was generally within the range expected from the White cohort, given that none of the latter had been protected from grazing in any way (Fig. 4).

DISCUSSION

Because of low survivorship, there have been few prior studies of growth by blue oaks seedlings and none that have covered as long a time period as that reported on here. Previous work by Phillips et al. (1997, 2007a, b) is the most extensive, demonstrating that up to 18% of blue



FIG. 3. The authors at two of the White individuals in October 2006. Left: tree 767, 7 cm in height in 1965, 112 cm (6.7 cm diam.) in 2006, by which time it was third-tallest tree of the 14 found. Right: tree 772, also 7 cm in height in 1965, 34 cm (1.9 cm diam.) in 2006, at which time it was the second-shortest tree still extant.

oak seedlings are 26 or more years old, that surviving seedlings grow very slowly and remain for a long time in the seedling size class, and that fencing significantly increases seedling growth. Our results confirm and extend these conclusions. Of 14 oaks known to have survived 41 yr after being marked, one (7%) was still a seedling 28 cm in height and only one successfully outgrew the sapling stage (>150 cm) during the course of the study.

Comparably slow growth was observed in a second set of oaks planted as acorns in 1985, one-fourth of which were still seedlings < 30 cm in height when 21 yr old. Growth in this second set was significantly greater among those that were protected from grazing by wire mesh baskets and (in some cases) deer fencing and among acorns that were planted in the open rather than in the shade. The latter of these findings matches the reduced photosynthetic capacity and root elongation rates among blue oak seedlings grown in the shade by Callaway (1992a, b), although Callaway's studies also found blue oak seedlings to be relatively shade tolerant and to survive better when cover was present.

In contrast, the first of these findings, that growth of seedlings was greater among those protected from grazing, is not surprising, as grazing by deer and rodents is well known to inhibit seedling growth (White 1966; Griffin 1981; Muick and Bartolome 1987; Tyler et al. 2002; Phillips et al. 2007a). However, growth rates were still low, even among individuals protected from grazing by large herbivores and, at least to some extent, by rodents as well. Of nine oaks growing within deer exclosures and protected by 40 cm wire mesh baskets, mean height after 21 yr was still only 65.6 cm (range 32–112 cm) and mean increase in height only 3.12 cm yr^{-1} (range 1.48–5.33 cm yr^{-1}).

Thus, under natural conditions, blue oaks at Hastings Reservation grow very slowly and may require several decades or more to outgrow the sapling stage even when protected from most sources of grazing pressure. Only after decades, once both the above-ground size of saplings is sufficient to provide some protection against uninhibited grazing by deer and other large herbivores and (perhaps in some cases) the below-ground roots are deep enough to access a more reliable water source, does the growth rate increase (Fig. 4).

Although growth was slow, even among protected seedlings, survivorship of seedlings was relatively high even when unprotected. Of 73 unprotected seedlings originally marked in 1965, 64 (88%) were alive four years later (Griffin 1981), for an annual survivorship of 96.8%, far higher than reported in other studies (Davis et al. 1991; Allen-Diaz and Bartolome 1992; Phillips et al. 2007b). Survivorship subsequently declined, but at least 18 (24.7%) were still alive 26 yr after marking in 1991 and 14 (19.2%) were alive in

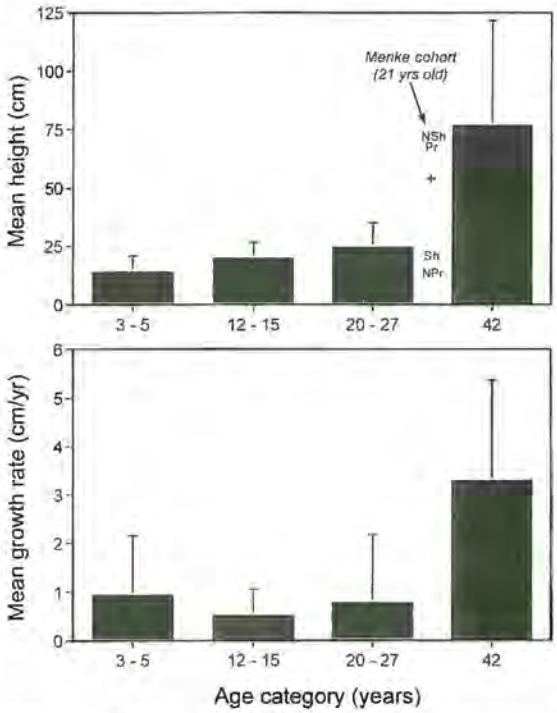


FIG. 4. Mean ± SD height (top) and mean ± SD annual increase in height (bottom) of the White cohort during the four decades of the study. Also marked in the top panel in between the last two categories are the mean heights of the 21-year-old Menke cohort, including the overall mean (+) and the means for seedlings that were not shaded (NSh), protected from grazing (Pr), shaded (Sh), and not protected from grazing (NPr).

2006, 41 yr after the start of the study. Thus, the overall survivorship of the 73 seedlings over the course of the study was at least 96.1% year^{-1}, and survivorship during the 15 yr between 1991 and 2006 was an impressive 98.3% year^{-1}. Possibly these high values are in part a result of having followed a cohort of seedlings that had already undergone considerable mortality by the time they were marked in 1965. Nonetheless, the ability of the seedlings to persist despite repeated and apparently intense browsing over decades is impressive.

Previous studies have found significant differences between the actual age structure of blue oaks stands based on tree-rings and the predicted age structure based on diameter (McClaran and Bartolome 1990; Phillips et al. 1997). Our results suggest that in at least some cases there may be even greater discord between age and size of blue oaks than previously thought because of the length of time some individuals require to achieve the height necessary to escape significant browsing damage. Of the oaks in the White cohort, only one (1.4% of the original sample) had achieved a height of over 150 cm in 41 yr, making it into the "pole" stage at which browsing by large herbivores was no longer likely to significantly inhibit further growth. Conversely, one individual remained a seedling 28 cm in height 41 yr after being first marked. In the Menke cohort, only a small proportion of individuals (3 of 32, 9.4%) had achieved 1 m in height by age 21, and none had successfully grown out of the sapling stage. Clearly by the time many of these oaks graduate into the adult population they will be well over half a century old, and in some cases possibly much older, assuming they survive. At that point, measuring their diameter at breast height (DBH) will clearly yield a gross underestimate of their age. More problematically, even coring them will not provide a good estimate of their actual age, since individuals may have been 50 or more years old by the time they reach the height at which coring is generally performed.

A recent review of recruitment in blue oaks concludes that resolving the current controversy over the sustainability of California oak woodlands will require long-term monitoring, age-structure analysis, and population modeling (Tyler et al. 2006). Our results add to previous concerns that the second of these, age-structure analysis, will have to be conducted with caution and that even with extensive coring or clearing (Mensing 1992) it may not be possible to accurately pinpoint the years or even the general time periods when regeneration has taken place in the past in established stands.

With respect to the regeneration of blue oaks, our sample is clearly too small to draw many

TABLE 1. RESULTS OF TWO-WAY ANOVAS ANALYZING THE VARIABLES "PROTECTION FROM GRAZING" (PROTECTED, NOT PROTECTED) AND "SHADE" (SHADED, NOT SHADED) ON HEIGHT AND DIAMETER OF THE MENKE COHORT IN 2006, WHEN THEY WERE 21 YRS OLD.

	Mean ± SD (N)		*F*-value	*P*-value
	Yes	No		
Height (cm)				
Protection	68.4 ± 23.1 (24)	13.0 ± 4.8 (8)	4.49	0.043
Shade	20.1 ± 13.1 (11)	72.2 ± 21.6 (21)	8.80	0.006
Diameter (cm)				
Protection	1.67 ± 0.57 (24)	1.26 ± 0.39 (8)	2.67	0.11
Shade	1.13 ± 0.40 (11)	1.80 ± 0.49 (21)	13.8	0.001

conclusions. However, it is noteworthy that survivorship of naturally recruiting seedlings was relatively high, at least subsequent to when they were first marked. Furthermore, although only one of the original 73 seedlings had successfully grown out of the sapling stage after 41 yr, other individuals in this sample may eventually join it. Thus, regeneration is occurring, albeit at a painstakingly slow rate. Whether such a slow rate of regeneration is sufficient to maintain California's blue oak woodlands over the long term remains to be determined.

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LITERATURE CITED

ALLEN-DIAZ, B. H. AND J. W. BARTOLOME. 1992. Survival of *Quercus douglasii* (Fagaceae) seedlings under the influence of fire and grazing. Madroño 39:47–53.

CALLAWAY, R. M. 1992a. Effect of shrubs on recruitment of *Quercus douglasii* and *Quercus lobata* in California. Ecology 73:2118–2128.

———. 1992b. Morphological and physiological responses of three Calfornia oak species to shade. International Journal of Plant Sciences 153: 434–441.

DAVIS, F. W., M. I. BORCHERT, L. E. HARVEY, AND J. C. MICHAELSEN. 1991. Factors affecting seedling survivorship of blue oak (*Quercus douglasii* H. & A.) in central California. Pp. 81–86 *in* R. B. Standiford (tech. coord.), Proceedings of the symposium on oak woodlands and hardwood rangeland management. U.S. Department of Agriculture Pacific Southwest Forest Range and Experiment Station General Technical Report PSW-126.

GORDON, D. R. AND K. J. RICE. 2000. Competitive suppression of *Quercus douglasii* (Fagaceae) seedling emergence and growth. American Journal of Botany 87:986–994.

GRIFFIN, J. R. 1981. Oak regeneration in the upper Carmel Valley, California. Ecology 52:862–868.

KUEPPERS, L. M., M. A. SNYDER, L. C. SLOAN, E. S. ZAVALETA, AND B. FULFROST. 2005. Modeled regional climate change and California endemic oak ranges. Proceedings of the National Academy of Sciences (USA) 102:16281–16286.

MCCLARAN, M. P. AND J. W. BARTOLOME. 1990. Comparison of actual and predicted blue oak age structures. Journal of Range Management 43:61–63.

MCCREARY, D. D. 2001. Regenerating rangeland oaks in California. University of California Agriculture and Natural Research Publication 21601, Oakland, CA.

MENSING, S. A. 1992. The impact of European settlement on blue oak (*Quercus douglasii*) regeneration and recruitment in the Tehachapi Mountains. Madroño 39:36–46.

MUICK, P. C. AND J. W. BARTOLOME. 1987. Factors associated with oak regeneration in California. Pp. 86–91 *in* T. R. Plumb and N. H. Pillsbury (tech. coords.), Proceedings of the symposium on multiple-use management of California's hardwood resources. U.S. Department of Agriculture Pacific Southwest Forest Range and Experiment Station General Technical Report PSW-100.

PHILLIPS, R. L., N. K. MCDOUGALD, R. B. STANDIFORD, D. D. MCCREARY, AND W. E. FROST. 1997. Blue oak regeneration in southern Sierra Nevada foothills. Pp. 177–181 *in* N. H. Pillsbury, J. Verner, and W. D. Tietje (tech. coords.), Proceedings of a symposium on oak woodlands: ecology, management and urban interface issues. U.S. Department of Agriculture Pacific Southwest Research Station General Technical Report PSW-GTR-160.

———, ———, E. R. ATWILL, AND D. MCCREARY. 2007a. Exclosure size affects young blue oak seedling growth. California Agriculture 61:16–19.

———, ———, D. MCCREARY, AND E. R. ATWILL. 2007b. Blue oak seedling age influences growth and mortality. California Agriculture 61:11–15.

STANDIFORD, R. B. 2002. California's oak woodlands. Pp. 280–303 *in* W. J. McShea and W. M. Healy, Oak forest ecosystems. Johns Hopkins University Press, Baltimore, MD.

TYLER, C. M., B. E. MAHALL, F. W. DAVIS, AND M. HALL. 2002. Factors limiting recruitment in valley and coast live oak. Pp. 565–572 *in* R. B. Standiford, D. McCreary, and K. L. Purcell (tech. coords.), Proceedings of the fifth symposium on oak woodlands: oaks in California's changing landscape. U.S. Department of Agriculture Pacific Southwest Research Station General Technical Report PSW-GTR-184.

———, B. KUHN, AND F. W. DAVIS. 2006. Demography and recruitment limitations of three oak species in California. Quarterly Review of Biology 81:127–152.

WHITE, K. L. 1966. Structure and composition of foothill woodland in central coastal California. Ecology 47:229–237.

LETTER

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Rate of tree carbon accumulation increases continuously with tree size

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Forests are major components of the global carbon cycle, providing substantial feedback to atmospheric greenhouse gas concentrations[1]. Our ability to understand and predict changes in the forest carbon cycle—particularly net primary productivity and carbon storage—increasingly relies on models that represent biological processes across several scales of biological organization, from tree leaves to forest stands[2,3]. Yet, despite advances in our understanding of productivity at the scales of leaves and stands, no consensus exists about the nature of productivity at the scale of the individual tree[4–7], in part because we lack a broad empirical assessment of whether rates of absolute tree mass growth (and thus carbon accumulation) decrease, remain constant, or increase as trees increase in size and age. Here we present a global analysis of 403 tropical and temperate tree species, showing that for most species mass growth rate increases continuously with tree size. Thus, large, old trees do not act simply as senescent carbon reservoirs but actively fix large amounts of carbon compared to smaller trees; at the extreme, a single big tree can add the same amount of carbon to the forest within a year as is contained in an entire mid-sized tree. The apparent paradoxes of individual tree growth increasing with tree size despite declining leaf-level[8–10] and stand-level[10] productivity can be explained, respectively, by increases in a tree's total leaf area that outpace declines in productivity per unit of leaf area and, among other factors, age-related reductions in population density. Our results resolve conflicting assumptions about the nature of tree growth, inform efforts to understand and model forest carbon dynamics, and have additional implications for theories of resource allocation[11] and plant senescence[12].

A widely held assumption is that after an initial period of increasing growth, the mass growth rate of individual trees declines with increasing tree size[4,5,13–16]. Although the results of a few single-species studies have been consistent with this assumption[15], the bulk of evidence cited in support of declining growth is not based on measurements of individual tree mass growth. Instead, much of the cited evidence documents either the well-known age-related decline in net primary productivity (hereafter 'productivity') of even-aged forest stands[10] (in which the trees are all of a similar age) or size-related declines in the rate of mass gain per unit leaf area (or unit leaf mass)[8–10], with the implicit assumption that declines at these scales must also apply at the scale of the individual tree. Declining tree growth is also sometimes inferred from life-history theory to be a necessary corollary of increasing resource allocation to reproduction[11,16]. On the other hand, metabolic scaling theory predicts that mass growth rate should increase continuously with tree size[6], and this prediction has also received empirical support from a few site-specific studies[6,7]. Thus, we are confronted with two conflicting generalizations about the fundamental nature of tree growth, but lack a global assessment that would allow us to distinguish clearly between them.

To fill this gap, we conducted a global analysis in which we directly estimated mass growth rates from repeated measurements of 673,046 trees belonging to 403 tropical, subtropical and temperate tree species, spanning every forested continent. Tree growth rate was modelled as a function of log(tree mass) using piecewise regression, where the independent variable was divided into one to four bins. Conjoined line segments were fitted across the bins (Fig. 1).

For all continents, aboveground tree mass growth rates (and, hence, rates of carbon gain) for most species increased continuously with tree mass (size) (Fig. 2). The rate of mass gain increased with tree mass in each model bin for 87% of species, and increased in the bin that included the largest trees for 97% of species; the majority of increases were statistically significant (Table 1, Extended Data Fig. 1 and Supplementary Table 1). Even when we restricted our analysis to species achieving the largest sizes (maximum trunk diameter >100 cm; 33% of species), 94% had increasing mass growth rates in the bin that included the largest trees. We found no clear taxonomic or geographic patterns among the 3% of species with declining growth rates in their largest trees, although the small number of these species (thirteen) hampers inference. Declining species included both angiosperms and gymnosperms in seven of the 76 families in our study; most of the seven families had only one or two declining species and no family was dominated by declining species (Supplementary Table 1).

When we log-transformed mass growth rate in addition to tree mass, the resulting model fits were generally linear, as predicted by metabolic scaling theory[6] (Extended Data Fig. 2). Similar to the results of our main

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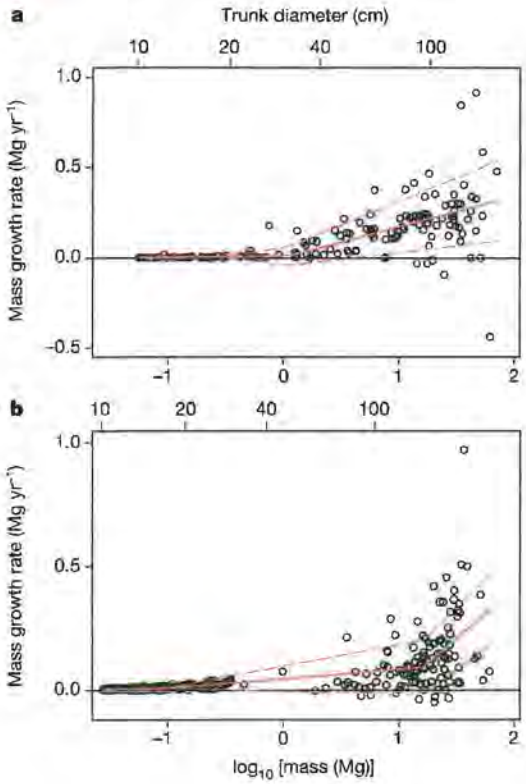


Figure 1 | Example model fits for tree mass growth rates. The species shown are the angiosperm species (*Lecomtedoxa klaineana*, Cameroon, 142 trees) (**a**) and gymnosperm species (*Picea sitchensis*, USA, 409 trees) (**b**) in our data set that had the most massive trees (defined as those with the greatest cumulative aboveground dry mass in their five most massive trees). Each point represents a single tree; the solid red lines represent best fits selected by our model; and the dashed red lines indicate one standard deviation around the predicted values.

analysis using untransformed growth, of the 381 log-transformed species analysed (see Methods), the log-transformed growth rate increased in the bin containing the largest trees for 96% of species.

In absolute terms, trees 100 cm in trunk diameter typically add from 10 kg to 200 kg of aboveground dry mass each year (depending on species), averaging 103 kg per year. This is nearly three times the rate for trees of the same species at 50 cm in diameter, and is the mass equivalent to adding an entirely new tree of 10–20 cm in diameter to the forest each year. Our findings further indicate that the extraordinary growth recently reported in an intensive study of large *Eucalyptus regnans* and *Sequoia sempervirens*[7], which included some of the world's most massive individual trees, is not a phenomenon limited to a few unusual species. Rather, rapid growth in giant trees is the global norm, and can exceed 600 kg per year in the largest individuals (Fig. 3).

Our data set included many natural and unmanaged forests in which the growth of smaller trees was probably reduced by asymmetric competition with larger trees. To explore the effects of competition, we calculated mass growth rates for 41 North American and European species that had published equations for diameter growth rate in the absence of competition. We found that, even in the absence of competition, 85% of the species had mass growth rates that increased continuously with tree size (Extended Data Fig. 3), with growth curves closely resembling those in Fig. 2. Thus, our finding of increasing growth not only has broad generality across species, continents and forest biomes (tropical, subtropical and temperate), it appears to hold regardless of competitive environment.

Importantly, our finding of continuously increasing growth is compatible with the two classes of observations most often cited as evidence of declining, rather than increasing, individual tree growth: with increasing tree size and age, productivity usually declines at the scales of both tree organs (leaves) and tree populations (even-aged forest stands).

First, although growth efficiency (tree mass growth per unit leaf area or leaf mass) often declines with increasing tree size[8–10], empirical observations and metabolic scaling theory both indicate that, on average, total tree leaf mass increases as the square of trunk diameter[17,18]. A typical tree that experiences a tenfold increase in diameter will therefore undergo a roughly 100-fold increase in total leaf mass and a 50–100-fold

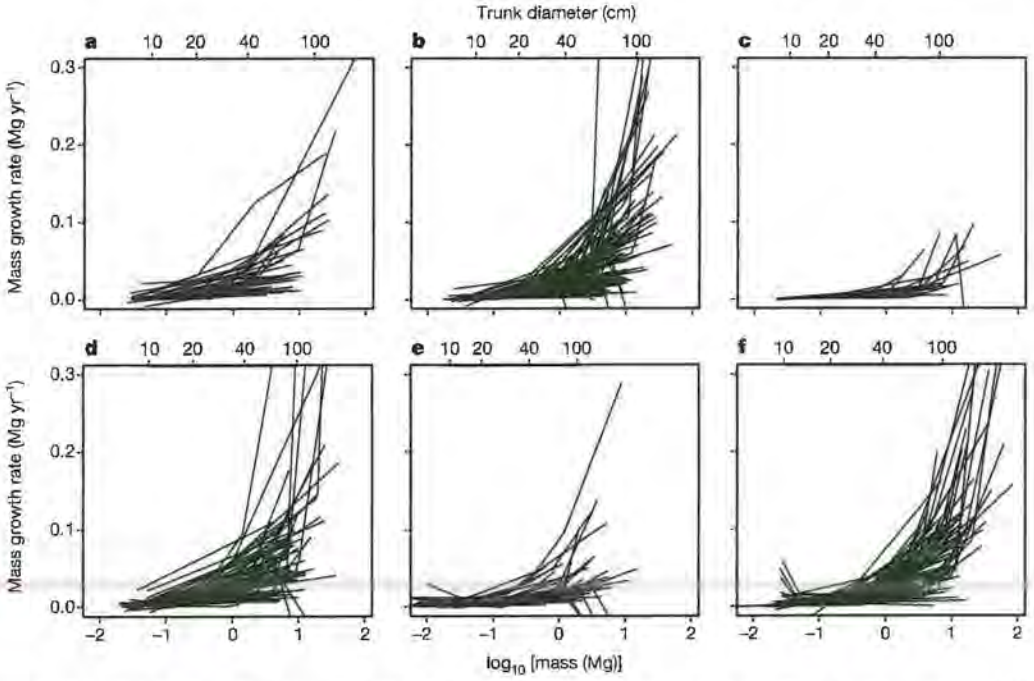


Figure 2 | Aboveground mass growth rates for the 403 tree species, by continent. **a**, Africa (Cameroon, Democratic Republic of the Congo); **b**, Asia (China, Malaysia, Taiwan, Thailand); **c**, Australasia (New Zealand); **d**, Central and South America (Argentina, Colombia, Panama); **e**, Europe (Spain); and **f**, North America (USA). Numbers of trees, numbers of species and percentages with increasing growth are given in Table 1. Trunk diameters are approximate values for reference, based on the average diameters of trees of a given mass.

Table 1 | Sample sizes and tree growth trends by continent

Continent	Number of trees	Number of species	Percentage of species with increasing mass growth rate in the largest trees (percentage significant at $P \leq 0.05$)
Africa	15,366	37	100.0 (86.5)
Asia	43,690	136	96.3 (89.0)
Australasia	45,418	22	95.5 (95.5)
Central and South America	18,530	77	97.4 (92.2)
Europe	439,889	42	90.5 (78.6)
North America	110,153	89	98.9 (94.4)
Total	673,046	403	96.8 (89.8)

The largest trees are those in the last bin fitted by the model. Countries are listed in the legend for Fig. 2.

increase in total leaf area (depending on size-related increases in leaf mass per unit leaf area[19,20]). Parallel changes in growth efficiency can range from a modest increase (such as in stands where small trees are suppressed by large trees)[21] to as much as a tenfold decline[22], with most changes falling in between[8,9,19,22]. At one extreme, the net effect of a low (50-fold) increase in leaf area combined with a large (tenfold) decline in growth efficiency would still yield a fivefold increase in individual tree mass growth rate; the opposite extreme would yield roughly a 100-fold increase. Our calculated 52-fold greater average mass growth rate of trees 100 cm in diameter compared to those 10 cm in diameter falls within this range. Thus, although growth efficiency often declines with increasing tree size, increases in a tree's total leaf area are sufficient to overcome this decline and cause whole-tree carbon accumulation rate to increase.

Second, our findings are similarly compatible with the well-known age-related decline in productivity at the scale of even-aged forest stands. Although a review of mechanisms is beyond the scope of this paper[10,23], several factors (including the interplay of changing growth efficiency and tree dominance hierarchies[24]) can contribute to declining productivity at the stand scale. We highlight the fact that increasing individual tree growth rate does not automatically result in increasing stand productivity because tree mortality can drive orders-of-magnitude reductions in population density[25,26]. That is, even though the large trees in older, even-aged stands may be growing more rapidly, such stands have fewer trees. Tree population dynamics, especially mortality, can thus be a significant contributor to declining productivity at the scale of the forest stand[23].

For a large majority of species, our findings support metabolic scaling theory's qualitative prediction of continuously increasing growth at the scale of individual trees[6], with several implications. For example, life-history theory often assumes that tradeoffs between plant growth and reproduction are substantial[11]. Contrary to some expectations[11,16], our results indicate that for most tree species size-related changes in reproductive allocation are insufficient to drive long-term declines in growth rates[6]. Additionally, declining growth is sometimes considered to be a defining feature of plant senescence[12]. Our findings are thus relevant to understanding the nature and prevalence of senescence in the life history of perennial plants[27].

Finally, our results are relevant to understanding and predicting forest feedbacks to the terrestrial carbon cycle and global climate system[1–3]. These feedbacks will be influenced by the effects of climatic, land-use and other environmental changes on the size-specific growth rates and size structure of tree populations—effects that are already being observed in forests[28,29]. The rapid growth of large trees indicates that, relative to their numbers, they could play a disproportionately important role in these feedbacks[30]. For example, in our western USA old-growth forest plots, trees >100 cm in diameter comprised 6% of trees, yet contributed 33% of the annual forest mass growth. Mechanistic models of the forest carbon cycle will depend on accurate representation of productivity across several scales of biological organization, including calibration and validation against continuously increasing carbon accumulation rates at the scale of individual trees.

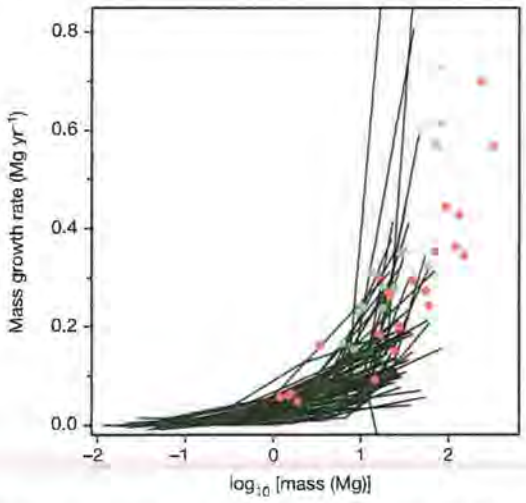


Figure 3 | Aboveground mass growth rates of species in our data set compared with *E. regnans* and *S. sempervirens*. For clarity, only the 58 species in our data set having at least one tree exceeding 20 Mg are shown (lines). Data for *E. regnans* (green dots, 15 trees) and *S. sempervirens* (red dots, 21 trees) are from an intensive study that included some of the most massive individual trees on Earth[7]. Both axes are expanded relative to those of Fig. 2.

METHODS SUMMARY

We estimated aboveground dry mass growth rates from consecutive diameter measurements of tree trunks—typically measured every five to ten years—from long-term monitoring plots. Analyses were restricted to trees with trunk diameter ≥10 cm, and to species having ≥40 trees in total and ≥15 trees with trunk diameter ≥30 cm. Maximum trunk diameters ranged from 38 cm to 270 cm among species, averaging 92 cm. We converted each diameter measurement (plus an accompanying height measurement for 16% of species) to aboveground dry mass, M, using published allometric equations. We estimated tree growth rate as $G = \Delta M/\Delta t$ and modelled G as a function of $\log(M)$ for each species using piecewise regression. The independent variable $\log(M)$ was divided into bins and a separate line segment was fitted to G versus $\log(M)$ in each bin so that the line segments met at the bin divisions. Bin divisions were not assigned a priori, but were fitted by the model separately for each species. We fitted models with 1, 2, 3 and 4 bins, and selected the model receiving the most support by Akaike's Information Criterion for each species. Our approach thus makes no assumptions about the shape of the relationship between G and $\log(M)$, and can accommodate increasing, decreasing or hump-shaped relationships. Parameters were fitted with a Gibbs sampler based on Metropolis updates, producing credible intervals for model parameters and growth rates at any diameter; uninformative priors were used for all parameters. We tested extensively for bias, and found no evidence that our results were influenced by model fits failing to detect a final growth decline in the largest trees, possible biases introduced by the 47% of species for which we combined data from several plots, or possible biases introduced by allometric equations (Extended Data Figs 4 and 5).

Online Content Any additional Methods, Extended Data display items and Source Data are available in the online version of the paper; references unique to these sections appear only in the online paper.

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1. Pan, Y. *et al.* A large and persistent carbon sink in the world's forests. *Science* **333,** 988–993 (2011).

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2. Medvigy, D., Wofsy, S. C., Munger, J. W., Hollinger, D. Y. & Moorcroft, P. R. Mechanistic scaling of ecosystem function and dynamics in space and time: Ecosystem Demography model version 2. *J. Geophys. Res.* **114,** G01002 (2009).
3. Caspersen, J. P., Vanderwel, M. C., Cole, W. G. & Purves, D. W. How stand productivity results from size- and competition-dependent growth and mortality. *PLoS ONE* **6,** e28660 (2011).
4. Kutsch, W. L. *et al.* in *Old-Growth Forests: Function, Fate and Value* (eds Wirth, C., Gleixner, G. & Heimann, M.) 57–79 (Springer, 2009).
5. Meinzer, F. C., Lachenbruch, B. & Dawson, T. E. (eds) *Size- and Age-Related Changes in Tree Structure and Function* (Springer, 2011).
6. Enquist, B. J., West, G. B., Charnov, E. L. & Brown, J. H. Allometric scaling of production and life-history variation in vascular plants. *Nature* **401,** 907–911 (1999).
7. Sillett, S. C. *et al.* Increasing wood production through old age in tall trees. *For. Ecol. Manage.* **259,** 976–994 (2010).
8. Mencuccini, M. *et al.* Size-mediated ageing reduces vigour in trees. *Ecol. Lett.* **8,** 1183–1190 (2005).
9. Drake, J. E., Raetz, L. M., Davis, S. C. & DeLucia, E. H. Hydraulic limitation not declining nitrogen availability causes the age-related photosynthetic decline in loblolly pine (*Pinus taeda* L.). *Plant Cell Environ.* **33,** 1756–1766 (2010).
10. Ryan, M. G., Binkley, D. & Fownes, J. H. Age-related decline in forest productivity: pattern and process. *Adv. Ecol. Res.* **27,** 213–262 (1997).
11. Thomas, S. C. in *Size- and Age-Related Changes in Tree Structure and Function* (eds Meinzer, F. C., Lachenbruch, B. & Dawson, T. E.) 33–64 (Springer, 2011).
12. Thomas, H. Senescence, ageing and death of the whole plant. *New Phytol.* **197,** 696–711 (2013).
13. Carey, E. V., Sala, A., Keane, R. & Callaway, R. M. Are old forests underestimated as global carbon sinks? *Glob. Change Biol.* **7,** 339–344 (2001).
14. Phillips, N. G., Buckley, T. N. & Tissue, D. T. Capacity of old trees to respond to environmental change. *J. Integr. Plant Biol.* **50,** 1355–1364 (2008).
15. Piper, F. I. & Fajardo, A. No evidence of carbon limitation with tree age and height in *Nothofagus pumilio* under Mediterranean and temperate climate conditions. *Ann. Bot.* **108,** 907–917 (2011).
16. Weiner, J. & Thomas, S. C. The nature of tree growth and the "age-related decline in forest productivity". *Oikos* **94,** 374–376 (2001).
17. Jenkins, J. C., Chojnacky, D. C., Heath, L. S. & Birdsey, R. A. *Comprehensive Database of Diameter-based Biomass Regressions for North American Tree Species* General Technical Report NE-319, http://www.nrs.fs.fed.us/pubs/6725 (USDA Forest Service, Northeastern Research Station, 2004).
18. Niklas, K. J. & Enquist, B. J. Canonical rules for plant organ biomass partitioning and annual allocation. *Am. J. Bot.* **89,** 812–819 (2002).
19. Thomas, S. C. Photosynthetic capacity peaks at intermediate size in temperate deciduous trees. *Tree Physiol.* **30,** 555–573 (2010).
20. Steppe, K., Niinemets, Ü. & Teskey, R. O. in *Size- and Age-Related Changes in Tree Structure and Function* (eds Meinzer, F. C., Lachenbruch, B. & Dawson, T. E.) 235–253 (Springer, 2011).
21. Gilmore, D. W. & Seymour, R. S. Alternative measures of stem growth efficiency applied to *Abies balsamea* from four canopy positions in central Maine, USA. *For. Ecol. Manage.* **84,** 209–218 (1996).
22. Kaufmann, M. R. & Ryan, M. G. Physiographic, stand, and environmental effects on individual tree growth and growth efficiency in subalpine forests. *Tree Physiol.* **2,** 47–59 (1986).
23. Coomes, D. A., Holdaway, R. J., Kobe, R. K., Lines, E. R. & Allen, R. B. A general integrative framework for modelling woody biomass production and carbon sequestration rates in forests. *J. Ecol.* **100,** 42–64 (2012).
24. Binkley, D. A hypothesis about the interaction of tree dominance and stand production through stand development. *For. Ecol. Manage.* **190,** 265–271 (2004).
25. Pretzsch, H. & Biber, P. A re-evaluation of Reineke's rule and stand density index. *For. Sci.* **51,** 304–320 (2005).
26. Kashian, D. M., Turner, M. G., Romme, W. H. & Lorimer, C. G. Variability and convergence in stand structural development on a fire-dominated subalpine landscape. *Ecology* **86,** 643–654 (2005).
27. Munné-Bosch, S. Do perennials really senesce? *Trends Plant Sci.* **13,** 216–220 (2008).
28. Jump, A. S., Hunt, J. M. & Peñuelas, J. Rapid climate change-related growth decline at the southern range edge of *Fagus sylvatica*. *Glob. Change Biol.* **12,** 2163–2174 (2006).
29. Lindenmayer, D. B., Laurance, W. F. & Franklin, J. F. Global decline in large old trees. *Science* **338,** 1305–1306 (2012).
30. Enquist, B. J., West, G. B. & Brown, J. H. Extensions and evaluations of a general quantitative theory of forest structure and dynamics. *Proc. Natl Acad. Sci. USA* **106,** 7046–7051 (2009).

Supplementary Information is available in the online version of the paper.

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Author Contributions N.L.S. and A.J.D. conceived the study with feedback from R.C. and D.A.C., N.L.S., A.J.D., R.C. and S.E.R. wrote the manuscript. R.C. devised the main analytical approach and wrote the computer code. N.L.S., A.J.D., R.C., S.E.R., P.J.B., N.G.B., D.A.C., E.R.L., W.K.M. and N.R. performed analyses. N.L.S., A.J.D., R.C., S.E.R., P.J.B., D.A.C., E.R.L., W.K.M., E.Á., C.B., S.B., G.C., S.J.D., Á.D., C.N.E., O.F., J.F.F., H.R.G., Z.H., M.E.H., S.P.H., D.K., Y.L., J.-R.M., A.M., L.R.M., R.J.P., N.P., S.-H.S., I-F.S., S.T., D.T., P.J.v.M., X.W., S.K.W. and M.A.Z. supplied data and sources of allometric equations appropriate to their data.

Author Information Fitted model parameters for each species have been deposited in USGS's ScienceBase at http://dx.doi.org/10.5066/F7JS9NFM. Reprints and permissions information is available at www.nature.com/reprints. The authors declare no competing financial interests. Readers are welcome to comment on the online version of the paper. Correspondence and requests for materials should be addressed to N.L.S. (nstephenson@usgs.gov).

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METHODS

Data. We required that forest monitoring plots provided unbiased samples of all living trees within the plot boundaries, and that the trees had undergone two trunk diameter measurements separated by at least one year. Some plots sampled minimally disturbed old (all-aged) forest, whereas others, particularly those associated with national inventories, sampled forest stands regardless of past management history. Plots are described in the references cited in Supplementary Table 1.

Our raw data were consecutive measurements of trunk diameter, D, with most measurements taken 5 to 10 years apart (range, 1–29 years). D was measured at a standard height on the trunk (usually 1.3–1.4 m above ground level), consistent across measurements for a tree. Allometric equations for 16% of species required, in addition to consecutive measurements of D, consecutive measurements of tree height.

We excluded trees exhibiting extreme diameter growth, defined as trunks where D increased by $\geq 40\ \mathrm{mm\ yr^{-1}}$ or that shrank by $\geq 12s$, where s is the standard deviation of the D measurement error, $s = 0.9036 + 0.006214D$ (refs 31, 32); outliers of these magnitudes were almost certainly due to error. By being so liberal in allowing negative growth anomalies, we erred on the side of reducing our ability to detect increases in tree mass growth rate. Using other exclusion values yielded similar results, as did a second approach to handling error in which we reanalysed a subset of our models using a Bayesian method that estimates growth rates after accounting for error, based on independent plot-specific data quantifying measurement error[33].

To standardize minimum D among data sets, we analysed only trees with $D \geq 10$ cm at the first census. To ensure adequate samples of trees spanning a broad range of sizes, we restricted analyses to species having both ≥ 40 trees in total and also ≥ 15 trees with $D \geq 30$ cm at the first census. This left us with 673,046 trees belonging to 403 tropical and temperate species in 76 families, spanning twelve countries and all forested continents (Supplementary Table 1). Maximum trunk diameters ranged from 38 cm to 270 cm among species, and averaged 92 cm.

Estimating tree mass. To estimate each tree's aboveground dry mass, M, we used published allometric equations relating M to D (or for 16% of species, relating M to D and tree height). Some equations were species-specific and others were specific to higher taxonomic levels or forest types, described in the references in Supplementary Table 1. The single tropical moist forest equation of ref. 34 was applied to most tropical species, whereas most temperate species had unique species-specific equations. Most allometric equations are broadly similar, relating $\log(M)$ to $\log(D)$ linearly, or nearly linearly—a familiar relationship in allometric scaling of both animals and plants[35]. Equations can show a variety of differences in detail, however, with some adding $\log(D)$ squared and cubed terms. All equations make use of the wood density of individual species, but when wood density was not available for a given species we used mean wood density for a genus or family[36].

Using a single, average allometry for most tropical species, and mean wood density for a genus or family for several species, limits the accuracy of our estimates of M. However, because we treat each species separately, it makes no difference whether our absolute M estimates are more accurate in some species than in others, only that they are consistent within a species and therefore accurately reveal whether mass growth rates increase or decrease with tree size.

For two regions—Spain and the western USA—allometric equations estimated mass only for a tree's main stem rather than all aboveground parts, including branches and leaves. But because leaf and stem masses are positively correlated and their growth rates are expected to scale isometrically both within and among species[18,37,38], results from these two regions should not alter our qualitative conclusions. Confirming this, the percentage of species with increasing stem mass growth rate in the last bin for Spain and the western USA (93.4% of 61 species) was similar to that from the remainder of regions (97.4% of 342 species) ($P = 0.12$, Fisher's exact test).

Modelling mass growth rate. We sought a modelling approach that made no assumptions about the shape of the relationship between aboveground dry mass growth rate, G, and aboveground dry mass, M, and that could accommodate monotonically increasing, monotonically decreasing, or hump-shaped relationships. We therefore chose to model G as a function of $\log(M)$ using piecewise linear regression. The range of the x axis, $X = \log(M)$, is divided into a series of bins, and within each bin G is fitted as a function of X by linear regression. The position of the bins is adaptive: it is fitted along with the regression terms. Regression lines are required to meet at the boundary between bins. For a single model-fitting run the number of bins, B, is fixed. For example, if $B = 2$, there are four parameters to be fitted for a single species: the location of the boundary between bins, X_1; the slope of the regression in the first bin, S_1; the slope in the second bin, S_2; and an intercept term. Those four parameters completely define the model. In general, there are $2B$ parameters for B bins.

Growth rates, while approximately normally distributed, were heteroskedastic, with the variance increasing with mass (Fig. 1), so an additional model was needed for the standard deviation of G, σ_G, as a function of $\log(M)$. The increase of σ_G with $\log(M)$ was clearly not linear, so we used a three-parameter model:

$$\sigma_G = k \qquad (\text{for } \log(M) < d)$$

$$\sigma_G = a + b\log(M) \qquad (\text{for } \log(M) \geq d)$$

where the intercept a is determined by the values of k, d and b. Thus σ_G was constant for smaller values of $\log(M)$ (below the cutoff d), then increased linearly for larger $\log(M)$ (Fig. 1). The parameters k, d and b were estimated along with the parameters of the growth model.

Parameters of both the growth and standard deviation models were estimated in a Bayesian framework using the likelihood of observing growth rates given model predictions and the estimated standard deviation of the Gaussian error function. A Markov chain Monte Carlo chain of parameter estimates was created using a Gibbs sampler with a Metropolis update[39,40] written in the programming language R (ref. 41) (a tutorial and the computer code are available through http://ctfs.arnarb.harvard.edu/Public/CTFSRPackage/files/tutorials/growthfitAnalysis). The sampler works by updating each of the parameters in sequence, holding other parameters fixed while the relevant likelihood function is used to locate the target parameter's next value. The step size used in the updates was adjusted adaptively through the runs, allowing more rapid convergence[40]. The final Markov chain Monte Carlo chain describes the posterior distribution for each model parameter, the error, and was then used to estimate the posterior distribution of growth rates as estimated from the model. Priors on model parameters were uniform over an unlimited range, whereas the parameters describing the standard deviation were restricted to >0. Bin boundaries, X_i, were constrained as follows: (1) boundaries could only fall within the range of X, (2) each bin contained at least five trees, and (3) no bin spanned less than 10% of the range of X. The last two restrictions prevented the bins from collapsing to very narrow ranges of X in which the fitted slope might take absurd extremes.

We chose piecewise regression over other alternatives for modelling G as a function of M for two main reasons. First, the linear regression slopes within each bin provide precise statistical tests of whether G increases or decreases with X, based on credible intervals of the slope parameters. Second, with adaptive bin positions, the function is completely flexible in allowing changes in slope at any point in the X range, with no influence of any one bin on the others. In contrast, in parametric models where a single function defines the relationship across all X, the shape of the curve at low X can (and indeed must) influence the shape at high X, hindering statistical inference about changes in tree growth at large size.

We used $\log(M)$ as our predictor because within a species M has a highly non-Gaussian distribution, with many small trees and only a few very large trees, including some large outliers. In contrast, we did not log-transform our dependent variable G so that we could retain values of $G \leq 0$ that are often recorded in very slowly growing trees, for which diameter change over a short measurement interval can be on a par with diameter measurement error.

For each species, models with 1, 2, 3 and 4 bins were fitted. Of these four models, the model receiving the greatest weight of evidence by Akaike Information Criterion (AIC) was selected. AIC is defined as the log-likelihood of the best-fitting model, penalized by twice the number of parameters. Given that adding one more bin to a model meant two more parameters, the model with an extra bin had to improve the log-likelihood by 4 to be considered a better model[42].

Assessing model fits. To determine whether our approach might have failed to reveal a final growth decline within the few largest trees of the various species, we calculated mass growth rate residuals for the single most massive individual tree of each species. For 52% of the 403 species, growth of the most massive tree was underestimated by our model fits (for example, Fig. 1a); for 48% it was overestimated (for example, Fig. 1b). These proportions were indistinguishable from 50% ($P = 0.55$, binomial test), as would be expected for unbiased model fits. Furthermore, the mean residual (observed minus predicted) mass growth rate of these most massive trees, $+0.006\ \mathrm{Mg\ yr^{-1}}$, was statistically indistinguishable from zero ($P = 0.29$, two-tailed t-test). We conclude that our model fits accurately represent growth trends up through, and including, the most massive trees.

Effects of combined data. To achieve sample sizes adequate for analysis, for some species we combined data from several different forest plots, potentially introducing a source of bias: if the largest trees of a species disproportionately occur on productive sites, the increase in mass growth rate with tree size could be exaggerated. This might occur because trees on less-productive sites—presumably the sites having the slowest-growing trees within any given size class—could be underrepresented in the largest size classes. We assessed this possibility in two ways.

First, our conclusions remained unchanged when we compared results for the 53% of species that came uniquely from single large plots with those of the 47% of species whose data were combined across several plots. Proportions of species with increasing mass growth rates in the last bin were indistinguishable between the two groups (97.6% and 95.8%, respectively; $P = 0.40$, Fisher's exact test). Additionally,

the shapes and magnitudes of the growth curves for Africa and Asia, where data for each species came uniquely from single large plots, were similar to those of Australasia, Europe and North America, where data for each species were combined across several plots (Table 1, Fig. 2 and Extended Data Fig. 2). (Data from Central and South America were from both single and combined plots, depending on species.)

Second, for a subset of combined-data species we compared two sets of model fits: (1) using all available plots (that is, the analyses we present in the main text), and (2) using only plots that contained massive trees—those in the top 5% of mass for a species. To maximize our ability to detect differences, we limited these analyses to species with large numbers of trees found in a large number of plots, dispersed widely across a broad geographic region. We therefore analysed the twelve Spanish species that each had more than 10,000 individual trees (Supplementary Table 1), found in 34,580 plots distributed across Spain. Massive trees occurred in 6,588 (19%) of the 34,580 plots. We found no substantial differences between the two analyses. When all 34,580 plots were analysed, ten of the twelve species showed increasing growth in the last bin, and seven showed increasing growth across all bins; when only the 6,588 plots containing the most massive trees were analysed, the corresponding numbers were eleven and nine. Model fits for the two groups were nearly indistinguishable in shape and magnitude across the range of tree masses. We thus found no evidence that the potential for growth differences among plots influenced our conclusions.

Effects of possible allometric biases. For some species, the maximum trunk diameter D in our data sets exceeded the maximum used to calibrate the species' allometric equation. In such cases our estimates of M extrapolate beyond the fitted allometry and could therefore be subject to bias. For 336 of our 403 species we were able to determine D of the largest tree that had been used in calibrating the associated allometric equations. Of those 336 species, 74% (dominated by tropical species) had no trees in our data set with D exceeding that used in calibrating the allometric equations, with the remaining 26% (dominated by temperate species) having at least one tree with D exceeding that used in calibration. The percentage of species with increasing G in the last bin for the first group (98.0%) was indistinguishable from that of the second group (96.6%) ($P = 0.44$, Fisher's exact test). Thus, our finding of increasing G with tree size is not affected by the minority of species that have at least one tree exceeding the maximum value of D used to calibrate their associated allometric equations.

A bias that could inflate the rate at which G increases with tree size could arise if allometric equations systematically underestimate M for small trees or overestimate M for large trees[43]. For a subset of our study species we obtained the raw data—consisting of measured values of D and M for individual trees—needed to calibrate allometric equations, allowing us to determine whether the particular form of those species' allometric equations was prone to bias, and if so, the potential consequences of that bias.

To assess the potential for allometric bias for the majority (58%) of species in our data set—those that used the empirical moist tropical forest equation of ref. 34—we reanalysed the data provided by ref. 34. The data were from 1,504 harvested trees representing 60 families and 184 genera, with D ranging from 5 cm to 156 cm; the associated allometric equation relates $\log(M)$ to a third-order polynomial of $\log(D)$. Because the regression of M on D was fitted on a log–log scale, this and subsequent equations include a correction of $\exp[(\mathrm{RSE})^2/2]$ for the error in back-transformation, where RSE is the residual standard error from the statistical model[44]. Residuals of M for the equation revealed no evident biases (Extended Data Fig. 4a), suggesting that we should expect little (if any) systematic size-related biases in our estimates of G for the 58% of our species that used this equation.

Our simplest form of allometric equation—applied to 22% of our species—was $\log(M) = a + b\log(D)$, where a and b are taxon-specific constants. For nine of our species that used equations of this form (all from the temperate western USA: *Abies amabilis, A. concolor, A. procera, Pinus lambertiana, Pinus ponderosa, Picea sitchensis, Pseudotsuga menziesii, Tsuga heterophylla* and *T. mertensiana*) we had values of both D and M for a total of 1,358 individual trees, allowing us to fit species-specific allometric equations of the form $\log(M) = a + b\log(D)$ and then assess them for bias. Residual plots showed a tendency to overestimate M for the largest trees (Extended Data Fig. 4b), with the possible consequence of inflating estimates of G for the largest relative to the smallest trees of these species.

To determine whether this bias was likely to alter our qualitative conclusion that G increases with tree size, we created a new set of allometric relations between D and M—one for each of the nine species—using the same piecewise linear regression approach we used to model G as a function of M. However, because our goal was to eliminate bias rather than seek the most parsimonious model, we fixed the number of bins at four, with the locations of boundaries between the bins being fitted by the model. Our new allometry using piecewise regressions led to predictions of M with no apparent bias relative to D (Extended Data Fig. 4c). This new, unbiased allometry gave the same qualitative results as our original, simple allometry regarding the relationship between G and M: for all nine species, G increased in the bin containing the largest trees, regardless of the allometry used (Extended Data Fig. 5). We conclude that any bias associated with the minority of our species that used the simple allometric equation form was unlikely to affect our broad conclusion that G increases with tree size in a majority of tree species.

As a final assessment, we compared our results to those of a recent study of *E. regnans* and *S. sempervirens*, in which M and G had been calculated from intensive measurements of aboveground portions of trees without the use of standard allometric equations[7]. Specifically, in two consecutive years 36 trees of different sizes and ages were climbed, trunk diameters were systematically measured at several heights, branch diameters and lengths were measured (with subsets of foliage and branches destructively sampled to determine mass relationships), wood densities were determined and ring widths from increment cores were used to supplement measured diameter growth increments. The authors used these measurements to calculate M for each of the trees in each of the two consecutive years, and G as the difference in M between the two years[7]. *E. regnans* and *S. sempervirens* are the world's tallest angiosperm and gymnosperm species, respectively, so the data set was dominated by exceptionally large trees; most had $M \geq 20$ Mg, and M of some individuals exceeded that of the most massive trees in our own data set (which lacked *E. regnans* and *S. sempervirens*). We therefore compared *E. regnans* and *S. sempervirens* to the 58 species in our data set that had at least one individual with $M \geq 20$ Mg. Sample sizes for *E. regnans* and *S. sempervirens*—15 and 21 trees, respectively—fell below our required ≥40 trees for fitting piecewise linear regressions, so we simply plotted data points for individual *E. regnans* and *S. sempervirens* along with the piecewise regressions that we had already fitted for our 58 comparison species (Fig. 3).

As reported by ref. 7, G increased with M for both *E. regnans* and *S. sempervirens*, up to and including some of the most massive individual trees on the Earth (Fig. 3). Within the zone of overlapping M between the two data sets, G values for individual *E. regnans* and *S. sempervirens* trees fell almost entirely within the ranges of the piecewise regressions we had fitted for our 58 comparison species. We take these observations as a further indication that our results, produced using standard allometric equations, accurately reflect broad relationships between M and G.

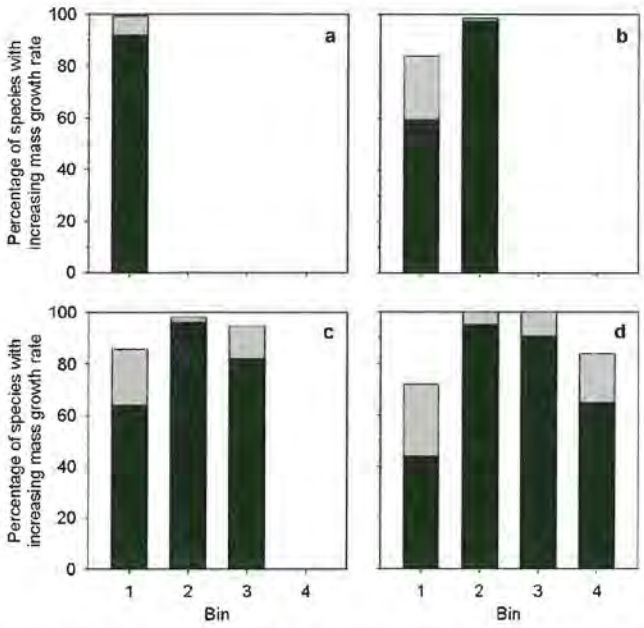
Fitting log–log models. To model $\log(G)$ as a function of $\log(M)$, we used the binning approach that we used in our primary analysis of mass growth rate (described earlier). However, in log-transforming growth we dropped trees with $G \leq 0$. Because negative growth rates become more extreme with increasing tree size, dropping them could introduce a bias towards increasing growth rates. Log-transformation additionally resulted in skewed growth rate residuals. Dropping trees with $G \leq 0$ caused several species to fall below our threshold sample size, reducing the total number of species analysed to 381 (Extended Data Fig. 2).

Growth in the absence of competition. We obtained published equations for 41 North American and European species, in 46 species-site combinations, relating species-specific tree diameter growth rates to trunk diameter D and to neighbourhood competition[45–49]. Setting neighbourhood competition to zero gave us equations describing estimated annual D growth as a function of D in the absence of competition. Starting at $D_0 = 10$ cm, we sequentially (1) calculated annual D growth for a tree of size D_t, (2) added this amount to D_t to determine D_{t+1}, (3) used an appropriate taxon-specific allometric equation to calculate the associated tree masses M_t and M_{t+1}, and (iv) calculated tree mass growth rate G_t of a tree of mass M_t in the absence of competition as $M_{t+1} - M_t$. For each of the five species that had separate growth analyses available from two different sites, we required that mass growth rate increased continuously with tree size at both sites for the species to be considered to have a continuously increasing mass growth rate. North American and European allometries were taken from refs 17 and 50, respectively, with preference given to allometric equations based on power functions of tree diameter, large numbers of sampled trees, and trees spanning a broad range of diameters. For the 47% of European species for which ref. 50 had no equations meeting our criteria, we used the best-matched (by species or genus) equations from ref. 17.

31. Condit, R. *et al.* Tropical forest dynamics across a rainfall gradient and the impact of an El Niño dry season. *J. Trop. Ecol.* **20,** 51–72 (2004).
32. Condit, R. *et al.* The importance of demographic niches to tree diversity. *Science* **313,** 98–101 (2006).
33. Rüger, N., Berger, U., Hubbell, S. P., Vieilledent, G. & Condit, R. Growth strategies of tropical tree species: disentangling light and size effects. *PLoS ONE* **6,** e25330 (2011).
34. Chave, J. *et al.* Tree allometry and improved estimation of carbon stocks and balance in tropical forests. *Oecologia* **145,** 87–99 (2005).
35. Sibly, R. M., Brown, J. H. & Kodric-Brown, A. (eds) *Metabolic Ecology: A Scaling Approach* (John Wiley & Sons, 2012).
36. Zanne, A. E. *et al.* Data from: Towards a worldwide wood economics spectrum. In *Dryad Digital Data Repository*, http://dx.doi.org/10.5061/dryad.234 (2009).
37. Enquist, B. J. & Niklas, K. J. Global allocation rules for patterns of biomass partitioning in seed plants. *Science* **295,** 1517–1520 (2002).

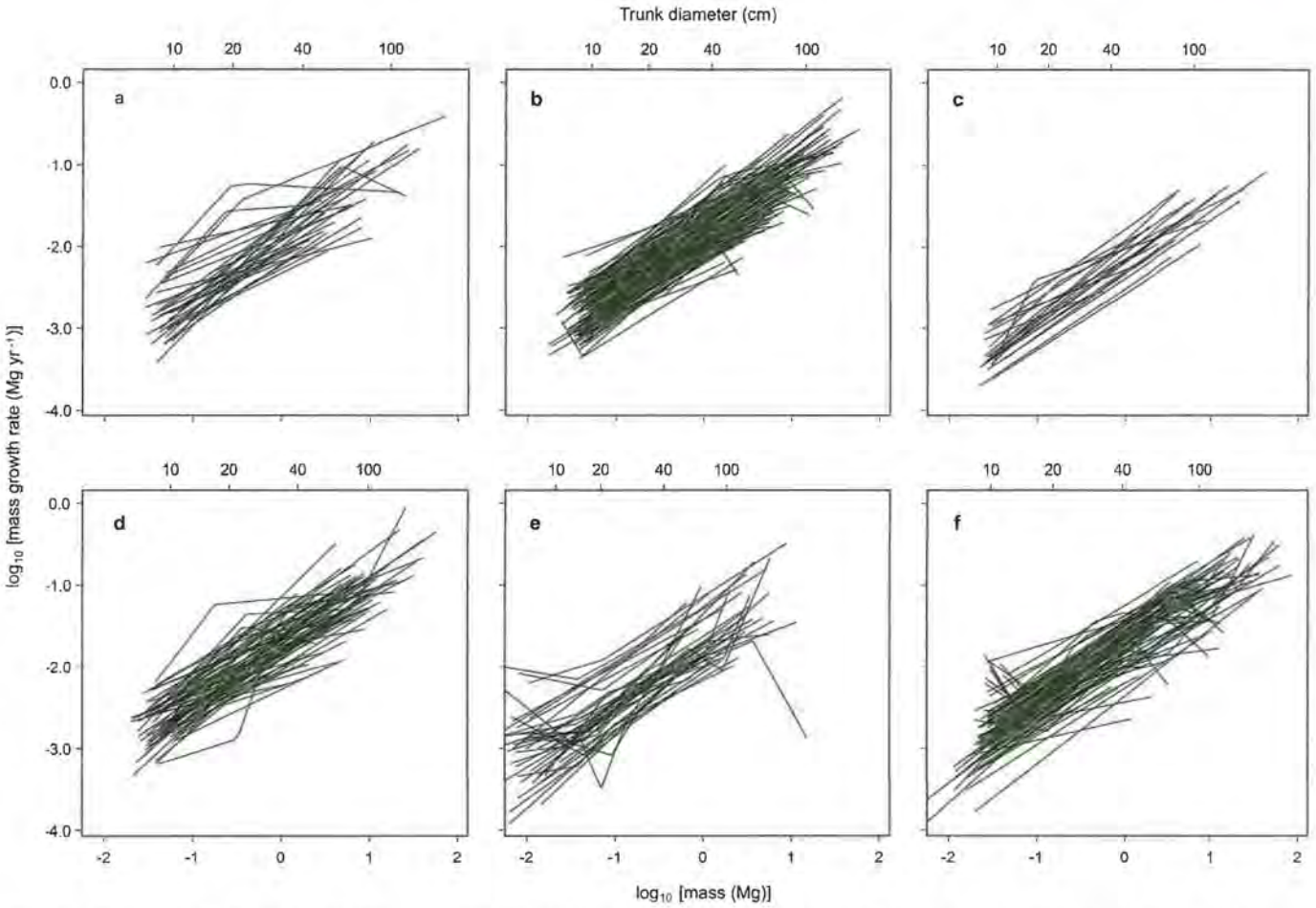
38. Niklas, K. J. Plant allometry: is there a grand unifying theory? *Biol. Rev.* **79,** 871–889 (2004).
39. Metropolis, N., Rosenbluth, A. W., Rosenbluth, M. N., Teller, A. H. & Teller, E. Equation of state calculations by fast computing machines. *J. Chem. Phys.* **21,** 1087–1092 (1953).
40. Rüger, N., Huth, A., Hubbell, S. P. & Condit, R. Determinants of mortality across a tropical lowland rainforest community. *Oikos* **120,** 1047–1056 (2011).
41. R Development Core Team. *R: A Language and Environment for Statistical Computing* (R Foundation for Statistical Computing, 2009).
42. Hilborn, R. & Mangel, M. *The Ecological Detective: Confronting Models with Data* (Princeton Univ. Press, 1997).
43. Chambers, J. Q., Dos Santos, J., Ribeiro, R. J. & Higuchi, N. Tree damage, allometric relationships, and above-ground net primary production in central Amazon forest. *For. Ecol. Manage.* **152,** 73–84 (2001).
44. Baskerville, G. L. Use of logarithmic regression in the estimation of plant biomass. *Can. J. For. Res.* **2,** 49–53 (1972).
45. Canham, C. D. *et al.* Neighborhood analyses of canopy tree competition along environmental gradients in New England forests. *Ecol. Appl.* **16,** 540–554 (2006).
46. Coates, K. D., Canham, C. D. & LePage, P. T. Above- versus below-ground competitive effects and responses of a guild of temperate tree species. *J. Ecol.* **97,** 118–130 (2009).
47. Pretzsch, H. & Biber, P. Size-symmetric versus size-asymmetric competition and growth partitioning among trees in forest stands along an ecological gradient in central Europe. *Can. J. For. Res.* **40,** 370–384 (2010).
48. Gómez-Aparicio, L., García-Valdés, R., Ruíz-Benito, P. & Zavala, M. A. Disentangling the relative importance of climate, size and competition on tree growth in Iberian forests: implications for forest management under global change. *Glob. Change Biol.* **17,** 2400–2414 (2011).
49. Das, A. The effect of size and competition on tree growth rate in old-growth coniferous forests. *Can. J. For. Res.* **42,** 1983–1995 (2012).
50. Zianis, D., Muukkonen, P., Makipaa, R. & Mencuccini, M. Biomass and stem volume equations for tree species in Europe. *Silva Fennica Monogr.* **4,** 1–63 (2005).

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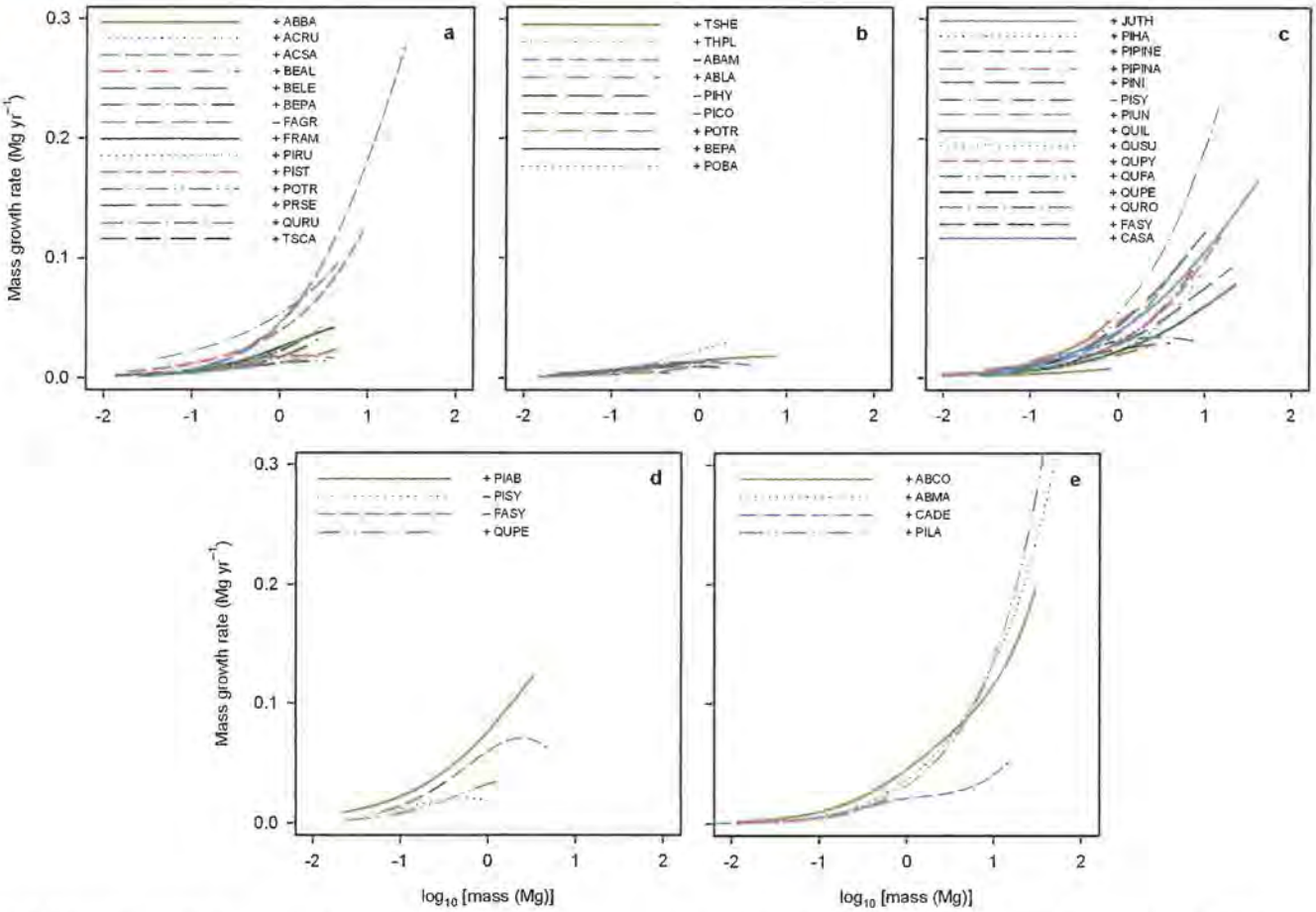
Extended Data Figure 1 | Summary of model fits for tree mass growth rates. Bars show the percentage of species with mass growth rates that increase with tree mass for each bin; black shading indicates percentage significant at $P \leq 0.05$. Tree masses increase with bin number. **a**, Species fitted with one bin (165 species); **b**, Species fitted with two bins (139 species); **c**, Species fitted with three bins (56 species); and **d**, Species fitted with four bins (43 species).

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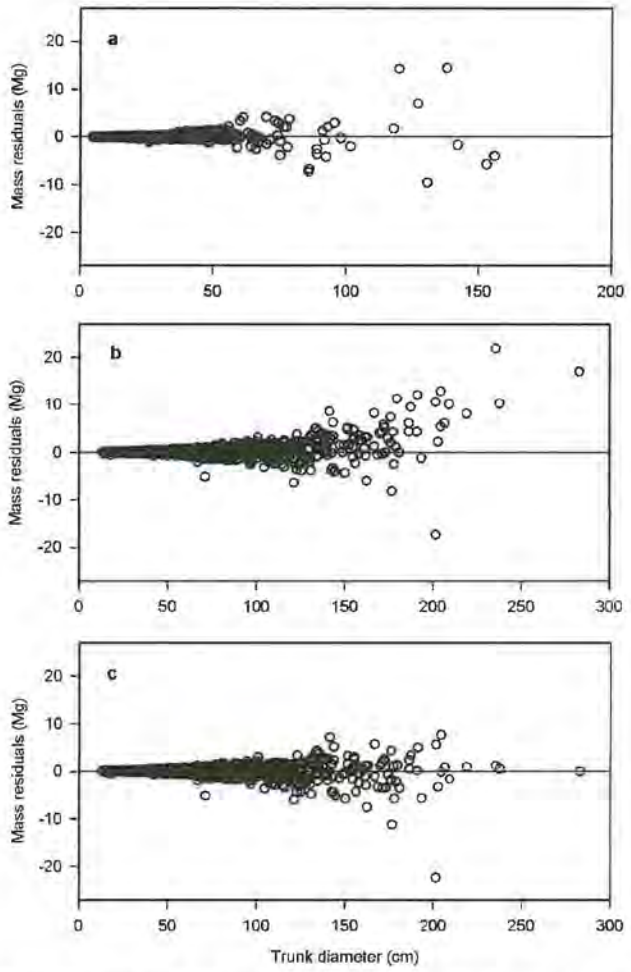


Extended Data Figure 2 | Log–log model fits of mass growth rates for 381 tree species, by continent. Trees with growth rates ≤ 0 were dropped from the analysis, reducing the number of species meeting our threshold sample size for analysis. **a**, Africa (33 species); **b**, Asia (123 species); **c**, Australasia (22 species); **d**, Central and South America (73 species); **e**, Europe (41 species); and **f**, North America (89 species). Trunk diameters are approximate values for reference, based on the average diameters of trees of a given mass.

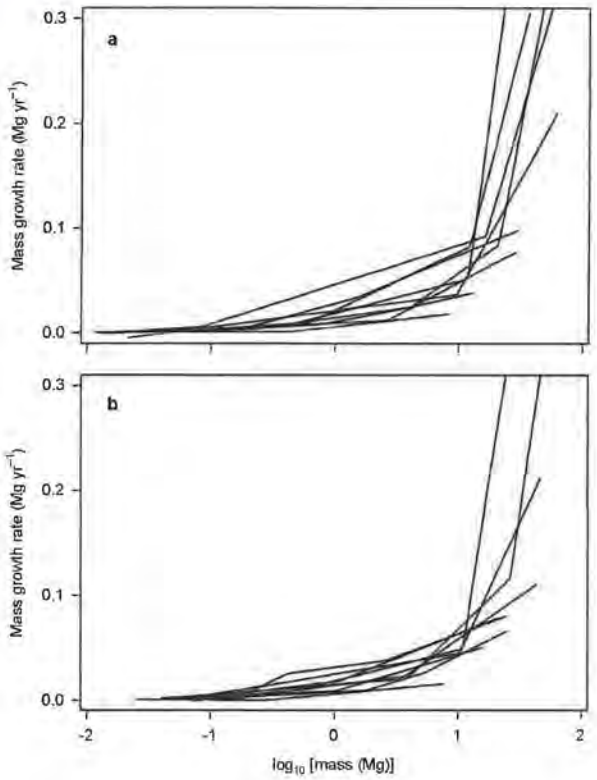
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Extended Data Figure 3 | Aboveground mass growth rates for 41 tree species in the absence of competition. The '+' or '−' symbol preceding each species code indicates, respectively, species with mass growth rates that increased continuously with tree size or species with mass growth rates that declined in the largest trees. Sources of the diameter growth equations used to calculate mass growth were: **a**, ref. 45; **b**, ref. 46; **c**, ref. 48; **d**, ref. 47; and **e**, ref. 49. ABAM, *Abies amabilis*; ABBA, *Abies balsamea*; ABCO, *Abies concolor*; ABLA, *Abies lasiocarpa*; ABMA, *Abies magnifica*; ACRU, *Acer rubrum*; ACSA, *Acer saccharum*; BEAL, *Betula alleghaniensis*; BELE, *Betula lenta*; BEPA, *Betula papyrifera*; CADE, *Calocedrus decurrens*; CASA, *Castanea sativa*; FAGR, *Fagus grandifolia*; FASY, *Fagus sylvatica*; FRAM, *Fraxinus americana*; JUTH, *Juniperus thurifera*; PIAB, *Picea abies*; PICO, *Pinus contorta*; PIHA, *Pinus halepensis*; PIHY, *Picea* hybrid (a complex of *Picea glauca*, *P. sitchensis* and *P. engelmannii*); PILA, *Pinus lambertiana*; PINI, *Pinus nigra*; PIPINA, *Pinus pinaster*; PIPINE, *Pinus pinea*; PIRU, *Picea rubens*; PIST, *Pinus strobus*; PISY, *Pinus sylvestris*; PIUN, *Pinus uncinata*; POBA, *Populus balsamifera* ssp. *trichocarpa*; POTR, *Populus tremuloides*; PRSE, *Prunus serotina*; QUFA, *Quercus faginea*; QUIL, *Quercus ilex*; QUPE, *Quercus petraea*; QUPY, *Quercus pyrenaica*; QURO, *Quercus robar*; QURU, *Quercus rubra*; QUSU, *Quercus suber*; THPL, *Thuja plicata*; TSCA, *Tsuga canadensis*; and TSHE, *Tsuga heterophylla*.

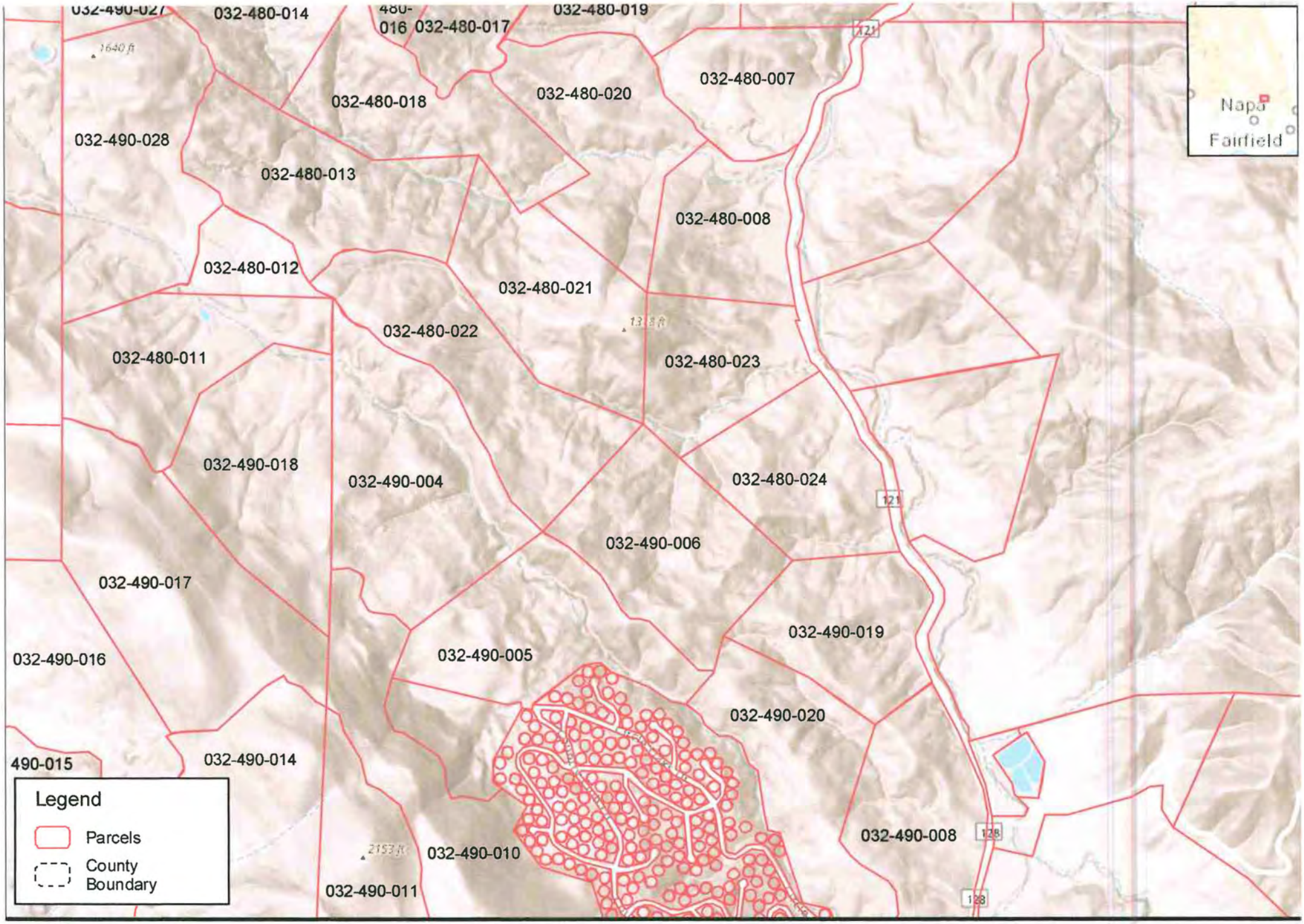


Extended Data Figure 4 | Residuals of predicted minus observed tree mass. **a**, The allometric equation for moist tropical forests[34]—used for the majority of tree species—shows no evident systematic bias in predicted aboveground dry mass, M, relative to trunk diameter (n = 1,504 trees). **b**, In contrast, our simplest form of allometric equation—used for 22% of our species and here applied to nine temperate species—shows an apparent bias towards overestimating M for large trees (n = 1,358 trees). **c**, New allometries that we created for the nine temperate species removed the apparent bias in predicted M.



Extended Data Figure 5 | Estimated mass growth rates of the nine temperate species of Extended Data Fig. 4. Growth was estimated using the simplest form of allometric model [$\log(M) = a + b\log(D)$] (**a**) and our allometric models fitted with piecewise linear regression (**b**). Regardless of the allometric model form, all nine species show increasing G in the largest trees.

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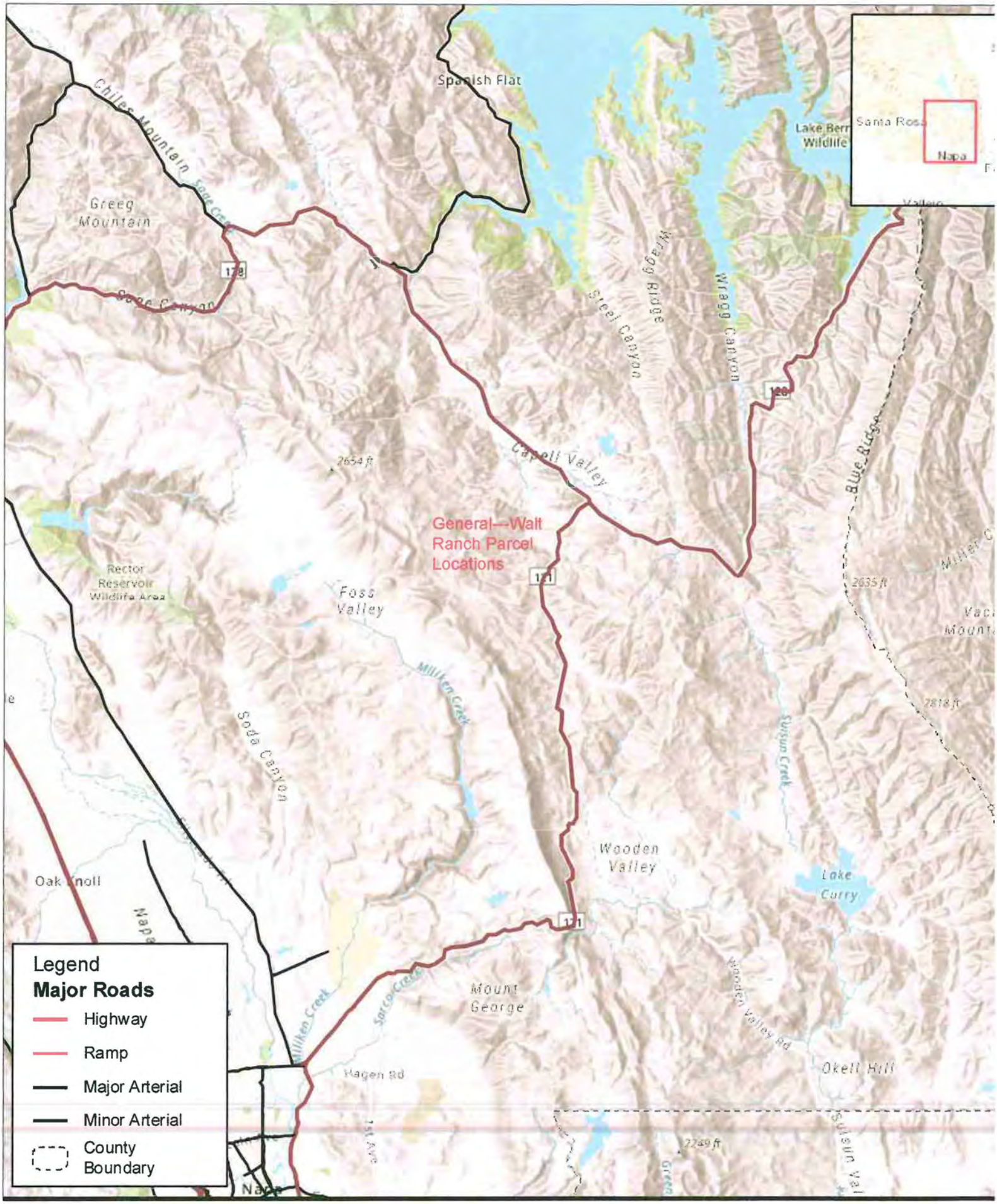
Labeled parcels show the general location of "Walt Ranch". 2 parcels are above those shown and 3 more are below the labeled parcels on the map above.

Printed On: 10/29/2021

0 0.075 0.15 0.3 mi

Disclaimer: This map was prepared for inventory purposes only. No liability is assumed for the accuracy of the data delineated hereon.

County of Napa | ITS Dept



County of Napa

The General location of the Walt Ranch parcels are under the "red text" added to the map above. Please refer to Napa County Parcel maps for specific location. Printed On: 10/29/2021

0 0.75 1.5 3 mi

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Attachment 12
Grounds of Appeal and Staff Responses

GROUNDS OF APPEAL:

The following outlines the basis of the Appeal as contained in Appellant's Appeal Packet dated November 5, 2021 (See **Attachment 1**). For convenience, Staff has bracketed the Appeal Packet to show the separate grounds and provided a summary below, but recommends the Board review the actual Appeal Packet for details.

Appeal Ground No. 1: Appellant contends that the County's revised Mitigation Measure 6-1 for GHG emissions should prioritize the preservation of existing oak woodlands.

Staff Response: At the outset, it must be clarified that the previously adopted mitigation for GHG emissions did not require the preservation of oak woodland, but rather required the permanent protection of woodland habitat, regardless of the species. While most of the woodland habitat on site consists of oak woodlands or of woodland alliances containing oaks, not all of the woodlands on the site are oak woodlands. The EIR includes figures showing the location of woodlands, oak or otherwise, located on the Property, as well as tables listing the type and total acreage of biotic communities located on the site (See Draft EIR, Figure 4.2-1[Vegetation Map] and Table 4.2-2.)

Appellant correctly points out that the Court of Appeal confirmed that the preservation of woodland habitat, if properly supported by substantial evidence that the trees would not reasonably have remained absent such preservation efforts, is appropriate mitigation for GHG emissions resulting from the project. The Appellant contends that "the logical fix for the EIR's shortcoming would be to identify 248 acres of oak woodland that would otherwise be developable, because the areas have slopes under 30% and are outside stream setbacks and permanently protect those lands through a conservation easement." (Appeal Packet, Attachment 1, p. 3.) Appellant claims that County policies "demonstrate[] a preference for preserving existing habitat" rather than relying on a tree-planting program.[1] (*Id.*)

Staff is not aware of an existing County policy that establishes a preference for preservation of existing habitat for the mitigation of GHG emissions. The County's General Plan does not include a policy preference for preserving woodland habitat. Napa County Code section 18.108.020(D) allows for the replacement or preservation, or a combination of both, to address the loss of vegetation canopy. While this does not apply to the mitigation of GHG emissions under CEQA, this is the only County policy explicitly addressing replacement or preservation. Even here, the Napa County Code does not prioritize one method over the other, but rather establishes priorities for the location of the replacement or preservation efforts.

[1] Appellant's current position contrasts with the claims it advanced in the lawsuit challenging the County's original decision to approve the project. There, Appellant challenged the County's reliance on conservation easements to address the projects GHG emissions. Appellant argued that conservation easements were insufficient, stating: "Unlike the planting of new trees, the mere preservation of existing trees does not provide any additional or new reduction in GHG emissions." (Appellant's Opening Brief on Appeal, p. 66; see also Appellant's Reply Brief on Appeal, p. 60 [stating that "reducing a Project's GHG emissions by planting new trees or through other measures is readily possible."].) Appellant has thus acknowledged in this case that planting new trees provides suitable mitigation for the project's GHG emissions.

Nor is there a policy preference in state law. CEQA Guidelines include preservation as an option for addressing GHG emissions, but does not establish a policy hierarchy or preference. Notably, Appellant does not cite to such a policy in County or State law.

It also appears that the Appellant has misunderstood the additive nature of the proposed revision to Mitigation Measure 6-1. The original Mitigation Measure 6-1 did not require that the 248 acres of woodland habitat be separate and above the acreage required to be preserved to mitigate other resource categories, such as biological resources. The EIR required a total of 679 acres of preservation, of which 525 acres must be woodland habitat. Notably, the Applicant's obligation to preserve 525 acres of woodland habitat to mitigate impacts on biological resources remains a requirement in the Mitigation Monitoring and Reporting Plan ("MMRP").

The proposed requirement that the Applicant permanently preserve 124 acres of woodland habitat is in addition to the acres to be preserved under other mitigation measures. This is to ensure that the oak woodland set aside for preservation to mitigate the GHG emissions from the project was truly developable and not otherwise restricted. Thus, the total amount of woodland habitat to be preserved, if this mitigation measure is approved, would be 649 acres. The County is not giving any credit for the GHG benefits of the preservation of the acres of woodland habitat required under other mitigation measures, despite its clear benefit to the environment.

Based on the above, the Director concluded that the proposed preservation of 124 acres of woodland habitat on land that was otherwise developable, along with the tree-planting program discussed in more detail below, was reasonable and appropriate. For this reason, and after careful consideration that resulted in modifications to the Applicant's proposal, the Director approved the revised Mitigation Measure 6-1.

Appeal Ground No. 2: Appellant claims that the revised Mitigation Measure 6-1 is unclear regarding the locations of the different land uses planned for the project in relation to the lands to be set aside and preserved for GHG mitigation. The Appellant contends that the amendment should be revised to provide more information so that the public can determine that at least 124 acres of oak woodlands outside riparian setbacks on slopes under 30% will be avoided for the purposes of GHG mitigation.

Staff Response: The proposal, along with the graphics and information existing in the record, contains sufficient information to ensure that the 124 acres to be protected is on woodland habitat that, but for the conservation easement, has the potential to be converted to other uses.

The applicant's May 5, 2021, proposal includes supporting technical documentation from PPI Engineering and a report from Ascent Environmental. Figures 1 and 2 from PPI Engineering show the location of the woodland to be permanently protected through a conservation easement. (Attachment 13.)

Figure 1 shows the location of 110 of these acres. The acreage is shaded dark green and is shown within the dark purple line designating the "easement area." The woodland habitat within this easement area is estimated at 124 acres. Out of this total, not less than 110 acres will be placed in an easement. The difference – 14 acres – is to account for on-site roads or other improvements within this area that will preclude permanently protecting the area mapped as woodland habitat.

Figure 2 shows the location of the remaining 14 acres to be preserved. On this figure, the location of the additional 14 acres is shown with cross-hatching. The cross-hatching encompasses an estimated 35.1 additional acres of woodland habitat. Out of this total, an additional 14 acres will be permanently protected by means of a conservation easement. The purpose of these additional 14 acres is to ensure that the total amount of woodland habitat that is preserved totals not less than 124 acres. [2]

All the land shown on Figures 1 and 2 has been mapped as woodland habitat. The data used to perform this mapping is the same data that was used in preparing the EIR. Final EIR Figure 4.2-1 shows, in detail, the location of different vegetation types on the property. This data includes several habitat types that consist of woodlands.

All of the woodland habitat shown within the "easement areas" on Figures 1 and 2 is land that, under County policy, has potential to be converted to other uses. Specifically:

- The slope of the land does not exceed 30 percent.

- The land is not located within required setbacks from riparian corridors, as described in the ECPA and the EIR.

- The land is not located in the Milliken Creek watershed.

- There is no overlap between the land shown on Figures 1 and 2 and the land to be converted (316 acres) as part of the project.

- The land will not be placed in conservation under other mitigation measures. This can be shown by comparing Figures 1 and 2 to the land designated for conservation under the approved Biological Resource Management Plan ("BRMP"), which provides information on the land to be conserved to address the site's biological resources and the County's conservation policies. The land identified for preservation in Figures 1 and 2 of the applicant's proposal does not overlap with land identified for preservation in the BRMP.

The Applicant provided additional mapping, using the same GIS data used in preparing the EIR, to show the interaction of several mitigation measures requiring conservation. The maps reveal a vast landscape of protected land, most of which consists of woodland habitat. The areas proposed for conservation to offset GHG emissions is identified in the document labelled Map 4, which clearly shows the areas that meet the criteria set forth above.

[2] It should be noted that Mitigation Measure 6-1, as approved by the Director contains a typographical error. The measure refers to the preservation of 35 acres outside of the area shown on Figure 2. This acreage is incorrect. The cross-hatching on Figure 2 shows an area encompassing approximately 35.1 acres. The area to be placed in conservation consists of 14 acres within this 35.1-acre area. In this fashion, a total of 124 acres of woodland habitat will be placed in a conservation easement. This error can be remedied in a revised Mitigation Measure 6-1.

For all these reasons, County staff concludes that the 124 acres designated for conservation is additive, is land that would not otherwise be protected by either County policy or by other mitigation measures, and is land that could otherwise be converted to other uses.

Appeal Ground No. 3: Appellant states that insufficient information exists concerning the areas that have been identified as suitable areas for planting trees. Appellant contends that the Applicant's references to the fires that impacted the property in 2017 and 2020 are "a distraction" and are not relevant to the current proposal. Appellant also states that Ascent's report assumes, incorrectly, that all trees within the footprint of the Hennessy fire were consumed by that fire.

Staff Response: The project was approved, and the EIR certified, well before the Atlas Fire in 2017 and the Hennessey Fire in 2020, both of which burned much of the Walt Ranch property. The EIR's estimates of the project's GHG emissions were based on surveys of the property as it existed before the fires, resulting in calculations of GHG emissions at their fullest impact. The target to reduce emissions by 27,528 $MTCO_2e$ is also based on these pre-fire calculations, representing the 26 percent reduction threshold. In one sense, the impact of the fires is not relevant: The County is not revising the estimates of the project's GHG emissions downward to account for the impacts of the fires.

There are several reasons for this. First, the estimates of both the total GHG emissions from the project and the amount required to be offset to reduce the impact to a less-than-significant level were confirmed by the Court and any effort to disturb those estimates would subject the County's methodology to further challenge. More importantly, though, this approach affords greater protection to the environment. By using the estimates in the EIR of the impact of the Project, which is substantially higher than the post-fire impact, the County is conservatively estimating the impact and requiring substantially more mitigation than would be necessary if the estimates were revised to incorporate the conditions of the property after the fires.

That said, the impact of the fires is relevant to the consideration of the proposed revision to Mitigation Measure 6-1 in other respects. Specifically, the condition of the property after two wildfires provides the backdrop for the tree-planting program. The Ascent Report (April 2021, Attachment 13) and the Ascent memorandum prepared in response to the Appeal (November 2021, Attachment 3) identified those areas on the property that consisted of woodland habitat and that were damaged by the fires. As shown in these reports, the fires damaged or destroyed much of the previously-existing woodland habitat on the Property. The areas mapped as woodlands, and damaged by the fires, provide suitable locations upon which the tree planting program may focus.

Appellant's contention that the planting areas are not sufficiently identified is not accurate. The areas identified for planting trees are shown in Figure 2 of the Ascent Report (April 2021, Attachment 13). Ascent describes the methodology used to identify these areas. Briefly, the areas identified as eligible for the tree planting program meet the following criteria:

- The areas are not within the 316 acres to be converted to vineyards.

- The areas are not in locations that the BRMP has designated for preservation of biological resources other than oak woodlands. Thus, the tree planting effort will not interfere with other efforts to preserve biological resources on the site.

- The areas are within the footprint of the 2020 Hennessey wildland fire. Because the Hennessey wildland fire occurred more recently than the 2017 Atlas wildland fire, less regeneration of vegetation has occurred within this footprint. As a result, a tree planting program will result in greater benefits in this area, for carbon sequestration, enhanced biological value, and soil stabilization.

- The areas eligible for replanting have been mapped as oak woodlands. The mapping of oak woodlands was performed over several years prior to the County's December 2016 approval of the project. The mapping thus predates the Atlas and Hennessey wildland fires. The mapping indicates that replanting efforts will succeed in these areas because the same land has supported oak woodlands in the past. Ascent focused on oak woodlands because data available on the sequestration benefits associated with such woodlands is more reliable than it is for other habitat types. In addition, although there are other woodland habitats on the property, oak woodlands predominate, and thus provide ample locations where an oak tree planting program would be appropriate.

As Figure 2 shows, using these criteria, the land suitable for a tree planting program is extensive. Figure 2 is based on site-specific information derived from physical surveys of the site. Staff believes that this information is sufficient to show that the tree planting program will achieve the required sequestration of GHG emissions.

Appellant states that Ascent assumed that all trees were lost within the footprint of the Hennessey wildland fire. According to Appellant, oak trees have adapted to areas that experience periodic wildland fires, so the assumption that all trees were lost is unreasonable.

Ascent did not assume that all trees were lost within the footprint of the Hennessey wildland fire. However, in response to this claim, staff asked an arborist with Ascent to perform a physical inspection of the Walt Ranch property to assess the effect of the Hennessey fire, and to confirm the suitability of the property for a tree planting program. As the arborist explains, the Atlas and Hennessey fires inflicted significant damage on the property, particularly in those areas that burned in both 2017 and 2020. Many of the trees have died, and the damage is significantly severe that many trees will not regenerate. These areas are particularly suitable for replanting. The areas are much larger than necessary to accommodate the tree planting program, following guidance regarding tree planting densities. (See Ascent Memorandum, November 2021, Attachment 3, p. 3.)

To the extent that the Appellant relies on the Initial Study for the Atlas View II Vineyard ECPA (the "Atlas View Project"), which was released for public comment on November 22, 2021, the information is only of minimal value in this analysis. A survey conducted by Northwest Biosurvey on July 21, 2021, concluded that the survival rate of oaks on the property approached 70 percent after the 2020 Hennessey Fire, with "pockets of 100 percent mortality." (IS/MND Exhibit B-4, available here: Files - PBES Cloud.) This is substantially similar to the conclusions expressed by Ascent after their visit to the Walt Ranch property in November 2021. Ascent's

arborist concluded that approximately 50 percent of woodland species survived the 2020 Hennessey Fire. Considering the variability of the intensity of the fire and the difference in physical conditions even within such proximity, these conclusions are not significantly different. Further, the purpose of the analysis here is to determine suitable areas for replanting, which does not require any level of calculation of the loss of species due to the fire. Rather, the exercise is to identify areas suitable for replanting, even if such replanting is not intended to replace an entire forest. The Atlas View Project analysis was performed to calculate the environmental impact of the project on various impact categories. This analysis requires a more extensive and detailed reflection of the baseline conditions of the site.

The arborist's findings and recommendations are set forth in the Ascent Memorandum at Attachment 3. As the memorandum explains, approximately 84 acres of suitable woodland habitat will be necessary to accommodate the tree planting program, based on best practices for planting seedlings. Based on current conditions following the fires, at least 900 acres of woodland habitat were impacted by the fires with approximately 50 percent of that area experiencing tree mortality or substantial damage that will reduce regeneration of the woodland. Therefore, approximately 450 acres are suitable for replanting, located within the areas highlighted in the Ascent Report (April 2021, Attachment 13.). Thus, the number of suitable acres far exceeds the number of acres that are needed for planting.

It should also be noted that the trees must be planted within areas that are permanently protected by conservation easements. This includes all of the acreage set aside for preservation and GHG mitigation, as well as the acreage set aside by all of the other mitigation measures applicable to the project. This further serves to identify the specific locations in which tree planting may be conducted.

Appeal Ground No. 4: Appellant claims that the calculation of 16,790 trees for the planting program is incorrect because it does not take the 80% survival (i.e., 20% death) rate into account. Appellant argues that over 4,000 additional trees would need to be planted to achieve the claimed benefit.

Staff Response: This statement is incorrect. Ascent's estimate of the sequestration benefits of the tree planting program reflected the fact that the program requires an 80% survival rate, not a 100% survival rate. The average amount of carbon sequestered per tree per year (54.7 kg CO_2) was based on i-Tree modeling, the U.S. Department of Agriculture Forest Service calculator. Thus, Ascent used modeling that met industry standards for calculating carbon sequestration in tree planting programs and accounted for the projected survival rate. The model requires inputting the assumed survival rate and the 80 percent survival rate was used. The 54.7 kg CO_2 figure incorporates the 80% survival rate. For further information, please see the Ascent Memorandum at Attachment 3.

Appeal Ground No. 5: Appellant claims that the calculations underlying the tree-planting program overstates the carbon benefits of planting trees by using the estimated carbon sequestration associated with trees 31 to 99 years old, rather than 1-30 years old. Appellant argues that the calculation is misleading because the seedlings and saplings store much less carbon compared to mature trees.

Staff Response: Ascent's estimate of the sequestration benefits of the tree planting program are addressed in the Ascent Memorandum at Attachment 3. In short, to account for the model's assumption that the project lifetime is 99 years, Ascent amortized the carbon benefits from tree planting by 99 years and multiplied that by the project lifetime of 30 years. Therefore, the calculation only considers the carbon benefit/sequestration of the trees for the project lifetime, despite the perpetual nature of the conservation easements that will protect the trees well beyond 30 years. The 30-year project lifetime is the benchmark used to measure air quality impacts, but does not necessarily reflect the perpetual nature of the tree planting program. The benefits of tree-planting are long term, and while this will not immediately replace the carbon sequestration lost from the removal of trees, it will result in more mitigation that required to achieve a less-than-significant impact over the lives of the trees. For further information, please see the Ascent Memorandum at Attachment 3.

Appeal Ground No. 6: Appellant claims that the 80% survival standard is not supported by substantial evidence. Appellant claims that the County has not shown that such a high survival rate is achievable and that the only evidence relating to the actual survival rate of tree-planting efforts shows only a 17% survival rate.

Staff Response: Ascent's Memorandum addresses why the 80% survival rate was selected and explains how the survival rate will be achieved. Please see the Ascent Memorandum at Attachment 3.

Mitigation Measure 6-1 requires that the Applicant monitor the planted trees. If a tree does not survive for the requisite period, then the Applicant must replace it with another seedling, which in turn must be monitored to ensure survival for seven years.

The 80% survival rate is identical to the performance standard set forth in the approved BRMP. (See BRMP, § 5.5 [Monitoring, Reporting and Success Criteria], available here.) The BRMP was approved as part of the original ECP. The BRMP is not subject to legal challenge, it remains approved, and the time in which to challenge the BRMP expired in early 2017.

Lastly, the 17 percent survival rate identified by the Appellant relates to planting acorns, rather than seedlings. The survival rate of acorns does not equate to the survival rate of seedlings, which have already demonstrated a higher level of viability.

Based on the above, the 80 percent survival rate is appropriate.

Appeal Ground No. 7: Appellant claims that the five-year monitoring period for survival of oak saplings is inadequate and unsupported by evidence. Appellant contends that the monitoring should be at least 7 years, as required for oak woodland preservation under Public Resources Code section 21083.4, but should be closer to 15 to 20 years of adaptive management to ensure long-term success and survival.

Staff Response: There is no specific requirement for the amount of time required to monitor a tree-planting program for the purposes of offsetting GHG emissions. The Director's approval was based on the recommendation of the GHG experts at Ascent Environmental. Public Resources Code Section 21083.4, referred to by the Appellants, applies to mitigation for impacts

on oak woodlands. Projects involving agricultural production are exempt from the statute. (Pub. Resources Code, § 21083.4, subd. (d)(3) [section does not apply to projects involving agricultural production on agricultural land].) For this reason, the seven-year monitoring period established by this statute does not legally apply to the project.

However, the statute does provide guidance regarding what the Legislature regards as the appropriate length of time to monitor an oak tree replanting program, albeit in another context. As Appellant states, the statute provides that such programs should be monitored for a period of seven years. Based on this guidance, Staff recommends revising Mitigation Measure 6-1 to provide for a seven-year monitoring period. The Applicant submitted a revised Mitigation Measure 6-1, which includes the seven-year monitoring period. Staff recommends adopting this revision.

In addition to revising Mitigation Measure 6-1 to extend the monitoring period to seven years, the Applicant proposes including the requirement that the BRMP be revised to incorporate the requirements of this measure. This change will ensure that both the conservation easement and the tree planting program are integrated into the monitoring, reporting and enforcement provisions that are already established by the BRMP for other conservation requirements. Integrating the requirements of Mitigation Measure 6-1 into the BRMP will streamline and strengthen the County's ability to ensure that these actions are carried out. Staff recommends including this revision in the adopted Mitigation Measure 6-1.

These revisions are included in the proposed Mitigation Measure 6-1 at Attachment 8

Appeal Ground No. 8: Appellant claims that the approved mitigation is vague as to how the County will monitor the planting plan and lacks key details concerning enforcement if performance standards are not met. Appellant contends that the measure must provide a specific timeline for tree plantings, designate milestone markers that outline goals for tree survival, and provide a clear definition of how tree survival is determined.

Staff Response: The tree planting program has adequate enforcement measures, but staff reiterates its recommendation that the tree planting program be included in the BRMP, as described in Attachment 8. The applicant is already subject to extensive monitoring and enforcement requirements under the BRMP. The BRMP requires, among other things, restoration and replanting of identified sensitive biological resources with details regarding planting techniques, irrigation schedules, and figures identifying planting locations. The BRMP also identifies success criteria for such efforts. The oak tree replanting program proposed here is no different. A specific target is identified for the number of seedlings to be planted, the length of time to monitor the species, a target to determine whether replanting has been successful (80%), and a specific period of time during which the monitoring must continue (seven years from planting the seedling). If the program does not achieve the 80% target, additional seedlings will have to be planted, and they, too, will have to be monitored for the specified period.

After the seven-year monitoring period is over, the trees will continue to be protected by means of a conservation easement that will preclude the applicant from undertaking any steps that result in disturbing the trees. Such land will not be eligible for conversion to other uses that require removing the trees that have been planted. A seven-year period is considered sufficient to

demonstrate that the seedlings have been established such that they do not require further maintenance. (Pub. Resources Code, § 21083.4, subd. (b)(2)(B).)

* * *

The following grounds for appeal are taken from the Appellant's October 1, 2021, letter to the Director, submitted in response to the Tentative Decision issued on September 21, 2021. (Attachment 12.) Appellant includes this letter as an attachment to its November 5, 2021, Appeal Packet and incorporated the arguments into the appeal. For completeness, Staff addresses the following grounds of appeal from that letter.

Appeal Ground No. 9: Appellant states that the tree planting program is inadequate considering existing conditions on the Walt Ranch property following the Atlas and Hennessey fires that occurred in 2017 and 2020, respectively. Appellant states that the County must update its analysis to reflect current conditions on the property. Appellant notes that fires generally do not consume every tree in an area, that oaks are adapted to fire, that even trees that burn still sequester some carbon, and that oak trees often regenerate after a fire.

Staff Response: See Staff Response to Appeal Ground No. 3, above.

The County's approach of mitigating the pre-fire impact of the project's GHG emissions is a conservative approach, requiring more mitigation than would be necessary if the post-fire conditions were incorporated into the analysis.

This approach is consistent with CEQA. Generally, an EIR's analysis must focus on the existing conditions at the time the analysis is performed. (CEQA Guidelines, section 15125, subd. (a).) In this case, however, the County has already certified an EIR for the project; the EIR was upheld and remains certified. For this reason, in considering revisions to Mitigation Measure 6-1, the County must perform supplemental environmental review under Public Resources Code section 21166. CEQA provides that the environmental setting consists of those physical conditions as described in the certified EIR, rather than physical conditions as they exist today. (*Friends of the San Mateo College Gardens v. San Mateo County Community College Dist.* (2016) 1 Cal.5th 937.) Those conditions predate the 2017 and 2020 wildland fires. Adhering to the estimate of GHG emissions as set forth in the certified EIR therefore appropriately reflects the fact that the County is engaged in supplemental review for a project that has already undergone CEQA review.

Lastly, Appellant states that the tree planting program is premised on "the assumption that no trees or other vegetation survived the recent fires." (Attachment 1, Exhibit 2, p. 5.) This statement is incorrect. The tree planting program does not depend on the assumption that no trees remain. Rather, the program recognizes the fact that many trees were damaged or killed, such that replanting trees will result in carbon sequestration that would not otherwise occur. Such a program would also help stabilize areas scarred by recent fires.

Appeal Ground No. 10: Appellant questions Ascent's assumptions regarding tree densities and tree loss. Appellant also questions the efficacy of tree planting generally as a strategy for addressing GHG emissions.

Staff Response: See Ascent's Memorandum, which provides further information regarding Ascent's assumptions about tree densities and tree loss. (November 2021, Attachment 3.) With respect to the efficacy of tree planting programs to address GHG emissions, see Staff Response to Appeal Ground Nos. 3-8, above.

Appeal Ground No. 11: Appellant states that Ascent's April 2021 report contains inconsistencies regarding the estimate of oak woodlands in areas eligible for planting.

Staff Response: Ascent's Report shows the areas burned in the 2017 Atlas fire and the 2020 Hennessey fire. (Ascent Report, April 2021, Attachment 13, Figure 1.) Table 2 summarizes the acreage burned in the 2020 Hennessey fire, broken down by habitat type that prevailed prior to that fire. As Table 2 shows, a total of 954 acres of oak woodland on the property burned in the Hennessey fire.

Ascent's report also identifies areas eligible for replanting. As Table 2 shows, 901 acres (out of the 954 acres of oak woodlands that burned) are eligible for replanting. The amount that burned is different from the amount that is eligible for replanting because the areas eligible for replanting do not include areas that will already be preserved as a result of conservation of other biological resources, areas that are to be planted with vineyards, and areas that do not contain vegetative cover and therefore likely would not support oaks. (See Ascent Report, Attachment 13, Table 2, footnote 2.) As shown on Figure 2, the vast majority of the area identified as eligible for replanting has historically supported oak woodlands. The report therefore shows that extensive acreage is available to plant oak seedlings.

The "inconsistencies" cited by Appellant are based on a calculation error that Ascent has corrected. (See Ascent Memorandum, Attachment 3.) Focusing on the Hennessey fire, the Ascent report states that 85% of the Walt Ranch property that burned was mapped as oak woodlands based on site-specific surveys performed prior to the fires. This information is correct. According to Table 2 of this report, 1,122.47 acres burned during this fire. Out of this total, 954.3 acres were mapped oak woodland. That translates to 85% of the area that burned.

Appellant also cites to information concerning "burn areas eligible for planting," the third column in this table. According to this table, 1,023.16 acres are eligible for planting, and out of this total 900.72 acres are mapped oak woodland. This information is correct. The column showing the "Percent of Total," however, is incorrect. The correct percentage for oak woodlands is not 68%, but is instead 88%. Ascent's Memorandum corrects this error in a corrected Table 2. (Attachment 3.)

With this correction, which is simply a mathematical error that *understated* the percentage of the property eligible for replanting, the alleged inconsistencies are clarified.

Appeal Ground No. 12: Appellant objects to the applicant's proposal to plant twice as many trees – 33,580 rather than 16,790 – in the event no administrative appeal is filed. Appellant states that this proposal violates First Amendment principles and is undemocratic.

Staff Response: The Applicant's proposal and the County's revised Mitigation Measure did not preclude Appellant or others from filing an administrative appeal, as evidenced by this very appeal. The cases cited by Appellants do not involve CEQA, nor do they involve an offer by a project applicant to provide additional mitigation in excess of that which is required to mitigate project impacts.

The issue before the County is whether the current proposal to plant 16,790 trees is sufficient to address the project's obligation to address GHG emissions. Based on Ascent's analysis, the tree planting program alone is sufficient to provide the required mitigation; in this respect, the requirement to also record a conservation easement on 124 acres results in mitigation that exceeds the applicant's obligations. The Applicant has stated that it recognizes, and accepts, over-mitigating the project's GHG emissions in this respect. The revised Mitigation Measure 6-1 removes references to the additional 16,790 trees that the Applicant offered to plant. (Attachment 6.)

Appeal Ground No. 13: Appellant recommends lengthening the monitoring period to seven or more years and increasing the number of trees to be planted.

Staff Response: With respect to the monitoring period, please see Staff Response to Appeal Ground No. 7. Staff recommends, and Applicant accepts, revising the monitoring period to seven years. This change is reflected in the revised version of Mitigation Measure 6-1 at Attachment 8. Regarding the number of trees planted and tree planting ratios, see Staff Response to Appeal Ground No. 4, as well as the Ascent Report (April 2021, Attachment 13,) and Ascent's Memorandum (November 2021, Attachment 3).

Appeal Ground No. 14: Appellant states that the proposal to place a conservation easement on 124 acres of woodland habitat, rather than on 248 acres as originally required, is inappropriate. Appellant states that the applicant's obligation to preserve woodland habitat should not be reduced.

Staff Response: See Staff Response to Appeal Ground No. 1, above.

Appeal Ground No. 15: Appellant states that the applicant's May 5, 2021, proposal does not provide sufficient information regarding the acreage to be placed in a conservation easement to protect 124 acres of woodland habitat.

Staff Response: See Staff Response to Appeal Ground No. 2, above.

Appeal Ground No. 16: Appellant states that easement areas should be contiguous, and should meet the 248-acre requirement set forth in the original version of Mitigation Measure 6-1.

Staff Response: The conservation requirement set forth in Mitigation Measure 6-1, as originally approved, overlapped with the separate requirement under Mitigation Measure 4.2-16 to protect

524.8 acres of woodland habitat. That is, as approved, this mitigation did not preclude "stacking" the easements. The current proposal is entirely additive – that is, the 124 acres of woodland habitat to be conserved under Mitigation Measure 6-1 cannot overlap with the 525 acres of woodland habitat to be conserved under Mitigation Measure 4.2-16, or any other acreage preserved under other mitigation. The total acreage of woodland habitat conserved with the proposed mitigation will exceed the amount of woodland habitat conserved under the project as originally approved. The mitigation "ratio" of woodland conservation to converted land, is now 649 acres : 316 acres, or just over 2:1, not the 0.39:1 ratio cited in the comment.

Note that not all of the 316 acres to be converted is woodland habitat. Out of the 316 acres to be converted, approximately 186 acres are woodland habitat. (Final EIR, p. 4.2-125.) Thus, if the focus is on impacts to woodland habitat and corresponding mitigation, the ratio is:

649 acres placed in conservation
186 acres converted

which translates to a ratio of 3.5:1.

Appeal Ground No. 17: Appellant states that Ascent used inconsistent methodologies in estimating the project's GHG emissions and in estimating the amount of carbon sequestered by planting oak trees as required by proposed Mitigation Measure 6-1.

Staff Response: The methodology used to estimate the project's GHG emissions is described in the Final EIR. Appellant challenged the Final EIR's approach in the previous litigation. Both the trial court and the Court of Appeal upheld the Final EIR's analysis and methodology. Ascent has not revised the Final EIR's methodology, and the estimate of the project's GHG emissions remains the same. Please see the Staff Response to Appeal Ground No. 3.

Ascent's analysis focuses on the carbon sequestration benefits of a tree planting program. Ascent used accepted protocols for determining these benefits. See the Ascent Memorandum at Attachment 3.

Conclusion

Based on the above, Staff recommends that the Board deny the appeal and approve the revised Mitigation Measure 6-1, modified to include the 7-year monitoring plan, to correct typographical errors, and to incorporate the tree-planting plan into the project's BRMP. (Attachment 8.) Staff believes substantial evidence exists on the record to support the conclusion that the revised Mitigation Measure will offset GHG emissions by at least 26 percent, which is the established threshold in the EIR. Therefore, the proposed Mitigation Measure 6-1 will reduce the impact of the project's GHG emissions to a less-than-significant level.

Attachment 13
Ascent Memorandum re: CBD Appeal
November 19, 2021

Memo

455 Capitol Mall, Suite 300
Sacramento, CA 95814
916.444.7301

Date: November 19, 2021

To: David Morrison, Department of Planning, Building, and Environmental Services, County of Napa

From: Brenda Hom, Hannah Kornfeld, Joshua Boldt, and Honey Walters (Ascent)

Subject: Walt Ranch Erosion Control Plan Greenhouse Gas Mitigation Report: Response to Greenhouse Gas Mitigation Appeal

INTRODUCTION

Ascent Environmental (Ascent) prepared a Greenhouse Gas Mitigation Report (GHG Report), dated April 28, 2021, that presented a path for the Walt Ranch Vineyards Agricultural Erosion Control Plan (project) to meet the greenhouse gas (GHG) mitigation requirements pursuant to Mitigation Measure 6-1 of the Environmental Impact Report (EIR). The GHG Report was submitted to the County of Napa (County) Department of Planning, Building, and Environmental Services as an attachment to a letter from the project applicant, Hall Brambletree Associates.

In light of the appeal challenging the approval of the amendment to Mitigation Measure 6-1 of the EIR, Ascent has prepared this memorandum to provide clarity and further substantiation to the GHG Report. The memo is organized by the types of comments received from the Appellant.

AREAS FOR REPLANTING

Comments received by the Appellant state that the GHG Report does not identify the specific areas where tree replanting can occur. The GHG Report describes and identifies the eligible tree planting areas on Page 3, in Figure 2, as indicated by the hashed areas, and in Table 2. As shown in Figure 2 of the GHG Report (and in Table 15 and Figure 23 of the Biological Resources Management Plan [BRMP]), approximately 73 percent of the project area is categorized as oak woodland, with the remainder categorized as grassland, non-oak woodland, shrubland, rock outcrop, or developed areas. These hashed areas represent areas that are outside of the Milliken Reservoir Watershed, that were previously burned in the 2020 Hennessey fire, and that are outside the areas that will be converted to vineyards. These limits were chosen in order to focus on areas that would not be converted to vineyards, on land suitable for oak woodlands, and on land that was burned during the 2020 Hennessey fire, where a tree planting program would have the greatest benefits in terms of both replacing burned trees and stabilizing soil.

It was pointed out by the Appellant that there was an error in Table 2 of the GHG Report. The percent of total burned areas eligible for planting were incorrect. The revised table is presented below in strikeout and underline to indicate

where edits were made. The edits increase the amount of oak woodland landcover that was burned and is eligible for replanting.

Table 2: Burned Areas by Original Vegetation Types

	Area Burned in the Hennessey Fire (2020)		Burn Areas Eligible for Planting[2]	
Original Landcover	Acres	Percent of Total	Acres	Percent of Total
Oak Woodland	**954.30**	**85%**	**900.72**	~~**68%**~~ **88%**
Coast Live Oak	318.19	28%	302.02	~~17%~~ 30%
Mixed Oak	302.50	27%	282.15	~~32%~~ 28%
Blue Oak	241.10	21%	226.74	~~13%~~ 22%
Black Oak	56.32	5%	55.29	~~3%~~ 5%
Valley Oak	29.20	3%	27.65	~~2%~~ 3%
Interior Live Oak	6.99	1%	6.88	~~0%~~ <1%
Shrubland and Grassland	**165.52**	**15%**	**122.44**	~~**32%**~~ **12%**
Shrubland	51.31	5%	45.98	~~19%~~ 4.5%
Grassland	114.21	10%	76.46	~~13%~~ 7.5%
Non-Vegetative Landcover	**2.65**	**<1%**	**0**	**0%**
Rock Outcrop	2.65	*<1%*	0	**0%**
Urban	0.32	*<1%*	0	0%
Total	**1,122.47**	**100%**	**1,023.16**	**100%**

Notes:
[1] A mix of oak and non-oak tree species,
[2] Excludes areas within planned conservation areas, proposed vineyard development, and non-vegetative landcover.
Source: Data compiled by Ascent Environmental in 2021 using data from County of Napa 2016b and PPI Engineering 2020

In consideration of the actual suitable conditions for replanting, the GHG Report does not limit tree plantings under Mitigation Measure 6-1 to occur only within the eligible planting area but recommends that the applicant prioritize planting in the eligible planting areas and consider expanding plantings outside of the project area or in the Milliken Reservoir Watershed to support the carbon sequestration targets under Mitigation Measure 6-1. Page 7 of the GHG Report states that:

> *Considering that areas outside the project could be considered for replanting, especially those also affected by recent wildfires, and considering that foresters generally recommend replacing lost native species with the same species, the final average carbon sequestration rate of trees replanted under this effort could vary considerably from the estimates in this memorandum.*

Additionally on pages 8 and 9, the GHG Report recommends that the applicant conduct the following:

> *prioritize planting trees within the eligible planting areas and identify if all required trees can be planted within the eligible planting area or if other planting areas need to be considered. The applicant may consider working with the County to plant trees in the burned areas of the Milliken Reservoir Watershed or other local areas affected by wildfires to help with regional reforestation efforts such that the GHG reduction meets the requirements of Mitigation Measure 6-1 (i.e., 27,528 $MTCO_2e$).*

An arborist certified by the International Society of Arboriculture visited the project area on November 16, 2021, to survey the area and take stock of potential regrowth. Currently, existing conditions within the eligible planting areas consists largely of fire-damaged and fire-destroyed oak woodlands with sporadic patches of annual grasslands and

chaparral. Dominant overstory species include coast live oak (*Quercus agrifolia*), blue oak (*Q. douglasii*), black oak (*Q. kelloggii*), interior live oak (*Q. wislizeni*), Pacific madrone (*Arbutus menziesii*), and foothill pine (*Pinus sabiniana*). The majority of the trees in the area display evidence of moderate to extensive damage from the fires, ranging from trees with minimal crown and trunk charring to complete loss of canopy and total destruction of the tree (see photos 1a through 1e). Burned oak trees in the area exhibited limited signs of basal resprouting and no epicormic sprouting. No oak saplings or natural recruitment of oaks have been observed since the Hennessey Fire in 2020. Scattered foothill pine saplings were noted within the burn areas. Pacific madrone exhibited considerable basal resprouting from burned stems. Common shrubs noted in the area include scrub oak (*Quercus berberidifolia*), manzanita (*Arctostaphylos* sp.), chamise (*Adenostoma fasciculatum*), ceanothus (*Ceanothus* sp.), and toyon (*Heteromeles arbutifolia*). These shrubs were for the most part completely burned during the wildfires. Currently, shrubs exhibit moderate levels of regeneration from remaining stumps and stems, in particular, toyon. Limited shrub sapling germination and recruitment was noted.

Immediately following the Hennessey Fire, the understory of these woodlands was completely burned to the soil (see photo 2). Understory species consisting of non-native annual grasses and native and non-native forbs have recolonized the area. Currently, the understory is dominated by non-native grasses including wild oat (*Avena* sp.), soft brome (*Bromus hordeaceus*), ripgut brome (*B. diandrus*), bristly dogstail grass (*Cynosurus echinatus*), and rattail fescue (*Festuca myuros*). Non-native forbs noted in the burned areas included yellow star-thistle (*Centaurea solstitialis*), redstem stork's bill (*Erodium cicutarium*), burclover (*Medicago polymorpha*), and hairy cat's ear (*Hypochaeris radicata*).

Although many of the oaks native to California are adapted to periodic wildfires, these adaptations function best when the intensity of the wildfire is low enough to cause minimal to moderate damage to the trees. The degree of crown scorch, foliage consumption, bud mortality, and stem damage to the bark and cambium layer determines tree mortality. While it is difficult to determine which oak trees may survive following damage from a wildlife, there are methods to assess fire damage to burned oaks. The most important factor influencing mortality for fire-burned oaks is the level of injury caused to the cambium, the tissue directly beneath the bark. This meristematic tissue is responsible for producing the vascular tissues of the tree. If this layer has been completely destroyed by the fire, the tree will eventually die due to the tree's inability to transport water and carbohydrates (McCreary and Nader 2011).

The majority of oak trees within the burned areas show moderate to extensive levels of damage to the cambium. Many trees show complete destruction of the cambium layer due to the wildfires (see photos 3a through 3c) These trees exhibited severely blackened or cracked bark or the complete loss of the outer bark layer. The cambium layer in these trees has been completely destroyed. Even if these trees' canopies were uninjured by the fires, the trees would not survive. Trees with some level of intact and functioning cambium may survive; however, trees with damaged cambium are likely to exhibit reduced vigor and canopy health and have the potential to develop extensive decay resulting in tree failure.

Due to the substantial damage to the oak woodlands and individual oak trees caused by the intensity of the fires, many of the oak trees within the burned areas are unlikely to survive. Those damaged trees that do survive through regeneration or epicormic sprouting are likely to exhibit reduced vigor and canopy health. Based on a recent site assessment, approximately 50 percent of the oak trees within the burned areas are unlikely to survive based on damage to or destruction of the cambium layer.

The project would need to plant 16,790 trees to sequester the amount of carbon required in Mitigation Measure 6-1. Based on recommendations by the certified arborist, trees should be planted at a density of approximately 200 trees per acre to accommodate future growth and to match the historic conditions of the project area that burned. This means that approximately 84 acres of eligible planting area is needed to accommodate the 16,790 trees. As indicated in Table 2 of the GHG Report (and the revised Table 2 in this memo), there is approximately 900 acres of eligible

replanting areas where various species oaks existed before the Hennessey and Atlas fires. Considering that approximately 50 percent of the trees in the burned areas are unlikely to survive, there is 450 acres available for replanting efforts. This represents over 5 times the amount of eligible and suitable land needed to support the planting of 16,790 trees.

CARBON SEQUESTRATION QUANTIFICATION

The comments submitted by the Appellant question the difference in carbon sequestration quantification methodologies between tree removal and tree planting. The EIR estimated that the removal of trees due to the proposed construction activities would result in the loss of 105,021 $MTCO_2e$ of stored carbon. To mitigate this loss, the EIR originally proposed the preservation of 248 acres of woodland under Mitigation Measure 6-1, which was estimated to be equivalent to the prevention of the loss of 27,528 $MTCO_2e$ of stored carbon, the amount required to reduce construction emissions to a less-than-significant level. Refer to the EIR for additional discussion of the quantification of this value. The estimated GHG reductions under Mitigation Measure 6-1 have been upheld by the Court of Appeal.

As discussed in the GHG Report, the Court of Appeal did not take issues with the amount of GHG emissions reduction needed but deemed the proposed implementation of Mitigation Measure 6-1, with respect to the preservation of 248 acres of woodland, to be inadequate. The recommendations in the GHG Report with respect to replanting estimates are intended to address the Court's concerns.

The comments submitted by the Appellant also state that the number of trees required to sequester the project's carbon emissions is undercounted in the GHG Report. The average of amount of carbon sequestered per tree per year (54.7 kg CO_2) was based on the modeled outputs in i-Tree, the U.S. Department of Agriculture Forest Service calculator. The calculation of this factor is shown in Table 4 of the GHG Report. The sequestration factor is the average of the carbon sequestration factors for each of the oak tree species originally present in the eligible planting area, weighted by the distribution of oak tree species in the area. The annual sequestration factors for individual tree species were calculated from i-Tree Version 2.1.2 for Napa County. The distribution of oak tree species was based on the original acres of oak woodland land cover multiplied by the average tree densities for each oak species category, as shown in Appendix A of the Report. The original land cover data was based on vegetation shapefiles provided by the project applicant. The EIR list the surveys that were performed to gather the data used to prepare these files. The average oak woodland tree densities were obtained from a ground-based survey study, *Oaks 2040: The Status and Future of Oaks in California,* published by the California Oak Foundation.

As shown in Appendix A, page 12, footnote 3 of the GHG Report, the i-Tree model was run with an assumption of a 20 percent mortality rate, or an 80 percent survival rate, consistent with the survival targets set in the BRMP (County of Napa 2016:81). Accounting for the 80 percent survival rate, the planting of 16,790 trees is estimated to result in the sequestration of 27,528 $MTCO_2e$ over the 30-year project lifetime.

Modeling runs in i-Tree assumed a maximum project lifetime of 99 years, the maximum allowed by i-Tree, in order to estimate the carbon sequestered per tree over a tree's lifespan, which can be much longer than 99 years. Once established, oaks in Napa County can live for 150 years or more. The maximum tree lifespan was chosen because the planted trees would be protected under a conservation easement, which would protect the trees from any removal or land use conversion. To reflect the permanence of the planting area, the average annual carbon sequestration rate across the lifespan of the planted trees (i.e., 99 years), and the portion of the trees' carbon sequestration attributable to the project's lifetime (i.e., 30 years), the total modeled carbon sequestered was amortized by 99 years and multiplied by the project lifetime of 30 years. Therefore, the project is only accounting for the carbon sequestered

during the project's lifetime rather than the trees' estimated lifespan, which would be a much greater amount of carbon sequestration.

TREE DENSITIES

The comments submitted by the Appellant claim that the tree densities shown in Table 3 of the GHG Report are unsubstantiated and do not differentiate between saplings, seedlings, and mature trees. The tree densities in Table 3, as discussed on page 6 of the GHG Report, were obtained from a ground-based survey study, *Oaks 2040: The Status and Future of Oaks in California*, published by the California Oak Foundation. The densities were calculated from Appendix B of Oaks 2040 and accounted for oak trees of all sizes from seedlings to trees with 1-inch diameter at breast height (dbh) to more than 32-inch dbh. The reference was inadvertently excluded from the GHG Report and is included below:

> California Oak Foundation. 2006. *Oaks 2040: The Status and Future of Oaks*https://www.chiccousa.com/nextfit/ *in California*. Available: https://www.fs.fed.us/psw/publications/documents/psw_gtr217/psw_gtr217_603.pdf. Accessed January 19, 2021.

SURVIVAL PERFORMANCE

The comments submitted by the Appellant assert that the 80 percent survival performance standard is not supported by substantial evidence. The 80 percent survival performance is the long-term goal of the oak planting mitigation and would be achieved through monitoring and replanting, as needed. Based on the distribution of tree species in the eligible planting areas, the project would need to plant at least 16,790 oak trees (as seedlings) to sequester a total of 27,528 $MTCO_2e$ over a 30-year project lifetime, accounting for the 80 percent survival rate. If planting mortality reaches a level such that the success criteria will not be met, additional replanting will be required following the same methods and timing discussed in the BRMP in order to reach the 80 percent success criteria. Should additional replanting be needed for any reason, the new replants shall be monitored for 7 years following the same monitoring criteria discussed in the BRMP.

REFERENCES

County of Napa. 2016 (July). Biological Resources Management Plan Walt Ranch Erosion Control Plan Application No. P11-00205-ECPA. Prepared by Analytical Environmental Services.

McCreary, Doug and Glenn Nader. 2011 (January). Burned Oaks: Which Ones Will Survive? University of California, Agriculture and Natural Resources. ANR Publication 8445.

Appendix A

Walt Ranch Project Area Photos



Photo 1a
Source: Hall Brambletree Associates, November 14, 2020



Photo 1b
Source: Ascent Environmental, November 16, 2021



Photo 1c
Source: Ascent Environmental, November 16, 2021



Photo 1d
Source: Ascent Environmental, November 16, 2021



Photo 1e
Source: Ascent Environmental, November 16, 2021



Photo 2
Source: Hall Brambletree Associates, November 14, 2020



Photo 3a
Source: Hall Brambletree Associates, November 14, 2020



Photo 3b
Source: Ascent Environmental, November 16, 2021



Photo 3c
Source: Ascent Environmental, November 16, 2021

Attachment 14
Proposed Mitigation Measure 6-1
Previous Staff Recommendation

REVISED MITIGATION MEASURE 6-1

Mitigation Measure 6-1: In order to offset the construction emissions from development of the Proposed Project, the Applicant shall place in permanent protection no less than 124 acres of woodland habitat. The land to be protected under this measure shall consist of not less than 110 acres of suitable woodland habitat located within the parcels shown in Figure 1, attached to the Applicant's May 5, 2021, letter to the County, and not less than ~~35~~ 14 acres of suitable woodland habitat ~~located elsewhere on the Property~~located in the area shown in Map 4 of the Applicant's November 29, 2021, submittal. To be suitable, the area within the easement shall be mapped woodland habitat, less than 30% slope, ~~and~~ outside of Milliken Creek watershed, and not subject to a conservation easement under Mitigation Measure 4.2-16. All acreage designated for preservation shall be identified as such in a conservation easement with an accredited land trust organization. Land placed in protection shall be restricted from development and other uses that would potentially degrade the quality of the habitat (including, but not limited to, conversion to other land uses such as agriculture, residential, or urban development, and excessive off-road vehicle use that increases erosion), and should otherwise be restricted by the existing goals and policies of Napa County.

The conservation easement shall be prepared in a form acceptable to County Counsel and entered into and recorded with the Napa County Recorder's office prior to any ground disturbing activities, grading or vegetation removal, or within 12 months of project approval, whichever occurs first.

Any request by the permittee for an extension of time to record the conservation easement shall be considered by the Planning Director and shall be submitted to Napa County prior to the 12 month deadline, and shall provide sufficient justification for the extension.

In addition, the Applicant shall plant not less than 16,790 oak trees within areas of land protected by conservation easement as identified in this or other mitigation measures applicable to the Project. ~~The Applicant shall further plant an additional 16,790 trees elsewhere on the Property, for a total of 33,580 oak trees.~~

~~The measures set forth above shall apply in the event the County adopts this measure, and no administrative appeal of the Director's decision is filed, and no opposition or challenge to this decision is filed with the Court. In the event of such an appeal, opposition, or challenge, the measures set forth above shall still be carried out, subject to the following revision: The number of oak tree seedlings to be planted shall be not less than 16,790 trees, planted within areas of land protected by conservation easement as identified in this or other mitigation measures applicable to the Project. No additional tree planting shall be required pursuant to this Measure.~~

The tree planting program shall be carried out as described in the Walt Ranch Erosion Control Plan: Greenhouse Gas Mitigation Report (Ascent Environmental, April 2021).

The trees shall be monitored and replanted as necessary to show a survival rate of not less than 80% after ~~five~~ seven years. Thereafter, the Applicant shall not undertake any actions to degrade the condition of the trees or to diminish their habitat.

The Biological Resource Management Plan shall be revised to incorporate the conservation easement and tree planting program required by this mitigation measure.

Attachment 15
Notice of Decision
October 5, 2021

A Tradition of Stewardship
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Planning, Building & Environmental Services

1195 Third Street, Suite 210
Napa, CA 94559
www.countyofnapa.org

David Morrison
Director

NOTICE OF DECISION

DATE OF MAILING: October 5, 2021

TO: Neighbors, Interested Parties and Petitioners of Walt Ranch

SUBJECT: Walt Ranch Vineyards Agricultural Erosion Control Plan No. P11-00205-ECPA

PROJECT DESCRIPTION AND LOCATION: In December of 2016, the Napa County Board of Supervisors certified an Environmental Impact Report ("EIR") (SCH #2012102046) for the Hall Brambletree Associates, LP - Walt Ranch Vineyard Conversion - File No. P11-00205-ECPA, which consisted of an erosion control plan for the earthmoving associated with the development of approximately 209 net acres of vineyard (±316 gross acres).

On January 19, 2017, three Petitions for Writ of Mandate were filed challenging the approval in Napa Superior Court. On April 5, 2018, the Superior Court denied the Petitions and upheld the County's decision to certify the EIR and approve the Project. The petitioners appealed the Superior Court's decision and on September 30, 2019, the Court of Appeal upheld the Superior Court's decision on all grounds except one. The Court of Appeal determined that the record before the County lacked substantial evidence to support the finding that the Project would have a less-than significant GHG emission impact, because the record evidence did not show that the trees being preserved by Mitigation Measure 6-1 would have reasonably remained intact without the proposed conservation easement.

On May 6, 2020, the Superior Court issued a judgment consistent with the Court of Appeal's decision. The judgment ordered the issuance of a writ directing the County to set aside its findings "concerning whether the Project, as mitigated, will have a less-than-significant impact with respect to GHG emissions." The judgment provided that no Project activity that may result in GHG emissions may proceed unless and until such findings are reconsidered and supported by substantial evidence on the record.

On July 14, 2020, the Napa County Board of Supervisors adopted Resolution No. 2020-98, which vacated and set aside the finding in Attachment A to Resolution No. 2016-184 regarding Impact 6-1, and directed staff to file a return to the peremptory writ of mandate informing the Court that the Board had adopted this resolution.

This proposed project includes an amendment to Mitigation Measure 6.1, which, as previously approved, required the applicant to place into permanent protection no less than 248 acres of oak woodland habitat to offset 27,528 $MTCO_2e$ of the project's Greenhouse Gas Emissions (GHG's). The proposed project would amend Mitigation Measure 6-1 to require permanent protection of no less than 124 acres of oak woodland

habitat, which must be located on slopes less than 30%, and planting of up to 33,580 native oak trees, as further described in project documents. An Addendum to the EIR in accordance with the CEQA Guidelines, Section 15164, has been prepared, which analyzes the amendment to Mitigation Measure 6.1 and provides further details.

The project site is located on the west side of Monticello Road, approximately one mile southwest of its intersection with Highway 128, and approximately one-half mile north of its intersection with Waters Road, approximately 6.25 miles east of the City of Yountville in Napa County located within the Milliken Reservoir Watershed and Capell Creek-Upper Reach Drainage. The project is in an AW (Agricultural Watershed) zoning district and has an AWOS (Agriculture, Watershed and Open Space) General Plan designation. (Assessor parcel #'s: 032-120-028, 032-480-007, -008, -011 through -024, -027, -028, 032-490-004, -005, -006, -008 through 020).

NOTICE OF DECISION: On September 21, 2021, a Notice of Tentative Decision was issued for the subject project providing notification that the PBES Director has tentatively approved the amendment to Mitigation Measure 6.1 as described above.

The County has received over 58 comments from the public regarding the Tentative Decision, which we have reviewed in detail. Several comments identified issues relating to groundwater. The EIR certified by the County addressed these issues and the EIR's analysis of the impacts of the Project on groundwater, as well as the effectiveness of mitigation of those impacts, was upheld by the Court of Appeal. The EIR remains certified. Groundwater is not the subject of this decision.

Several other comments addressed the sufficiency of the proposed mitigation measure to offset the Greenhouse Gas (GHG) emissions from the Project. The County has reviewed these comments in detail and has determined that substantial evidence exists to support the decision to approve the revision to Mitigation Measure 6-1.

First, though nearly the entire Property was burned during both the 2017 and 2020 wildfires, which resulted in the loss of a significant number of trees, the County is applying the baseline established before the fires. This requires the Applicant to mitigate for the GHG emissions of the Project as if all of the trees identified for removal still existed. There is no reduction in the Applicant's mitigation obligation because of the fire damage.

Second, based on the analysis by Ascent Environmental, the proposed tree-planting program required by Mitigation Measure 6-1 would mitigate more than double the amount of carbon dioxide equivalent required to be mitigated. This alone would be enough to address the concerns raised by the Court of Appeal. Nevertheless, the County is requiring that the Applicant place 124 acres of identified oak woodland in a conservation easement, providing for additional mitigation. The size of the easement reflects the substantially reduced footprint of the approved project, compared to the proposal analyzed in the certified EIR. Furthermore, the conservation easement required by Mitigation Measure 6-1 would be in addition to the easements required to mitigate other impacts of the Project. The incidental benefits of those easements are not factored into the mitigation.

Lastly, the County has determined that substantial evidence establishes that the tree-planting program will effectively mitigate the 27,528 $MTCO_2e$ calculated in the Final EIR. Ascent Environmental used established protocols to determine that planting 16,790 trees, with an 80% survival rate after five years, will, over the

Project horizon of 30 years, achieve the required GHG offset to reduce the impact of the Project to a less-than-significant level. Ascent also identified specific locations of tree-planting based on the pre-fire distribution of various oak tree species and recommended specific planting protocols, including the use of established replanting techniques and guidelines established by forestry experts and the participation of professional foresters and community organizations with expertise in developing replanting plans. Tree-planting is a well-established method of mitigating GHG impacts and the report by Ascent Environmental sets forth an effective replanting plan that will demonstrably improve the environment.

Based on the analysis and conclusions in the Addendum, the Director has determined that the revised Mitigation Measure 6-1 will reduce the impact of the Project on Greenhouse Gas emissions to a less than significant level, in accordance with the Superior Court judgment. Therefore, the Director adopts the revised Mitigation Measure 6-1 and incorporates it into the Mitigation Monitoring and Reporting Plan. This constitutes the Decision pursuant to County Code Section 2.88.040 (A)(1) for purposes of filing an appeal. Any appeal to this decision shall be filed in accordance with County Code Chapter 2.88.

Sincerely,

David Morrison
PBES Director

Attachment 16
Revised Mitigation Measure 6-1
Approved Version

Mitigation Measure 6-1: In order to offset the construction emissions from development of the Proposed Project, the Applicant shall place in permanent protection no less than 124 acres of woodland habitat. The land to be protected under this measure shall consist of not less than 110 acres of suitable woodland habitat located within the parcels shown in Figure 1, attached to the Applicant's May 5, 2021, letter to the County, and not less than 35 acres of suitable woodland habitat located elsewhere on the Property. To be suitable, the area within the easement shall be mapped woodland habitat, less than 30% slope, and outside of Milliken Creek watershed. All acreage designated for preservation shall be identified as such in a conservation easement with an accredited land trust organization. Land placed in protection shall be restricted from development and other uses that would potentially degrade the quality of the habitat (including, but not limited to, conversion to other land uses such as agriculture, residential, or urban development, and excessive off-road vehicle use that increases erosion), and should otherwise be restricted by the existing goals and policies of Napa County.

The conservation easement shall be prepared in a form acceptable to County Counsel and entered into and recorded with the Napa County Recorder's office prior to any ground disturbing activities, grading or vegetation removal, or within 12 months of project approval, whichever occurs first.

Any request by the permittee for an extension of time to record the conservation easement shall be considered by the Planning Director and shall be submitted to Napa County prior to the 12 month deadline, and shall provide sufficient justification for the extension.

In addition, the Applicant shall plant not less than 16,790 oak trees within areas of land protected by conservation easement as identified in this or other mitigation measures applicable to the Project. The Applicant shall further plant an additional 16,790 trees elsewhere on the Property, for a total of 33,580 oak trees. The tree planting program shall be carried out as described in the Walt Ranch Erosion Control Plan: Greenhouse Gas Mitigation Report (Ascent Environmental, April 2021). The trees shall be monitored and replanted as necessary to show a survival rate of not less than 80% after five years. Thereafter, the Applicant shall not undertake any actions to degrade the condition of the trees or to diminish their habitat.

The measures set forth above shall apply in the event the County adopts this measure, and no administrative appeal of the Director's decision is filed, and no opposition or challenge to this decision is filed with the Court. In the event of such an appeal, opposition, or challenge, the measures set forth above shall still be carried out, subject to the following revision: The number of oak tree seedlings to be planted shall be not less than 16,790 trees, planted within areas of land protected by conservation easement as identified in this or other mitigation measures applicable to the Project. No additional tree planting shall be required pursuant to this Measure.

Attachment 17
Addendum to the Final EIR

ADDENDUM TO AN ENVIRONMENTAL IMPACT REPORT

CEQA REQUIREMENTS

This document has been prepared as an Addendum to the Environmental Impact Report ("EIR") (SCH #2012102046) in accordance with the CEQA Guidelines, Section 15164. The EIR was certified by the Napa County Board of Supervisors in December of 2016, for the Hall Brambletree Associates, LP - Walt Ranch Vineyard Conversion - File No. P11-00205-ECPA ("Project"), which consisted of an erosion control plan for the earthmoving associated with the development of approximately 209 net acres of vineyard (±316 gross acres) in the unincorporated area of Napa County, California. This Addendum analyzes a proposal to amend Mitigation Measure 6.1, which requires the applicant to place into permanent protection no less than 248 acres of oak woodland habitat to offset 27,528 $MTCO_2e$ of the project's Greenhouse Gas Emissions (GHG's).

CEQA Guidelines Section 15164 provides that "[t]he lead agency or a responsible agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions described in Section 15162 calling for the preparation of a subsequent EIR have occurred." The conditions in Section 15162 include substantial changes in the project or the circumstances under which the project is undertaken that result in new significant environmental effects, or new significant information showing new significant environmental effects, among others. Pursuant to Section 15164(e), a brief explanation is provided herein documenting the County's decision that preparation of a subsequent EIR is not required.

The Guidelines go on to state that: (1) the addendum need not be circulated, but can be included in or attached to the final EIR (Section 15164(c)), and (2) the County must consider the addendum with the final EIR prior to making a decision on the project (Section 15164(d)).

The analysis provided in this document demonstrates that the circumstances and impacts identified in the EIR remain substantively unchanged by the situation described herein, and supports the finding that the proposed modifications do not raise any new issues and do not cause the level of impacts identified in the previous EIR to be exceeded.

BACKGROUND

On August 1, 2016, the PBES Director approved the Project and certified the Final EIR (SCH #2012102046) for the development of vineyards on the Walt Ranch property ("Walt Ranch" or the "Property"). The Project includes development of approximately 209 net acres of total vineyard within 316 gross acres, as depicted in the EIR and related erosion control plan application (P11-00205-ECPA). The Project, as approved, generally conforms to the Reduced Intensity Alternative as described in the EIR with additional modifications to reflect the requirements of the Updated Mitigation Monitoring and Reporting Program (MMRP) and 15 Conditions of Approval, which further reduce vineyard area due to a number of factors, including geologic and hydrologic constraints, biologic constraints, as well as development areas voluntarily removed by the Applicant in response to community concerns.

The PBES Director's decision was appealed to the Napa County Board of Supervisors by Living Rivers Council (LRC), Circle Oaks County Water District and Circle Oaks Homeowners Association (Circle Oaks), Center for Biological Diversity (CBD) and Napa Sierra Club. On December 20, 2016, the Board of Supervisors denied the appeals, Certified the Environmental Impact Report (EIR) and adopted Findings pursuant to the requirements of the California Environmental Quality Act (CEQA), and approved the Project.

In January 2017, LRC, CBD, and Circle Oaks filed petitions for writ of mandate in the trial court challenging the adequacy of aspects of the EIR. The trial court denied all three petitions, but all three petitioners appealed. In September 2019, the First District Court of Appeal affirmed the trial court's decision, with one exception. The Court ruled that the County's finding regarding the project's mitigation of GHG impacts was not supported by substantial evidence, and Mitigation Measure 6.1 was deemed inadequate because the measure did not identify the location or areas to be preserved or otherwise show that the land to be preserved could be converted to other uses under County policy. In May 2020, the trial court directed the County to reconsider the finding that the mitigation reduced the GHG impact to less than significant. The EIR remains certified, and the project remains approved. However, under the trial court's judgment, the project cannot go forward unless and until the County reconsiders this finding.

PROPOSED REVISED GHG EMISSIONS MITIGATION

The EIR concluded that GHG emissions from construction activities and carbon emitted due to tree removal would result in the emissions of 105,849 metric tons of carbon dioxide equivalent ($MTCO_2e$), with virtually all of these emissions related to the removal of approximately 28,616 trees necessary to accommodate the installation of vineyard blocks. The EIR applied a 26 percent reduction threshold of construction emissions, which based on the emissions factors applied, resulted in the requirement to offset 27,528 $MTCO_2e$ which equated to the preservation of 248 acres of oak woodland as detailed in Mitigation Measure 6.1 and Table 6-2 (attached) in the EIR.[1]

In May 2021, the applicant submitted to the County a proposal (Attachment A) to address the GHG emissions resulting from the Project, as required by the Court of Appeals opinion and the trial court's subsequent issuance of a writ of mandate to the County. The proposed GHG mitigation is comprised of two elements; 1) the recordation of a conservation easement and, 2) the implementation of a tree planting program. The proposed conservation easement consists of 124 acres of developable oak woodland area, located on areas of oak woodland with less than 30% slope, as generally shown in Figure 1 of the attached Walt Ranch Erosion Control Plan: Greenhouse Gas Mitigation Report prepared by Ascent Environmental, dated April 28, 2021 (Attached). The 124 acres would be in addition to the 525 acres required to be permanently protected offset impacts related to biological resources, ultimately resulting in the protection of no less than 649 acres. The 124 acres proposed for preservation represents an offset of 50 percent of the 27,528 $MTCO_2e$. The second component of the proposed GHG mitigation includes the planting of 33,580 oak trees (as seedlings) to be managed to ensure a survival rate of no less than 80 percent after five years. According to the Greenhouse Gas Mitigation Report prepared by Ascent Environmental, 16,790 trees would be required to offset the GHG impacts. Therefore, the proposed tree planting alone would offset twice the GHG emissions from the Project. However,

[1] The Reduced Intensity Alternative reduced the number of trees to be removed by the Project by approximately half, to 14,281 trees, which would reduce the GHG impact significantly. Despite this, the preservation area in Mitigation Measure 6.1 was not reduced to reflect this alternative.

the applicant is proposing to reduce the number of trees to be planted from 33,580 to 16,790 trees in the event the County's decision to approve of the revised GHG mitigation is appealed or challenged in court.

The County reviewed the applicant's proposed revision to the mitigation measure and considered additional revisions to ensure that the tree-planting program serves as effective mitigation for this impact. Accordingly, the County has revised Mitigation Measure 6.1 as follows:

> **Mitigation Measure 6-1:** In order to offset the construction emissions from development of the Proposed Project, the Applicant shall place in permanent protection no less than 124 acres of woodland habitat. The land to be protected under this measure shall consist of not less than 110 acres of suitable woodland habitat located within the parcels shown in Figure 1, attached to the Applicant's May 5, 2021, letter to the County, and not less than 35 acres of suitable woodland habitat located elsewhere on the Property. To be suitable, the area within the easement shall be mapped woodland habitat, less than 30% slope, and outside of Milliken Creek watershed. All acreage designated for preservation shall be identified as such in a conservation easement with an accredited land trust organization. Land placed in protection shall be restricted from development and other uses that would potentially degrade the quality of the habitat (including, but not limited to, conversion to other land uses such as agriculture, residential, or urban development, and excessive off-road vehicle use that increases erosion), and should otherwise be restricted by the existing goals and policies of Napa County.
>
> The conservation easement shall be prepared in a form acceptable to County Counsel and entered into and recorded with the Napa County Recorder's office prior to any ground disturbing activities, grading or vegetation removal, or within 12 months of project approval, whichever occurs first.
>
> Any request by the permittee for an extension of time to record the conservation easement shall be considered by the Planning Director and shall be submitted to Napa County prior to the 12 month deadline, and shall provide sufficient justification for the extension.
>
> In addition, the Applicant shall plant not less than 16,790 oak trees within areas of land protected by conservation easement as identified in this or other mitigation measures applicable to the Project. The Applicant shall further plant an additional 16,790 trees elsewhere on the Property, for a total of 33,580 oak trees.
>
> The measures set forth above shall apply in the event the County adopts this measure, and no administrative appeal of the Director's decision is filed, and no opposition or challenge to this decision is filed with the Court. In the event of such an appeal, opposition, or challenge, the measures set forth above shall still be carried out, subject to the following revision: The number of oak tree seedlings to be planted shall be not less than 16,790 trees, planted within areas of land protected by conservation easement as identified in this or other mitigation measures applicable to the Project. No additional tree planting shall be required pursuant to this Measure.
>
> The tree planting program shall be carried out as described in the Walt Ranch Erosion Control Plan: Greenhouse Gas Mitigation Report (Ascent Environmental, April 2021). The trees shall be monitored and replanted as necessary to show a survival rate of

not less than 80% after five years. Thereafter, the Applicant shall not undertake any actions to degrade the condition of the trees or to diminish their habitat.

DETERMINATION

The proposed action, which consists of amending Mitigation Measure 6.1, does not represent a substantive change to the approved Project as analyzed under the adopted and certified EIR. In order to assess whether additional CEQA review is required as a result of the revised GHG mitigation measure, an analysis of the applicability of Section 15162 of the CEQA Guidelines has been prepared. The table on the following page provides verbatim wording from the Guidelines and a corresponding analysis of the applicability of each section to the proposed project.

TABLE 1: Comparison of CEQA Requirements and Request

CEQA Requirement Section 15162(a)	Relationship to Proposed Project
When an EIR has been certified or negative declaration adopted for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in light of the whole record, one or more of the following:	The EIR was adopted by the Napa County Board of Supervisors in December of 2016. The information below summarizes the substantial evidence in support of the County's determination that the preparation of a subsequent EIR is not required.
(1) Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;	There are no changes in the proposed project that would require major revision of the adopted EIR that analyzed and mitigated the potential significant impacts of the Project. The proposed revised GHG mitigation measures continue to offset more than 27,528 $MTCO_2e$ through a combination of preserving existing oak woodlands, a tree replanting program and the GHG related benefits from the 525 acres required to be preserved to mitigate for biological impacts. Therefore, no new significant environmental effects would occur as a result of the amended Project.
(2) Substantial changes will occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or	The proposed revised GHG mitigation measure now includes a tree replanting component whereas the previous mitigation measure did not. Based on the Walt Ranch GHG Mitigation Report prepared by Ascent, the total number of trees lost in the Hennessey fire in areas eligible for replant is estimated to be 482,987, which is far greater than the 16,790 trees needed to sequester 27,528 $MTCO_2e$. Given the tree planting would occur in areas mapped as oak woodland, there would be no impacts related to the conversion of one natural land cover type to another, for

	example grassland to oak woodland. The tree planting would not only serve to provide carbon sequestration, but would also enhanced the oak woodland habitat. Therefore, the County has concluded that the proposed amendment is not a substantial change in circumstances.
(3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the negative declaration was adopted, shows any of the following:	Since the EIR was certified in December of 2016, the subject property has burned twice, once in 2017 and again in 2020, burning an estimated 97 percent of the property. As such, the number of trees and corresponding sequestered carbon on the property is likely far less than what it was in 2016 when the EIR was certified. However, the applicant has not requested the GHG mitigation be revised accordingly and has proposed to provide the same of level of GHG offset as previously required by the EIR.
(A) The project will have one or more significant effects not discussed in the previous EIR or negative declaration;	The proposed Project remains substantially the same and will not have any significant effects that were not discussed in the adopted EIR as there is no additional vineyard development or related infrastructure included in the project proposal.
(B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;	No significant effects previously examined and mitigated in the EIR will be made more severe by the proposed revised GHG mitigation measure. In fact, as described above and further detailed in the Walt Ranch GHG Mitigation Report prepared by Ascent, the revised GHG mitigation measure will provide for greater mitigation than what is currently required in the EIR. Specifically, as Ascent notes the approved project entails removing 14,281 trees (assuming that the trees are still present as many were consumed by the fires in 2017 and 2020), however the revised GHG mitigation measure proposes the planting of a minimum of 16,790 trees resulting in a net increase of 2,509 trees. And in the event the County's decision to approve the revised mitigation plan is not appealed or challenged in court the total number of trees planted would be 32,580.
(C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project,	The EIR adopted for this project considered three alternatives including; 1) no project, 2) reduced intensity, and 3) multiple resource protection. In addition, two alternatives were considered but removed for consideration,

but the project proponents decline to adopt the mitigation measure or alternative; or	including; 1) full development, and 2) off-site alternatives. The reduced intensity alternative was determined to be the environmentally superior alternative and adopted as part of the certification of the EIR. None of the other alternatives were previously found not to be feasible; they were eliminated for other reasons that have not changed. In addition, the adopted EIR included 37 Mitigation Measures. None of these mitigation measures were found to be infeasible or have been declined by the project proponents.
(D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.	The proposed revised GHG mitigation measure would continue to offset the 27,528 $MTCO_2e$ identified in the EIR through a combination of preservation and a tree replanting program. Most of the trees would be planted within conservation easement areas on the Property and will be permanently protected.

CONCLUSION

Based on the analysis provided above and the referenced supporting attachments, the proposed Project, which would amend Mitigation Measure 6.1, would not result in new or more severe environmental impacts and no additional CEQA review is required. This addendum shall be attached to the existing Environmental Impact Report (SCH #2012102046).

Attachments:

A. May 5, 2021 GHG Mitigation Proposal
B. Please visit: https://www.countyofnapa.org/2876/Current-Projects-Explorer to access the EIR and related approval documents

Attachment 18
Notice of Tentative Decision
September 21, 2021

NAPA COUNTY
NOTICE OF TENTATIVE DECISION

PROJECT TITLE: **Walt Ranch Vineyards Agricultural Erosion Control Plan No. P11-00205-ECPA**

PROJECT LOCATION: The project site is located on the west side of Monticello Road, approximately one mile southwest of its intersection with Highway 128, and approximately one-half mile north of its intersection with Waters Road, approximately 6.25 miles east of the City of Yountville in Napa County located within the Milliken Reservoir Watershed and Capell Creek-Upper Reach Drainage. The project is in an AW (Agricultural Watershed) zoning district and has an AWOS (Agriculture, Watershed and Open Space) General Plan designation. (Assessor parcel #'s: 032-120-028, 032-480-007, -008, -011, -012, -013, -014, -015, -016, -017, -018, -019, -020, -021, -022, -023, -024, -027, -028, 032-490-004, -005, -006, -008, -009, -010, -011, -012, -013, -014, -015, -016, -017, -018, -019, and -020).

PROJECT DESCRIPTION: In December of 2016, the Napa County Board of Supervisors certified an Environmental Impact Report ("EIR") (SCH #2012102046) for the Hall Brambletree Associates, LP - Walt Ranch Vineyard Conversion - File No. P11-00205-ECPA, which consisted of an erosion control plan for the earthmoving associated with the development of approximately 209 net acres of vineyard (±316 gross acres). This proposed project includes an amendment to Mitigation Measure 6.1, which, as approved, requires the applicant to place into permanent protection no less than 248 acres of oak woodland habitat to offset 27,528 $MTCO_2e$ of the project's Greenhouse Gas Emissions (GHG's). The proposed project would amend the mitigation measure to require permanent protection of no less than 124 acres of oak woodland habitat and planting of 33,580 native oak trees, as further described in project documents. An Addendum to the EIR in accordance with the CEQA Guidelines, Section 15164, has been prepared, which analyzes the amendment to Mitigation Measure 6.1 and provides further details.

NOTICE OF TENTATIVE DECISION: Notice is given that the PBES Director has tentatively approved the amendment to Mitigation Measure 6.1. Details of the amendment are further described in the Addendum to the Environmental Impact Report and the associated project proposal provided by the applicant, dated May 5, 2021. Copies of the Addendum, the applicant's proposal, the EIR and related documents are available for review on the Planning, Building and Environmental Services' (PBES) Current Projects Explorer page at https://www.countyofnapa.org/2876/Current-Projects-Explorer or at the PBES Department located at 1195 Third Street, 2nd Floor, Napa, CA 94559.

The PBES Director's final decision and approval of the amendment to Mitigation Measure 6.1 will occur by close of business on October 1, 2021. Notice of the Decision will be posted on the County's website at the above link, published in the Napa Valley Register and mailed to properties within 1,000 feet as well as petitioners. For purposes of filing an appeal, the date of decision will be October 1, 2021.

Attachment 19

May 5, 2021, Mitigation Proposal from Applicant
And Ascent Report

Hall Brambletree Associates
401 St. Helena Highway South
St. Helena, CA 94574

May 5, 2021

David Morrison
Director
Planning, Building & Environmental Services
Napa County
1195 Third Street, 2nd Floor
Napa, CA 94559

Re: Walt Ranch ECP – GHG Mitigation

Dear Mr. Morrison:

This letter is to provide Napa County with Hall Brambletree's proposal to address the greenhouse gas emissions from the Walt Ranch Erosion Control Plan ("ECP"). This letter is accompanied by a report prepared by Ascent Environmental quantifying the GHG emission reductions associated with this proposal. This proposal is intended to address the Court of Appeal's opinion concerning the project's GHG mitigation, and the trial court's subsequent issuance of a writ of mandate to the County.

BACKGROUND

The County certified the Environmental Impact Report ("EIR") and approved the Walt Ranch ECP in December 2016. The EIR concluded that the conversion of a portion of the property to vineyards would result in the emission of 27,528 metric tons of carbon dioxide equivalent ("$MTCO_2e$"). Virtually all of these emissions were attributable to the removal of 28,616 trees to make way for the vineyard blocks. (Final EIR, Table 6-2.)

The GHG emissions from the ECP will be a small fraction of the EIR's estimate. There are two reasons why this is true:

(1) The EIR based its estimate on the removal of 28,616 trees. This estimate is based on a tree survey report conducted in 2013 that assumed 507 acres would be cleared to accommodate the vineyards. Thereafter, the project shrank. As approved, the project encompasses clearing 316 acres. The County's EIR consultant estimated that the smaller, approved project would result in removing 14,281 trees, a reduction of approximately 50%. This reduction in the project's size warrants a comparable decrease in the project's GHG emissions.

(2) The project site has burned twice, in 2017 and again in 2020. In one or the other fire, roughly 2,200 acres – approximately 97% of the property – burned. Some areas burned in both fires. The burn areas are shown on Figure 1 of the Ascent report. For these reasons, the inventory of trees and sequestered carbon on the property is a tiny fraction of what it was in 2016. Most of the sequestered carbon that would be emitted by clearing trees and planting vines is already in the atmosphere.

Although both of these factors would justify revising the EIR's estimate of the project's GHG emissions, we do not ask the County to do that. The Court of Appeal upheld the EIR's estimate of the project's GHG emissions; the Court's sole qualm was with the GHG mitigation adopted by the County. The EIR's estimate of GHG emissions is therefore final and beyond legal attack. If we were to revisit those calculations – which would clearly result in lowering them dramatically – then no matter how

conservative, those new calculations could be subject to further scrutiny and legal review, which we do not believe is necessary given the current circumstances. In addition, the fires have scarred the landscape, and we welcome the opportunity to use the Walt Ranch GHG mitigation as an opportunity to help repair it. Our proposal therefore continues to assume that the project must offset its GHG emissions totaling 27,528 $MTCO_2e$.

PROPOSED GHG MITIGATION

Hall's proposed GHG mitigation has two components. First, as before, Hall will record a conservation easement on a portion of the property. Second, Hall will implement a tree planting program. Each component is described below.

Conservation Easement

In approving the project, the County adopted Mitigation Measure 6-1. This measure requires Hall to "place into permanent protection no less than 248 acres of woodland habitat." The Court of Appeal held that there was insufficient evidence to show that recording an easement on 248 acres of such habitat would mitigate the project's GHG emissions. That was because the EIR did not identify the woodland habitat to be preserved, and because there was insufficient evidence that such habitat could be converted under existing County policy. (Slip op., pp. 51-53.)

Hall proposes to place a conservation easement on not less than 124 acres of developable woodland habitat on the Walt Ranch property. Hall is already required to place a conservation easement on 525 acres of the property to address the County's conservation policies. The 124 acres of developable woodland habitat is in *addition* to the 525 acres that will already be conserved. Taken together, a total of a minimum of 649 acres will be placed in conservation easements, an area that is well over double the size of the project footprint of 316 acres.

The additional acres of conservation of woodland habitat will generally be located within the area shown on Figure 1 attached to this letter; woodland habitat suitable for conservation is identified in Figure 1. Within the parcels shown on Figure 1, we estimate there will be at least 110 acres of woodland habitat that will be subject to the easement (note that 124 acres of woodland habitat exist there now).

Hall has identified additional acreage suitable for conservation that is located outside the parcels shown on Figure 1. This additional acreage will also consist of woodland habitat suitable for conservation. A total of over 35 acres of such suitable woodland habitat is available; this habitat is shown on Figure 2.

Taken together, the easement will encompass not less than 124 acres of suitable woodland habitat. All this acreage – both within the parcels identified in Figure 1, and those identified in Figure 2 parcels elsewhere on the property – provide appropriate mitigation for the project's GHG emissions, considering the concerns expressed by the Court of Appeal's opinion. Specifically:

- These acres are all mapped as woodland habitat.
- None of these acres are on slopes of 30% or greater.
- None of these acres are located in the Milliken Creek watershed.

Placing a conservation easement on not less than 124 acres of suitable woodland habitat land will therefore provide appropriate mitigation for the project's GHG emissions, even under the stringent standards established by the Court of Appeal's opinion.

Mitigation Measure 6-1 called for placing 248 acres in an easement. Hall now proposes to place not less than 124 acres of developable woodland habitat in an easement as GHG mitigation. Hall therefore requests that the County revise Mitigation Measure 6-1 to reflect this proposal. Specific edits to Mitigation Measure 6-1 are shown later in this letter.

Hall's proposed woodland habitat easement encompasses less acreage than the 248 acres originally included in Mitigation Measure 6-1. The current proposal – not less than 124 acres – represents 50% of Mitigation Measure 6-1. The balance will be mitigated by the tree planting program described below.

Hall has taken this approach because Walt Ranch is a complex mosaic of different landscapes and habitats. Identifying 248 acres of woodland habitat that is not otherwise restricted due to steep slopes, watersheds, or the existing easement requirement is possible, but it would result in a patchwork of small "blobs" of habitat scattered throughout the property. Hall's proposal instead focuses primarily on a large contiguous area that can be better-preserved, monitored and enforced through conservation easements. That is how Hall arrived at the not-less-than-124-acre proposal.

The balance of required mitigation can be provided by implementing a tree planting program, as described below.

Tree Planting

Hall retained Ascent to investigate whether a tree planting program could serve to mitigate the project's GHG emissions, as an alternative to the recordation of a conservation easement. This approach appears to present significant opportunities because it has the potential to result in real-world, measurable sequestration of GHG emissions, as regulatory agencies have recognized.

We directed Ascent to identify the tree planting program that would be required to compensate for 27,528 $MTCO_2e$ of emissions. We did not ask Ascent to reduce the project's mitigation obligations due to its smaller size or to the effects of 2017 and 2020 wildfires. We also did not ask Ascent to account for the mitigation that would be provided by the conservation easement described above. Instead, we asked Ascent to identify the number of trees that would need to be planted in order to offset the entire 27,528 $MTCO_2e$ in emissions. Ascent's report is attached. The report concludes that 16,790 oak trees (as seedlings) would need to be planted and managed so as to ensure an 80 percent survival rate. The report also identifies areas on the property that would be appropriate for this program. The report concludes that there is more than enough suitable habitat on the property to carry out this program. Figure 2 of Ascent's report shows eligible planting areas.

As Ascent notes, the number of trees necessary to offset the GHG emissions may be considerably less than this total. We do not propose, however, to adjust downward this target. We are instead proposing to commit to a program requiring planting 16,790 oak trees.

As Ascent notes, the project entails removing 14,281 trees (assuming that the trees were still present, and that many of them were not consumed by fire in intervening years). Carrying out this replanting program would therefore result in a net increase of 2,509 trees.

We have contacted regulatory agencies and non-profits to assist us in determining the feasibility of this program. Through these discussions, we have learned that planting oak seedlings in this area can be successfully accomplished. Both Cal-Fire and the Putah Creek Council have offered technical expertise. They also manage tree nurseries that can provide appropriate seedlings for replanting on the property.

The replanting program will mitigate fully the project's GHG emissions. On top of that, the program will assist in stabilizing soils and reducing soil erosion in areas scarred by recent wildfires.

Based on Ascent's report, we could forego conservation easements, and rely exclusively on the replanting program. Hall does not propose to do that. Instead, we propose to do both. We recognize that this approach will result in over-mitigating the project's GHG emissions. We are willing to do that.

Hall also wishes to disincentivize the relentless opposition that has resulted in years of delay. We therefore propose to plant an additional 16,790 trees only if there is no administrative appeal of the Director's decision to the Board of Supervisors, and if no other challenge to this decision is filed with the Court. This would result in total mitigation of 68,820 $MTCO_2e$, or 250% of the required mitigation as outlined in the EIR.

We therefore request that the County revise Mitigation Measure 6-1 as follows. Deleted text is shown in overstrike; new text is underlined. These revisions also include Hall's proposal concerning conservation easements, as described above.

> **Mitigation Measure 6-1:** In order to offset the construction emissions from development of the Proposed Project, the Applicant shall place into permanent protection no less than ~~248~~ 124 acres of woodland habitat. The land to be protected under this measure shall consist of not less than 110 acres of suitable woodland habitat located within the parcels shown in Figure 1, attached to the Applicant's May 5, 2021, letter to the County, and not less than 35 acres of suitable woodland habitat located elsewhere on the property. To be suitable, the area within the easement shall be mapped woodland habitat, less than 30% slope, and outside of Milliken Creek watershed. All acreage designated for preservation shall be identified as such in a deed restriction, open space easement with an organization such as the Land Trust of Napa County as the grantee, or other means of permanent protection. Land placed in protection shall be restricted from development and other uses that would potentially degrade the quality of the habitat (including, but not limited to, conversion to other land uses such as agriculture or urban development, and excessive off-road vehicle use that increases erosion), and should otherwise be restricted by the existing goals and policies of Napa County.
>
> In addition, the Applicant shall plant not less than 32,580 oak tree seedlings on the property. The tree planting program shall be carried out as described in the *Walt Ranch Erosion Control Plan: Greenhouse Gas Mitigation Report* (Ascent Environmental, April 2021). The trees shall be monitored and replanted as necessary to show a survival rate of not less than 80% after five years. The trees shall not be removed during the life of the project,
>
> The measures set forth above shall apply in the event the County adopts this measure, and no administrative appeal of the Director's decision is filed, and no opposition or challenge to this decision is filed with the Court. In the event of such an appeal, opposition or challenge, then the measures set forth above shall still be carried out, subject to the following revision: The number of oak tree seedlings to be planted shall not less than 16,790 trees.
>
> These reductions reflect the fact that the project, as approved, will result in removing half as many trees as the number to be removed when the County formulated Mitigation Measure 6-1.

These measures, as revised, still provide well more than full mitigation of the project's GHG emissions. The tree planting program alone would mitigate fully the project's impacts in light of its reduced size. Note, however, that even under this approach, Hall would *both* record an easement on woodland

habitat *and* implement the tree planting program. Even under this scenario, therefore, Hall would over-mitigate the project's GHG emissions.

We propose that the County prepare an addendum to the certified Final EIR for Walt Ranch to evaluate the environmental impacts associated with revising Mitigation Measure 6-1 as outlined above. Such an addendum need not be certified. Instead, under CEQA Guidelines section 15164, subdivision (d), the decision-maker – in this case, the Director – must "consider" the addendum together with the EIR that it supplements. We recommend that the addendum not revisit the analysis of the project's GHG emissions, or the estimate of GHG emissions generated by the project; all those aspects of the EIR have been upheld by the Court of Appeal, and the EIR remains certified. The sole issue to be addressed in the addendum is determining whether Mitigation Measure 6-1, as revised above, will provide sufficient mitigation for the project's GHG emissions. In fact, our proposal provides overwhelming mitigation. The addendum could note further that the tree planting program would have multiple beneficial effects, in that it would help revegetate the property following the 2017 and 2020 fires and would thereby reduce erosion and enhance water quality.

We appreciate your consideration of this request. Please let us know if you would like additional information or have any questions. We look forward to hearing from you.

Very truly yours,

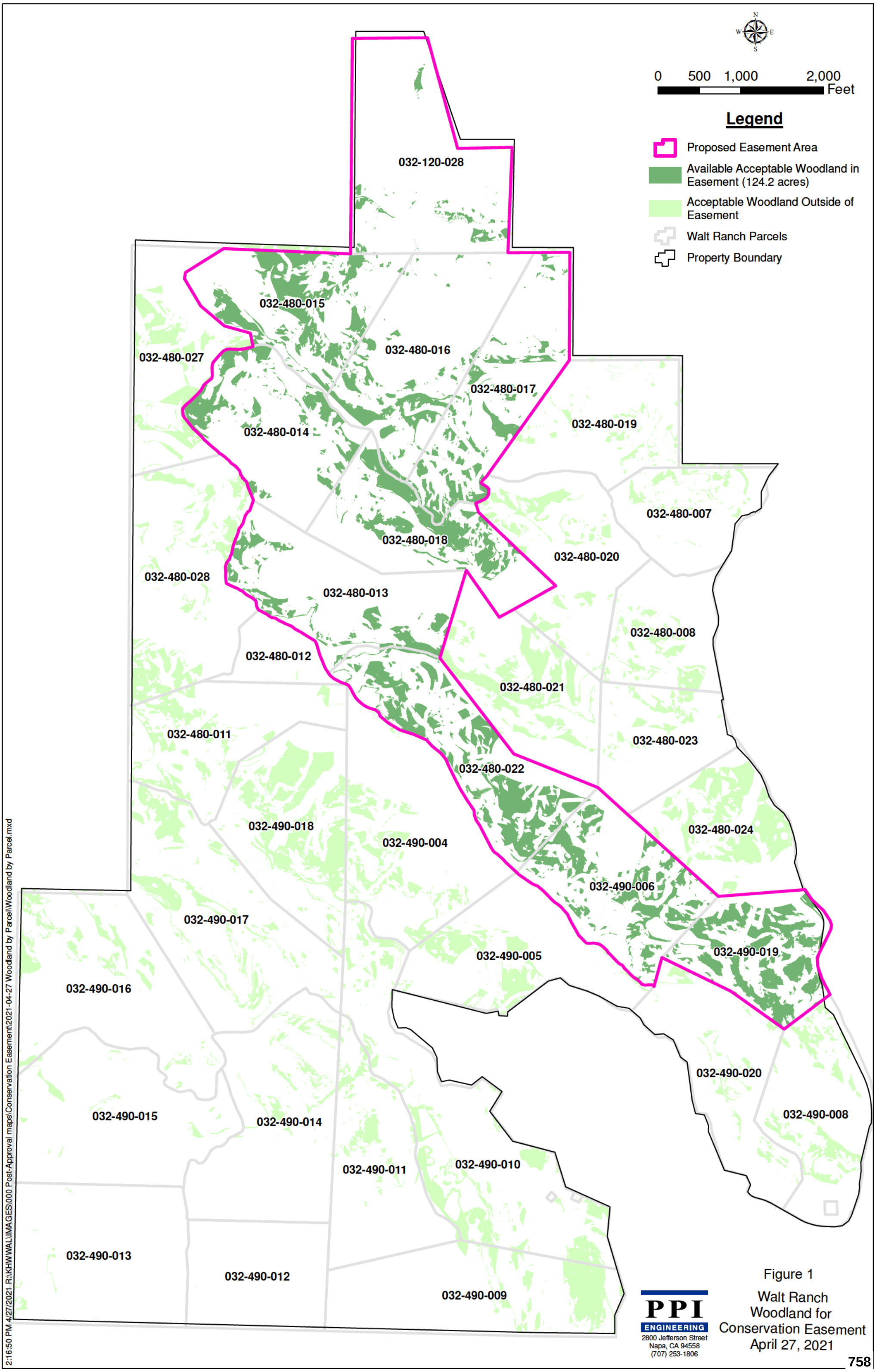
Mike Reynolds
Hall Brambletree Associates

Attachments:

Figure 1 – location of conservation easement for woodland habitat for GHG mitigation

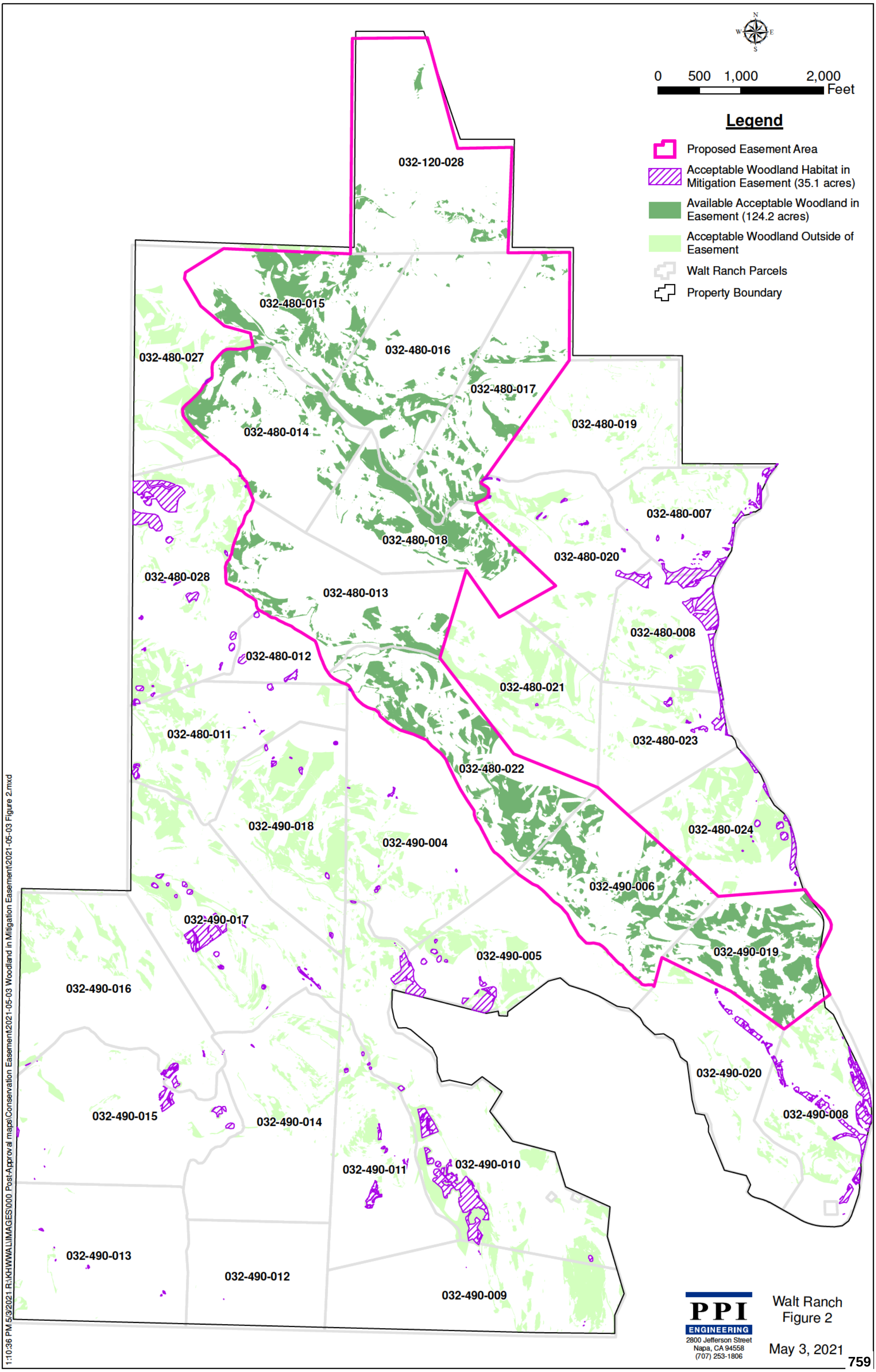
Figure 2 – additional acreage available for conservation easement for woodland habitat

Memorandum from Brenda Hom, Hannah Kornfeld and Honey Walters, Ascent Environmental, to Mike Reynolds, Hall Brambletree Associates, *Walt Ranch Erosion Control Plan: Greenhouse Gas Mitigation Report* (April 28, 2021)



PPI ENGINEERING
2800 Jefferson Street
Napa, CA 94558
(707) 253-1806

Figure 1
Walt Ranch
Woodland for
Conservation Easement
April 27, 2021



PPI ENGINEERING
2800 Jefferson Street
Napa, CA 94558
(707) 253-1806

Walt Ranch
Figure 2

May 3, 2021

Memo

455 Capitol Mall, Suite 300
Sacramento, CA 95814
916.444.7301

Date: April 28, 2021

To: Mike Reynolds (Hall Brambletree Associates)

From: Brenda Hom, Hannah Kornfeld, and Honey Walters (Ascent)

Cc: Whit Manley (Remy Moose Manley)

Subject: Walt Ranch Erosion Control Plan: Greenhouse Gas Mitigation Report

INTRODUCTION

The County of Napa (County) approved a vineyard-conversion project at Walt Ranch (project), a 2,300-acre site located within the Howell Mountains of Napa Valley, approximately 7 miles northeast of the City of Napa. The project proposed the development of 356 net vineyard acres within 507 gross acres, including the development of 65 vineyard blocks on sloped terrain, which required an Erosion Control Plan (ECP) from the County. The Final Environmental Impact Report (FEIR) of the ECP was certified in 2016 (County of Napa 2016a).

Table 6-2 of the FEIR estimated that greenhouse gas (GHG) emissions would result from construction activities and the loss of carbon sequestration through tree removal, shown in Table 1 below. The FEIR assumed 28,616 trees would be removed to accommodate the vineyard blocks. Mitigation Measure 6-1 proposed to conserve 248 acres of woodland to reduce the project's emissions to a less-than-significant level. The estimated reduction in GHG emissions needed to mitigate to a less-than-significant level was 27,528 metric tons of carbon dioxide equivalent ($MTCO_2e$). Mitigation Measure 6-1 from the FEIR is included below for reference.

> **Mitigation Measure 6-1:** In order to offset the construction emissions from development of the Proposed Project, the Applicant shall place into permanent protection no less than 248 acres of woodland habitat. All acreage designated for preservation shall be identified as such in a deed restriction, open space easement with an organization such as the Land Trust of Napa County as the grantee, or other means of permanent protection. Land placed in protection shall be restricted from development and other uses that would potentially degrade the quality of the habitat (including, but not limited to, conversion to other land uses such as agriculture or urban development, and excessive off-road vehicle use that increases erosion), and should otherwise be restricted by the existing goals and policies of Napa County.

Table 1: Walt Ranch Greenhouse Gas Construction Emissions (Table 6-2 of FEIR)

Proposed Project	GHG Emissions ($MTCO_2e$)
Construction Activities	732
Tree Removal	105,021[1]
Total Construction GHG Emissions	*105,753*
GHG Emission Reduction Measures	
Preservation of 248 acres of Woodland	27,528[2]
Construction GHG Emissions after Woodland Preservation Measures	*78,225*
Percent Reduction from Total Construction Emissions	26%

Notes: FEIR = Final Environmental Impact Report; GHG = greenhouse gas; $MTCO_2e$ = metric tons of carbon dioxide equivalent.
[1] Based on CalEEMod emissions factor for sequestration loss of 0.0367 $MTCO_2e$/tree over 100 year for 28,616 trees.
[2] Based on CalEEMod emissions factor for land use change of 111 $MTCO_2e$/acre for an estimated 248 acres.
Source: County of Napa 2016a:6-17

In January 2017, three petitions for writ of mandate were filed in the trial court. The trial court denied all three petitions, but all three petitioners appealed. In September 2019, the First District Court of Appeal affirmed the trial court's decision, with one exception. The Court of Appeal ruled that Napa County's finding regarding the project's GHG impact, with the adoption of Mitigation Measure 6-1, was not supported by substantial evidence. This mitigation measure was deemed inadequate by the Court of Appeal because the measure did not identify the acreage to be conserved, or otherwise show that the land to be conserved could be converted to other uses under County policy. The Court of Appeal noted that roughly 40 percent of the property cannot be converted to other uses without a use permit or other authorization because slopes exceed 30 percent, and because a portion of the property is in the Milliken Reservoir watershed. In May 2020, the trial court directed the County to reconsider the less-than-significant finding. The EIR remains certified, and the project remains approved. Under the trial court's judgment, however, the project cannot go forward unless and until the County reconsiders this finding.

Since the EIR was certified in 2016, two major wildfire events, the Atlas and Hennessey Fires, have occurred on the project area in 2017 and 2020, burning approximately 2,200 acres or 97 percent of the project area. Approximately 40 percent of the burned areas burned in both wildfire events. These events were not a result of the project and thus, new plantings on these burn areas can count toward the GHG mitigation in the EIR.

The County supports mitigating the project's GHG emissions through reforestation of areas burned in the recent wildfires. This memorandum presents a path for the project applicant to meet the GHG reduction equivalent previously attributed to preservation of woodlands in Mitigation Measure 6-1 (i.e., 27,528 $MTCO_2e$).

DATA, METHODS, AND ASSUMPTIONS

The Biological Resources Management Plan (BRMP) for the ERC recommends that any replanting efforts on the project site should follow the original dominant species (County of Napa 2016b). Ascent reviewed the acres of burned areas and estimated the number of oak trees destroyed in the wildfires, using average

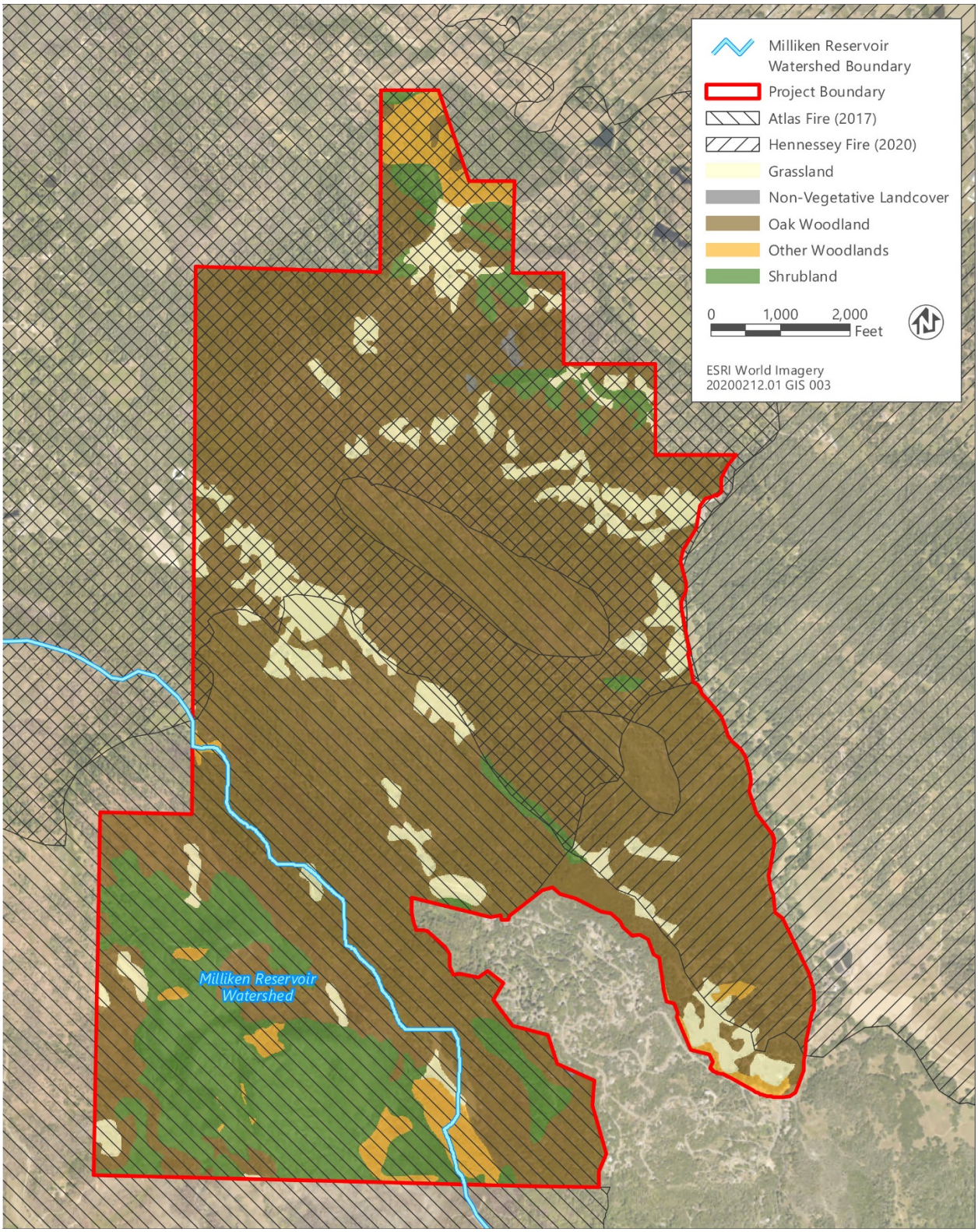
oak woodland tree densities by species type, which dominated the original land cover. Ascent also reviewed the acreage of grassland destroyed in the wildfires. Oak woodlands accounted for over 87 percent of the burned area. Although other tree, grassland, and shrub species were also affected by the wildfires and could be considered for general replanting efforts, carbon sequestration rates and tree densities representative of these biomes within the project area were not available. The exclusion of these minority biomes results in a conservative carbon sequestration assessment as additional, though marginal, sequestration opportunities could result from replanting of non-oak woodland vegetation. Thus, only oak woodlands were evaluated as part of this analysis for the purposes of carbon sequestration to meet the necessary reductions under Mitigation Measure 6-1. The carbon sequestration rates for the oak tree plantings were calculated from the U.S. Department of Agriculture Forest Service's i-Tree Planting calculator (i-Tree) (Version 2.1.2) (USDA Forest Service 2020).

For the purposes of establishing a representative "tree" from which to estimate carbon sequestration potentials, Ascent evaluated the distribution of oak tree species in the areas affected by the Hennessey wildfire in 2020. The vegetated areas solely affected by the Atlas Fire in 2017 were not evaluated due to the regrowth already occurring on that land. Ascent overlaid the original vegetative cover data on the project site with the areas burned in the Hennessey Fire in 2020. The spatial data for the burn areas and original vegetative habitats were developed by PPI Engineering and available from the BRMP, respectively (PPI Engineering 2020, County of Napa 2016b). The cross section of these datasets was then further limited to vegetative land cover outside the identified conservation areas and planned vineyard development, which are areas unsuitable for new tree plantings. The results of this analysis are shown in Table 2 and Figures 1 through 3, and detailed in Appendix A.

Table 2: Burned Areas by Original Vegetation Types

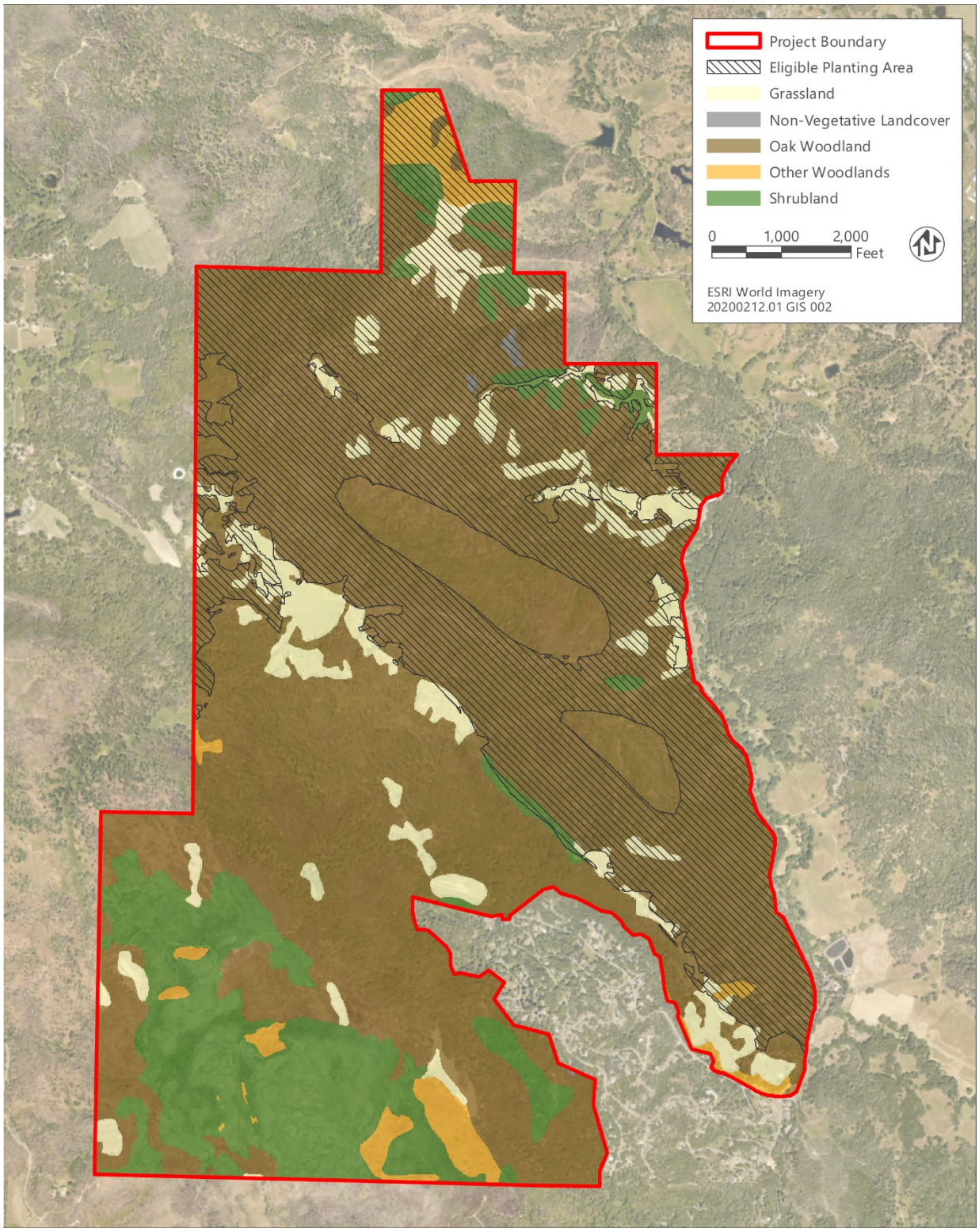
	Area Burned in the Hennessey Fire (2020)		Burn Areas Eligible for Planting[2]	
Original Landcover	Acres	Percent of Total	Acres	Percent of Total
Oak Woodland	**954.30**	**85%**	**900.72**	**68%**
Coast Live Oak	318 19	28%	302 02	17%
Mixed Oak	302 50	27%	282 15	32%
Blue Oak	241 10	21%	226 74	13%
Black Oak	56 32	5%	55 29	3%
Valley Oak	29 20	3%	27 65	2%
Interior Live Oak	6 99	1%	6 88	0%
Shrubland and Grassland	**165.52**	**15%**	**122.44**	**32%**
Shrubland	51 31	5%	45 98	19%
Grassland	114 21	10%	76 46	13%
Non-Vegetative Landcover	**2.65**	**<1%**	**0**	**0%**
Rock Outcrop	2 65	*<1%*	0	**0%**
Urban	0 32	*<1%*	0	0%
Total	**1,122.47**	**100%**	**1,023.16**	**100%**

Notes:
[1] A mix of oak and non-oak tree species,
[2] Excludes areas within planned conservation areas, proposed vineyard development, and non-vegetative landcover.
Source: Data compiled by Ascent Environmental in 2021 using data from County of Napa 2016b and PPI Engineering 2020



Source: Data received from County of Napa and PPI Engineering in 2020; adapted by Ascent Environmental in 2021

Figure 1 Burned Areas



Source: Data received from County of Napa and PPI Engineering in 2020; adapted by Ascent Environmental in 2021

Note: Eligible planting areas exclude conservation areas.

Figure 2 Eligible Planting Areas

Oak woodlands accounted for 85 percent of the burned area and 68 percent of the burned area eligible for planting. Oak woodland species consisted of black oak, blue oak, coast live oak, interior live oak, and valley oak species. The original tree populations were estimated using oak woodland tree densities from a ground-based survey study published by the California Oak Foundation (California Oak Foundation 2006). The relevant tree densities and resulting tree loss estimates from the study are shown in Table 3.

Table 3: Oak Woodland Tree Densities and Estimate of Trees Lost

Oak Tree Species	Trees per acre[1,2]	Trees Lost in the Hennessey Fire	Trees Lost in Eligible Planting Area[3]
Coast Live Oak	698	178,738	169,795
Mixed Oak	432	130,680	121,889
Blue Oak	311	118,343	111,526
Black Oak	1281	72,144	70,826
Valley Oak	156	4,555	4,313
Interior Live Oak	674	4,710	4,637
Total	NA	509,170	482,987

Notes: NA = not applicable.
[1] Includes oak trees of all sizes, including seedlings.
[2] California Oak Foundation 2006: Appendix B
[3] Excludes areas within the Milliken Reservoir watershed and proposed vineyard areas.
Source: Data compiled by Ascent Environmental in 2021 using data from County of Napa 2016b and PPI Engineering 2020

The identified list of tree species shown in Table 3 were input into i-Tree to estimate the average annual carbon sequestration rates ($MTCO_2e$ per tree per year) associated with plantings of oak seedlings. For a given planting project location, i-Tree estimates the total carbon sequestration potential for a list of given tree species over the lifetime of a project, depending on the size of the tree at planting. i-Tree's applicable list of oak species that matches the list in Table 3 is limited to "California Black Oaks," "Coastal Live Oaks," and "Oaks." Thus, oak species other than black and coastal live oaks were assumed to have the carbon sequestration rates of "Oaks" category. The BRMP states that all tree species would be best propagated from seed in tree tubes (County of Napa 2016b:79). As such, Ascent's i-Tree model inputs assumed the planted trees would start as seedlings with a stem diameter of $1/8^{th}$ of an inch (0.125 inches). The model inputs also assumed a 20 percent mortality rate and a project lifetime of 99 years (maximum allowed by the model), consistent with the target survival rate and 100-year lifetime identified in the BMRP (County of Napa 2016b:79). These carbon sequestration rates are shown in Table 4. i-Tree inputs are provided in Appendix A.

Table 4: Oak Tree Carbon Sequestration Rates

Oak Tree Species	Carbon Sequestration Rate (kg CO_2e/tree/year)
Black Oak	84
Blue Oak[1]	46
Mixed Oak[1]	46
Coast Live Oak	51
Interior Live Oak[1]	46
Valley Oak[1]	46
Average for Walt Ranch[2]	54 7

Notes: kg CO_2e = kilograms of carbon dioxide equivalent
[1] This specific tree species was not available in i-Tree. Sequestration rate based on the general "Oaks" tree category in i-Tree.
[2] Weighted average based on population distribution of the listed oak tree species in the eligible planting area, as shown in Table 3.
Source: Data modeled by Ascent Environmental in i-Tree Planting calculator (Version 2.1.2) in 2021.

Based on the distribution of tree species in the eligible planting areas, the project would need to plant at least 16,790 oak trees (as seedlings) to sequester a total of 27,528 $MTCO_2e$ over a 30-year project lifetime, accounting for the 80 percent survival rate. This represents 3 percent of the trees burned in the Hennessey fire. As shown in Table 3, the total number of trees lost on areas eligible for planting is 482,987, which is far greater than the number of tree plantings needed to meet the GHG reduction target. Therefore, there is ample space on the project site to plant the number of oak trees needed to demonstrate compliance with Mitigation Measure 6-1.

The number of tree plantings needed to meet the annual carbon sequestration target is highly dependent on the types of trees being planted. The actual tree species planted will depend on recommendations from registered professional foresters, consistent with the BRMP. For example, if the profile of trees burned on lands affected by both the Atlas and Hennessey fires were considered, the average carbon sequestration rate would be 54.7 kg CO_2e/tree/year, and 16,473 trees would be needed to be planted. Considering that areas outside the project could be considered for replanting, especially those also affected by recent wildfires, and considering that foresters generally recommend replacing lost native species with the same species, the final average carbon sequestration rate of trees replanted under this effort could vary considerably from the estimates in this memorandum. Thus, Ascent recommends the applicant establish a tree replanting target of 16,790 trees to meet its carbon sequestration target of 27,528 $MTCO_2e$. The target may be adjusted pending further coordination with nearby partnering landowners and evaluation of the tree species profile on their lands.

As was discussed in the FEIR, it was estimated that 28,616 trees would be removed to accommodate the vineyard blocks. This estimate was based on a tree survey report conducted in 2013 that assumed 507 acres would need to be cleared to accommodate the project. The project at Walt Ranch that was approved by the Napa County Board of Supervisors in December 2016 reduced the project's intensity such that it would remove 316 acres. The estimated trees associated with the 316 acres for the approved project is 14,281. Therefore, the estimated trees to be replanted from compliance with Mitigation Measure 6-1 would result in a net increase of 2,509 trees.

The estimated break down of carbon sequestration by land cover type for the eligible planting areas in oak woodlands is shown in Table 5.

Table 5 - Annual Carbon Sequestration from Replanting of Oaks in Eligible Planting Areas

Original Landcover Type	$MTCO_2e$/year	Percent of Target
Oak Woodland		
Coast Live Oak	11,169	41%
Mixed Oak	3,992	15%
Blue Oak	3,464	13%
Black Oak	4,796	17%
Valley Oak	56	<1%
Interior Live Oak	169	1%
Total	**23,646**	**86%**
Target Carbon Sequestration Rate	27,528	100%
Remaining Carbon Sequestration Needed	3,882	14%

Notes: MT CO_2e = metric tons of carbon dioxide equivalent
Source: Data compiled by Ascent Environmental in 2021.

In summary, the project would need to plant a minimum of 16,790 oak seedlings (or the carbon sequestration equivalent) to meet the requirements under Mitigation Measure 6-1. Based on average tree densities, this planting target can be fulfilled entirely on the project site through the replanting of oak woodlands in the areas eligible for planting, as shown in Figure 1.

VEGETATION PLANTING PROGRAM

All planting efforts should follow the replanting techniques and guidelines established by a registered professional forester familiar with oak woodland habitat similar to the ones on the project site, using the BRMP as a guide and resource. The recommendations between the BRMP and the registered professional forester may differ in areas, such as recommended tree densities. For example, the BRMP recommends that the density of plantings be determined by a qualified botanist, horticulturalist, or forester and similar to the density of the original landcover (County of Napa 2016b:80). However, the Napa Resource Conservation District's Forestry Program Manager and the California Native Plant Society's Fire Recovery Guide recommend that new plantings in burn areas consider planting at lower densities to facilitate fire resilience by lowering a forest's fuel content (Benton, pers. comm., 2021, California Native Plant Society 2019). The BRMP was written in 2016, prior to the Atlas and Hennessey Fires, and may not be considering the latest fire management guidance with respect to replanting woodlands affected by wildfire. Where the recommendations differ between the forester and BRMP in other non-fire-related subjects (e.g., tree planting size, protection of new plantings, planting schedules), the applicant shall discuss with the forester what the best recommended approach should be.

As the actual densities determined by the qualified specialist may differ from the average tree densities shown in Table 3, the applicant should prioritize planting trees within the eligible planting areas and identify if all required trees can be planted within the eligible planting area or if other planting areas need

to be considered. The applicant may consider working with the County to plant trees in the burned areas of the Milliken Reservoir Watershed or other local areas affected by wildfires to help with regional reforestation efforts such that the GHG reduction meets the requirements of Mitigation Measure 6-1 (i.e., 27,528 $MTCO_2e$).

Ascent recommends that the applicant work with a registered professional forester and community organizations (e.g., Putah Creek Council) to develop a plan for replanting. This could involve volunteer assistance and educational opportunities for the community. For example, the Napa County Resource Conservation District organizes the "Acorn to Oaks" community volunteer planting days.

With respect to the timing of replanting, replanting can occur over a period of a few years, or shorter depending on the level of participation from partners (Liner, pers. comm., 2021).

CONSERVATION EASEMENTS

Establishing conservation easements on all eligible planting areas will ensure the longevity of the replanted trees and that the carbon sequestered in those trees will not be displaced by future development. As shown in Table 2 and Figure 2, the total area of eligible planting areas is 1,025 acres, 901 acres of which were originally oak woodlands prior to the recent wildfires and would be eligible for planting new oaks. Conservation of these areas, especially the replanted oak woodlands, will ensure that sufficient carbon can be sequestered such that the provisions of Mitigation Measure 6-1 of the FEIR are met. Areas within the Milliken Reservoir watershed are already conserved under the County Code. A large portion of the potential planting area is located on land not developable due to County Code (i.e., slopes greater than 30 percent and riparian setbacks). Because these areas cannot be converted to other uses under County policy, a conservation easement is not needed to protect trees planted in these areas.

REFERENCES

Benton, Amanda. Forestry Program Manager of the Napa Resource Conservation District. February 26, 2021.—Call with Hannah Kornfeld and Brenda Hom of Ascent Environmental regarding tree replanting efforts on the Walt Ranch site.

California Native Plant Society. 2019. Fire Recovery Guide. Available: https://nature.berkeley.edu/matteolab/wp-content/uploads/2019/10/CNPS-fire-recovery-guide-LR-040618.pdf. Accessed March 29, 2021.

County of Napa. 2016a (March). Walt Ranch Final Environmental Impact Report. Prepared by Analytical Environmental Services. #P11-00205-ECPA.

_____. 2016b (July). Biological Resources Master Plan. Walt Ranch P11-00205-ECPA. Prepared by Analytical Environmental Services.

Liner, Kenny. Executive Director of the Putah Creek Council.—Call with Hannah Kornfeld of Ascent Environmental regarding tree replanting efforts on the Walt Ranch site.

US Department of Agriculture Forest Service. 2020. i-Tree Planting. Version 2.1.2. Available: https://planting.itreetools.org/app/location/. Accessed February 5, 2021.

PPI Engineering. 2020 (December). Walt Ranch 2017 & 2020 Fires. Napa, CA.

Appendix A

Replanting Ratio	3%

Species/Habitat	Categories	*TOTAL acres burned in 2020 eligible for planting [1]*	Oaks 2040 Tree Type	Trees per acre [2]	Estimated Number of Trees Lost to Wildfire	Trees to be replanted (based on replanting ratio)	iTree Tree Type	CO2 Sequestered (kg/tree/99 year)[3]	MTCO2 sequestered per year
(Carex spp. - Juncus spp - Wet Meadow Grasses) NFD Super Alliance	Grassland	-							
Black Oak Alliance	Black Oak	55.29	Black Oak	1281	70,826	2,462	California Black Oak	8,299	206
Blue Oak Alliance	Blue Oak	14.79	Blue Oak	311	4 600	160	Oak	4 588	7
California Annual Grasslands Alliance	Grassland	59.00							
California Bay/Coast Live Oak/(Madrone/Black Oak/Big Leaf Maple) M	Mixed Oak	31.70	Mixed Oak	432	13,694	476	Coastal Live Oak/Oak/Madrone /big Leaf Maple	9,36	45
California Buckeye/Poison Oak/Moss Woodland Alliance	Shrubland	-							
Chamise Alliance	Shrubland	41.40							
Chamise Shrubland Alliance	Shrubland	-							
Coast Live Oak - Blue Oak - (Foothill Pine) NFD Association	Coast Live Oak/Blue Oak	423.89	Coast Live Oak/Blue	505	213,853	7,434	Coastal Live Oak/Oak	4,795	360
Coast Live Oak (Foothill Pine)	Coast Live Oak	90.07	Coast Live Oak	698	62,869	2,185	Coastal Live Oak	5,002	110
Common Manzanita Provisional Shrubland Alliance	Shrubland	-							
Madrone Forest Alliance	Pacific Madrone	-	[4]	100		-	Madrone	24,724	-
Mixed Manzanita - (Interior Live Oak -California Bay - Chamise) West	Shrubland	4.58							
Mixed Oak (Foothill Pine)	Mixed Oak	250.45	Mixed Oak	432	108,194	3,76	Oak	4,588	174
Rock Outcrop	Rock Outcrop	2.65							
Sclerophyllous Shrubland Formation	Shrubland	-							
Scrub Interior Live Oak - Scrub Oak - (California Bay - Flowering Ash -	Interior Live Oak	6.88	Interior Live Oak	674	4,637	16	Oak	4,588	7
Upland Annual Grasslands & Forbs Formation	Grassland	17.46							
Urban or Built-up	Urban	0.07							
Valley Oak - (California Bay - Coast Live Oak - Walnut - Ash) Riparian F	Valley Oak	27.65	Valley Oak	156	4,3	3 150	Oak	4,588	7
	Mixed Woodland	-							
White Leaf Manzanita - Leather Oak - (Chamise - Ceanothus spp.) Xer	Shrubland	-							
TOTAL		1,025.88			**482,987**	**16,790**			**918**

Source:

[1] Burned area outside of Milliken Reservoir and clearing limits of proposed vineyards

[2] Oaks 2040 (California Oak Foundation) www.californiaoaks.org/Oaks2040

[3] iTree Planting (https://planting.itreetools.org/app/report/) (Assumes 20 percent mortality rate, consistent with survival target in the BRMP. Trees planted as 0.125 in DBH seedlings)

[4]http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.395.9217&rep=rep1&type=pdf (In forests categorized as pure madrone, madrone trees make up nearly 90% of the overstory canopy and have the highest densities at 186 trees per acre"

Target total sequestration	27,528
Project lifetime (years)	30
Target annual sequestration	918
Average Tree Sequestration Rate per year (kg/tree/year)	54.67628021

Project Report - i-Tree Planting Calculator v2.1.2

Location: Napa, California 94559
Electricity Emissions Factor: 0.00 kilograms CO2 equivalent/MWh
Fuel Emissions Factor: 0.00 kilograms CO2 equivalent/MMBtu
Lifetime: 99 years
Tree Mortality: 20%

All amounts in the tables are for the full lifetime of the project.

Location		CO_2 (Carbon Dioxide) Benefits			
Group Identifier	Tree Group Characteristics	CO_2 (Carbon Dioxide) Avoided (kilograms)	CO_2 Avoided ($)	CO_2 Sequestered (kilograms)	CO_2 Sequestered ($)
1	• (1.0) Oak (Quercus species) at 0.3175 cm DBH (Diameter at Breast Height). • Planted 0-6 meters and north (0°) of buildings that were built post-1980 with heat and A/C. • Trees are in excellent condition and planted in full sun.	0.0	$0.00	4,588.1	$235.24
2	• (1.0) Oak, California black (Quercus kelloggii) at 0.3175 cm DBH (Diameter at Breast Height). • Planted 0-6 meters and north (0°) of buildings that were built post-1980 with heat and A/C. • Trees are in excellent condition and planted in full sun.	0.0	$0.00	8,298.7	$425.50
3	• (1.0) Oak, Coastal live oak; California live (Quercus agrifolia) at 0.3175 cm DBH (Diameter at Breast Height). • Planted 0-6 meters and north (0°) of buildings that were built post-1980 with heat and A/C. • Trees are in excellent condition and planted in full sun.	0.0	$0.00	5,001.7	$256.45

Location		Energy Benefits			
Group Identifier	Tree Group Characteristics	Electricity Saved (kWh) (Kilowatt-Hours)	Electricity Saved ($)	Fuel Saved (MMBtu) (Millions of British Thermal Units)	Fuel Saved ($)
1	• (1.0) Oak (Quercus species) at 0.3175 cm DBH (Diameter at Breast Height). • Planted 0-6 meters and north (0°) of buildings that were built post-1980 with heat and A/C. • Trees are in excellent condition and planted in full sun.	6,714.0	$1,374.35	21.7	$280.78
2	• (1.0) Oak, California black (Quercus kelloggii) at 0.3175 cm DBH (Diameter at Breast Height). • Planted 0-6 meters and north (0°) of buildings that were built post-1980 with heat and A/C. • Trees are in excellent condition and planted in full sun.	6,256.4	$1,280.69	20.2	$261.47
3	• (1.0) Oak, Coastal live oak; California live (Quercus agrifolia) at 0.3175 cm DBH (Diameter at Breast Height). • Planted 0-6 meters and north (0°) of buildings that were built post-1980 with heat and A/C. • Trees are in excellent condition and planted in full sun.	8,962.1	$1,834.54	45.6	$590.20

Location		Ecosystem Services			
Group Identifier	Tree Group Characteristics	Tree Biomass (tonne)	Rainfall Interception (cubic meters)	Runoff Avoided (cubic meters)	Runoff Avoided ($)
1	• (1.0) Oak (Quercus species) at 0.3175 cm DBH (Diameter at Breast Height). • Planted 0-6 meters and north (0°) of buildings that were built post-1980 with heat and A/C. • Trees are in excellent condition and planted in full sun.	2.2	606.2	114.2	$269.51
2	• (1.0) Oak, California black (Quercus kelloggii) at 0.3175 cm DBH (Diameter at Breast Height). • Planted 0-6 meters and north (0°) of buildings that were built post-1980 with heat and A/C. • Trees are in excellent condition and planted in full sun.	4.2	624.1	117.5	$277.47
3	• (1.0) Oak, Coastal live oak; California live (Quercus agrifolia) at 0.3175 cm DBH (Diameter at Breast Height). • Planted 0-6 meters and north (0°) of buildings that were built post-1980 with heat and A/C. • Trees are in excellent condition and planted in full sun.	2.5	518.6	97.7	$230.56

Location		Air Benefits							
Group Identifier	Tree Group Characteristics	O_3 (Ozone) Removed (kilograms)	NO_2 (Nitrogen Dioxide) Avoided (kilograms)	NO_2 (Nitrogen Dioxide) Removed (kilograms)	SO_2 (Sulfur Dioxide) Avoided (kilograms)	SO_2 (Sulfur Dioxide) Removed (kilograms)	VOC (Volatile Organic Compound) Avoided (kilograms)	$PM_{2.5}$ (Particulate matter smaller than 2.5 micrometers in diameter) Avoided (kilograms)	$PM_{2.5}$ (Particulate matter smaller than 2.5 micrometers in diameter) Removed (kilograms)
1	• (1.0) Oak (Quercus species) at 0.3175 cm DBH (Diameter at Breast Height). • Planted 0-6 meters and north (0°) of buildings that were built post-1980 with heat and A/C. • Trees are in excellent condition and planted in full sun.	40.9	0.2	4.2	0.8	1.0	1.6	1.0	0.4

2	• (1.0) Oak, California black (Quercus kelloggii) at 0.3175 cm DBH (Diameter at Breast Height). • Planted 0-6 meters and north (0°) of buildings that were built post-1980 with heat and A/C. • Trees are in excellent condition and planted in full sun.	40.5	0.2	4.1	0.7	1.0	1.5	0.9	0.4

3	• (1.0) Oak, Coastal live oak; California live (Quercus agrifolia) at 0.3175 cm DBH (Diameter at Breast Height). • Planted 0-6 meters and north (0°) of buildings that were built post-1980 with heat and A/C. • Trees are in excellent condition and planted in full sun.	55.8	0.3	7.7	1.2	1.6	2.1	1.3	1.7

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www.esf.edu
www.northeasternforests.org

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Attachment 20
BOS Resolution 2020-98
Rescinding Findings re: GHG Emissions

NAPA COUNTY BOARD OF SUPERVISORS

RESOLUTION NO. 2020-98

RESOLUTION VACATING AND SETTING ASIDE THE NAPA COUNTY BOARD OF SUPERVISORS' FINDING FOR IMPACT 6-1 IN RESOLUTION NO. 2016-184 CONCERNING GREENHOUSE GAS EMISSIONS FROM THE WALT RANCH VINEYARD AGRICULTURAL EROSION CONTROL PLAN NO. P11-00205-ECPA PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

WHEREAS, on December 20, 2016, the Napa County Board of Supervisors (the "Board") adopted findings pursuant to the California Environmental Quality Act regarding the Walt Ranch Vineyards Agricultural Erosion Control Plan No. P11-00205-ECPA (the "Project") in Resolution No. 2016-184; and

WHEREAS, Attachment A to Resolution No. 2016-184 is a Table of Impacts, Mitigation Measures and CEQA Findings; and

WHEREAS, Impact 6-1 in Attachment A to Resolution No. 2016-184 concluded:

> Construction of the Project would emit GHGs and would have the potential to exacerbate global climate change. Project sources of GHG emissions during construction would include the transport and delivery of construction equipment to the project site; operation of construction equipment, including equipment used for planting and irrigation system installation; worker trips, fuel use, and material transport, loss of sequestration due to removal of oak woodlands, tree removal, tillage of soil, etc. This is a potentially significant impact; and

WHEREAS, Mitigation Measure 6-1 in Attachment A to Resolution No. 2016-184 required:

> In order to offset the construction emissions from development of the Proposed Project, the Applicant shall place in permanent protection no less than 248 acres of woodland habitat. All acreage designated for preservation shall be identified as such in a conservation easement with an accredited land trust organization such as the Land Trust of Napa County as the grantee, or other means of permanent protection. The conservation easement shall be prepared in a form acceptable to County Counsel and entered into and recorded with the Napa County Recorder's office prior to any ground disturbing activities, grading or vegetation removal, or within 12 months of project approval, or whichever occurs first.
>
> Any request by the permittee for an extension of time to record the conservation easement shall be considered by the Planning Director and shall be submitted to Napa County prior to the 12 month deadline, and shall provide sufficient justification for the extension.

> Land placed in protection shall be restricted from development and other uses that would potentially degrade the quality of the habitat (including, but not limited to, conversion to other land uses such as agriculture, residential, or urban development, and excessive off-road vehicle use tat increases erosion), and should otherwise be restricted by the existing goals and policies of Napa County.

WHEREAS, with respect to Impact 6-1 and Mitigation Measure 6-1, the Board adopted the following finding in Attachment A to Resolution No. 2016-184:

> Compliance with MM 6-1, which has been required or incorporated into the Project, will reduce impacts from GHG emissions through preservation of woodland on the property. The Board hereby directs that this mitigation measure be adopted. Pursuant to Public Resources Code Section 21081(a) and CEQA Guidelines Section 15091(a), the Board hereby finds that changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen this impact to a less-than-significant level.

WHEREAS, on January 19, 2017, a Petition for Writ of Mandate was filed challenging the approval in Napa Superior Court. On April 5, 2018, the Superior Court denied the Petition and upheld the County's decision to certify the EIR and approve the Project.

WHEREAS, the petitioners appealed the Superior Court's decision and on September 30, 2019, the Court of Appeal upheld the Superior Court's decision on all grounds except one. The Court of Appeal determined that the record before the County lacked substantial evidence to support the finding that the Project would have a less-than significant GHG emission impact, because the record evidence did not show that the trees being preserved would have reasonably remained without the conservation easement.

WHEREAS, on May 6, 2020, the Superior Court issued a judgment consistent with the Court of Appeal's decision. The judgment ordered the issuance of a writ directing the County to set aside its findings "concerning whether the Project, as mitigated, will have a less-than-significant impact with respect to GHG emissions." The judgment provided that no Project activity that may result in GHG emissions may proceed unless and until such findings are reconsidered and supported by substantial evidence on the record.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of Napa as follows:

1. The foregoing recitals are true and correct and are included herein by reference as findings.

2. The Board vacates and sets aside the finding in Attachment A to Resolution No. 2016-184 regarding Impact 6-1.

3. The Board directs County staff to file a return to the peremptory writ of mandate in *Center for Biological Diversity v. Napa County* (Napa County Sup. Court, Case No. 17CV000060) informing the Court that the Board has adopted this resolution.

THE FOREGOING RESOLUTION WAS DULY AND REGULARLY ADOPTED by the Board of Supervisors of the County of Napa, State of California, at a regular meeting of said Board on the 14th day of July, 2020, by the following vote:

AYES:	SUPERVISORS	WAGENKNECHT, PEDROZA, GREGORY, RAMOS and DILLON
NOES:	SUPERVISORS	NONE
ABSTAIN:	SUPERVISORS	NONE
ABSENT:	SUPERVISORS	NONE

NAPA COUNTY, a political subdivision of the State of California

By: _____
DIANE DILLON, Chair of the Board of Supervisors

APPROVED AS TO FORM Office of County Counsel By: *Jason M. Dooley* Deputy County Counsel Date: July 13, 2020	APPROVED BY THE NAPA COUNTY BOARD OF SUPERVISORS Date: July 14, 2020 Processed By: _____ Deputy Clerk of the Board	ATTEST: JOSE LUIS VALDEZ Clerk of the Board of Supervisors By: _____

Attachment 21

Superior Court Judgment and Writ of Mandate

FILED
MAY 06 2020
CLERK OF THE NAPA SUPERIOR COURT
BY _____ DEPUTY

SUPERIOR COURT FOR THE STATE OF CALIFORNIA,
COUNTY OF NAPA

CENTER FOR BIOLOGICAL DIVERSITY, and SIERRA CLUB, Petitioners, vs. NAPA COUNTY, NAPA COUNTY BOARD OF SUPERVISORS, NAPA COUNTY DEPARTMENT OF PLANNING BUILDING AND ENVIRONMENTAL SERVICES; and DOES 1 through 20, inclusive, Respondents.	Case No.: 17CV000060 PEREMPTORY WRIT OF MANDATE
HALL BRAMBLETREE ASSOCIATES, LP, and Does 21 through 40, inclusive, Real Parties in Interest.	

TO RESPONDENTS NAPA COUNTY, NAPA COUNTY BOARD OF SUPERVISORS AND NAPA COUNTY DEPARTMENT OF PLANNING, BUILDING AND ENVIRONMENTAL SERVICES:

The Court having entered judgment in this proceeding ordering that a peremptory writ of mandate issue under seal of this Court:

YOU ARE HEREBY COMMANDED, on receipt of this writ, as follows:

1. Within 60 days of service of this writ, Respondents shall vacate and set aside their findings concerning whether the project will have a less-than-significant impact with respect to greenhouse gas ("GHG") emissions.

2. Respondents shall not reconsider whether to adopt such findings unless and until those findings are supported by substantial evidence in the record without making substantive changes to other aspects of the Project and/or EIR that have already been approved and are not subject to this partial writ of mandate.

3. Respondents shall not approve, and Real Party in Interest Hall Brambletree Associates LP shall not commence, Project-related activities that cause or contribute to GHG emissions, unless and until the Court discharges this peremptory writ of mandate.

4. Respondents shall file the following returns to this peremptory writ of mandate:

a. Respondents shall file an initial return to the writ of mandate within 90 days of service of this writ setting forth the steps taken to comply with paragraph 1 of this writ.

b. Respondents shall file a supplemental return to the writ of mandate within 30 days of completing the activities, if any, mandated by paragraph 2 of this writ setting forth those actions.

5. This Court retains jurisdiction over Respondents' proceedings by way of the returns to the peremptory writ of mandate until the Court has determined that Respondents have complied with CEQA as specified herein or that Respondents have determined not to approve the Project.

6. Nothing in this writ shall be understood to direct Respondents to exercise their discretion in any particular way. (Pub. Resources Code, § 21168.9, subd. (c).)

Dated: 05/06/2020

Victoria Wood, Judge

Superior Court of California

County of Napa
825 Brown Street
Napa. CA 94559

Case #: 17CV000060 **Center for Biological Diversity and Sierra Club vs Napa County et al**

John P Rose
1212 Broadway STE 800
OAKLAND, CA 94612

Elizabeth Rachel Pollock
555 Capitol Mall STE 800
SACRAMENTO, CA 95814

Jeffrey Michael Brax
1195 Third Street
Suite 301
Napa, CA 94559

Certificate of Mailing/Service

I hereby certify that I am not a party to this cause and that a copy of the foregoing document was:

- ☒ **mailed** (first class postage pre-paid) in a sealed envelope
- ☐ **certified copy faxed** to Napa Sheriff's Department at (707) 253-4193
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at Napa, California on this date and that this certificate is executed at Napa, California this Date. I am readily familiar with the Court's standard practice for collection and processing of correspondence for mailing within the United States Postal Service and, in the ordinary course of business, the correspondence would be deposited with the United States Postal Service on the day on which it is collected at the Courthouse.

Date: 5/6/2020

Robert E Fleshman, Court Executive Officer

J. Oliver

Julie Oliver, Deputy Court Executive Officer

FILED
MAY 06 2020
CLERK OF THE NAPA SUPERIOR COURT
BY _____ DEPUTY

SUPERIOR COURT FOR THE STATE OF CALIFORNIA,

COUNTY OF NAPA

CENTER FOR BIOLOGICAL DIVERSITY, and SIERRA CLUB, Petitioners, vs. NAPA COUNTY, NAPA COUNTY BOARD OF SUPERVISORS, NAPA COUNTY DEPARTMENT OF PLANNING BUILDING AND ENVIRONMENTAL SERVICES; and DOES 1 through 20, inclusive, Respondents. HALL BRAMBLETREE ASSOCIATES, LP, and Does 21 through 40, inclusive, Real Parties in Interest.	Case No.: 17CV000060 JUDGMENT GRANTING PEREMPTORY WRIT OF MANDATE

I. PROCEDURAL HISTORY

The Petition of Center for Biological Diversity (CBD) and Sierra Club (each a Petitioner and collectively Petitioners) came on for hearing February 13, 2018, and March 1, 2018, before the Honorable Thomas E. Warriner in Department G of this Court. Aruna Prabhala of the Center for Biological Diversity appeared on behalf of Petitioners. Jason Dooley appeared on behalf of Respondents County of Napa, Napa County Board of Supervisors, and Napa County Department

of Planning, Building and Environmental Services ("Entity Respondents"). Whitman Manley appeared on behalf of Real Parties in Interest Hall Brambletree Associates, LP ("Real Party")(Entity Respondents and Real Party will hereinafter be referred to collectively as "Respondents"). On April 5, 2018, the Court entered judgment in favor of Respondents and Real Parties (Original Judgment).

Petitioners appealed the Original Judgment to the Court of Appeal, First Appellate District. On September 30, 2019, the Court of Appeal affirmed the Original Judgment in part and reversed in part. (See *Living Rivers Council v. County of Napa*, 2019 Cal. App. Unpub. LEXIS 6612 (*Opinion*).) Specifically, the Court of Appeal found that Petitioner CBD demonstrated a lack of substantial evidence supporting the inference that the trees to be permanently conserved would not reasonably have remained on the property. (*Id.* at 87.) "CBD has accordingly satisfied its burden of showing that substantial evidence does not support the EIR's conclusion that the project would have a less-than-significant GHG emission impact." (*Ibid.*) On all other claims, the Court of Appeal affirmed the Original Judgment of this Court. Accordingly, the Court of Appeal reversed the judgment denying Petitioners' petition for a writ of mandate and remanded the matter to this Court to grant the petition as to the EIR's failure "to ensure that the GHG emissions associated with the Project, as mitigated, constitute a less-than-significant-impact, as set forth in [this Opinion]." (Opinion at 87-88.)

On February 11, 2020, this Court invited the parties to submit additional briefing regarding the appropriate nature and scope of the writ of mandate and judgment, consistent with the Opinion of the Court of Appeal. Hearing on the matter was held on March 4, 2020, with the following attorneys appearing: Jason Dooley on behalf of the entity Respondents; Aruna Prabhala and Ross Middlemiss on behalf of Petitioner; and Whitman Manley on behalf of Real Party. Following the hearing, the matter was submitted.

Having read and considered the parties' briefs and arguments at hearing, the Court now orders as follows.

II. LEGAL ANALYSIS

When a public agency's decision, determination, or finding does not comply with CEQA, a peremptory writ of mandate must be issued. (Pub. Resources Code § 21168.9, subd. (a).) As noted above, pursuant to the *Opinion* of the Court of Appeal, "substantial evidence does not

support the EIR's conclusion that the project would have a less-than-significant GHG emission impact." (*Opinion* at p. 87.)

Respondents urge the Court to issue a so-called "partial writ" and judgment directing the County to reconsider its finding of substantial evidence on this single issue. (See Memorandum of Points and Authorities in Support of Proposed Judgment (Respondent's Memo) at 5:4-7.) Respondents further argue that "the judgment and writ need not direct the County to decertify the EIR. (*Id.* at 5:9-10.)

Respondents' position appears to find support in the following language of the *Opinion*. "We remand the CBD matter to the trial court to grant the petition *as to the following EIR issue*: to ensure that the GHG emissions associated with the Project, as mitigated, constitute a less-than-significant impact, as set forth in Section II.F of this opinion." (*Opinion* at 87-88. Emphasis added.)

Partial writs are authorized under Public Resources Code section 21168.9. Subsection (b) of the statute specifically requires that a mandate order under subsection (a) "shall be limited to that portion of a determination, finding, or decision or the specific project activity or activities found to be in noncompliance only if a court finds that (1) the portion or specific project activity or activities are severable, (2) severance will not prejudice complete and full compliance with this division, and (3) the court has not found the remainder of the project to be in noncompliance with this division. The trial court shall retain jurisdiction over the public agency's proceedings by way of a return to the peremptory writ until the court has determined that the public agency has complied with this division."

As to the first finding of the three that cumulative necessitate issuance of only a partial writ, Petitioner contends that a severability finding cannot be made in this case, because the Project itself is not severable. For this contention, Petitioner relies heavily on the Fifth Appellate District's decision in *Landvalue 77, LLC v. Board of Trustees of California State University* (*Landvalue 77*) (2011) 193 Cal.App.4th 675. Implementing plain language interpretation of section 21168.9, this Court disagrees with Petitioner, as well as with the Fifth District in *Landvalue 77*. When section 21168.9 subsection (b)(1) requires a finding that the "the portion *or* specific activity or activities" are severable, the Court interprets this language to allow for the severability finding to be as to a portion not only of project activity/ies, but alternatively to a portion of the "determination, finding, or decision," as indicated in the prefatory language of the

sentence identifying the three requisite findings. This Court's interpretation seems to be supported by the Second Appellate District in *Preserve Wild Santee v. City of Santee* (2012) 210 Cal.App.4th 260, at page 287, when it critiqued the *Landvalue 77* Court's "perfunctory" conclusion that the "in part" language in subdivision (a)(1) does not apply to EIR certification decisions. Applying this interpretation of severability under section 21168.9, the Court easily concludes the portion of the County's decision pertaining to mitigation for GHG emissions is severable from the remainder of the Project decisions, as the First District seemed to contemplate in its *Opinion* as well.

The Court also believes it should make the second and third findings that require it to issue only a partial writ in this case. Obviously, the court has not found the remainder of the Project to be in noncompliance with CEQA, since the First District has upheld all other aspects of the Project approval. Whether the Court can make the second finding that severance of this portion of the County's approval would not prejudice complete and full compliance with CEQA is a closer question for consideration.

The First District found deficient the County's approval of the EIR's GHG mitigation measure, number 6-1, because there was insufficient evidence that the unspecified 248 acres of trees to be preserved as mitigation would not reasonably have remained on the property under "business as usual circumstances," i.e. without the proposed Project. (*Opinion* at 87.) It is possible Respondent will be able to approve the same mitigation measure, by simply identifying 248 acres of the 524 to be preserved and finding sufficient evidence in the record that those acres would not reasonably have remained without the preservation contemplated by the Project. Petitioner's concern that a partial writ could result in modifications to the mitigation measure that may require "changes to the scope and scale of the Project" can be alleviated by a mandate that the County shall not readopt findings of a less than significant GHG emissions impact, unless and until such findings are supported by substantial evidence in the record *without making substantive changes to other aspects of the Project and/or EIR that have already been approved and are not subject to the partial writ of mandate.* Petitioner's concern that Respondent may be required to adopt a Statement of Overriding Considerations, is alleviated by the fact that such a statement would be subject to separate CEQA compliance. Under these circumstances, the Court concludes that severance of the County's decision [that mitigation measure 6-1 sufficiently supported approval of the Project] will not prejudice complete and full compliance with CEQA.

III. JUDGMENT

IT IS THEREFORE ORDERED that:

1. As set forth in the *Opinion*, the Petition for Writ of Mandate, filed by Petitioners is granted in part as to the following EIR issue: to ensure that the greenhouse gas ("GHG") emissions associated with the project, as mitigated, constitute a less-than-significant impact. As set forth in Section II.F of the *Opinion*, substantial evidence does not support the County of Napa's (the "County's") conclusion that the conservation easement that the Project must provide will provide sufficient mitigation to reduce the Project's GHG emissions to less-than-significant levels.

2. In all other respects, the petition is denied.

3. A peremptory writ of mandate shall issue under the seal of the Court commanding:

a. The County shall vacate and set aside its findings concerning whether the Project, as mitigated, will have a less-than-significant impact with respect to GHG emissions.

b. The County shall not reconsider whether to adopt such findings unless and until they are supported by substantial evidence in the record without making substantive changes to other aspects of the Project and/or EIR that have already been approved and are not subject to the partial writ of mandate.

c. The County shall not approve, and Real Party in Interest Hall Brambletree Associates LP ("Real Party") shall not commence, Project-related activities that cause or contribute to GHG emissions.

4. The Court retains jurisdiction to ensure compliance with the writ issued pursuant to this judgment. If the County responds to the writ by re-adopting its finding concerning GHG emissions, then the County shall file a return to the peremptory writ of mandate issued pursuant to this judgment setting forth the steps taken by the County to respond to the writ.

5. Nothing in this judgment shall be understood to direct the County to exercise its discretion in any particular way. (Pub. Resources Code, § 21168.9, subd. (c).)

6. Unless and until this Court has determined that the County has taken the actions specified herein to bring the Project approvals into compliance with CEQA, the County and Real Party shall not undertake, and are enjoined from undertaking, any Project-related activities that may cause or contribute to GHG emissions.

7. The portion of the Project decision affected by this judgment is severable under Public Resources Code section 21168.9, subdivision (b). Paragraph (6) of this judgment ensures that no GHG emissions will occur as a result of the project, unless and until the County has addressed, to the Court's satisfaction, the adequacy of the steps taken to offset the project's GHG emissions. The EIR's analysis of GHG emissions has been found to be otherwise adequate. The EIR has also been found be to adequate with respect to its analysis of all other issues. Issuing this partial writ will not prejudice complete and full compliance with CEQA.

8. Each party shall bear its own costs.

Dated: 05/06/2020

Victoria Wood, Judge

Superior Court of California

County of Napa
825 Brown Street
Napa. CA 94559

Case #: 17CV000060 **Center for Biological Diversity and Sierra Club vs Napa County et al**

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Elizabeth Rachel Pollock
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SACRAMENTO, CA 95814

Jeffrey Michael Brax
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Suite 301
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Certificate of Mailing/Service

I hereby certify that I am not a party to this cause and that a copy of the foregoing document was:

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Date: 5/6/2020

Robert E Fleshman, Court Executive Officer

J. Oliver

Julie Oliver, Deputy Court Executive Officer

Attachment 22
Court of Appeal Decision

Court of Appeal, First Appellate District
Charles D. Johnson, Clerk/Executive Officer
Electronically FILED on 9/30/2019 by M. Garcia, Deputy Clerk

Filed 9/30/19

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FOUR

LIVING RIVERS COUNCIL et al., Plaintiffs and Appellants, v. COUNTY OF NAPA et al., Defendants and Respondents; HALL BRAMBLETREE ASSOCIATES, L.P., Real Party in Interest and Respondent.	A154253, A154300, A154314 (Napa County Super. Ct. Nos. 17CV000055, 17CV000060, 17CV000063)

After preparing an environmental impact report (EIR) and holding public hearings, the County of Napa (County) approved a vineyard-conversion project proposed by real party in interest, Hall Brambletree Associates, L.P. (Hall). Environmental analysis of the project dates back to 2008. The administrative record exceeds 60,000 pages, the EIR exceeds 5,000 pages, and the County's decisions rejecting various challenges and approving the project exceed 200 pages.

Living Rivers Council (LRC), Center for Biological Diversity (CBD), and Circle Oaks County Water District and Circle Oaks Homeowners Association (Circle Oaks) (collectively, plaintiffs) challenged the environmental review by filing related petitions for writ of mandate in the superior court. The trial court denied relief. Plaintiffs[1] contend

[1] On our own motion, we ordered the appeals consolidated for purposes of oral

that the EIR violated the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq.)[2] (CEQA) by failing to apprise the public of the full nature and extent of the vineyard-conversion project's impacts on groundwater resources, streams, roads and infrastructure, endangered species, and the climate. We affirm the judgments as to Circle Oaks and LRC and reverse in part as to CBD.

FACTUAL AND PROCEDURAL BACKGROUND

Hall owns Walt Ranch, a 2,300-acre site comprising 35 contiguous parcels, located within the Howell Mountains on the east side of the Napa Valley, approximately seven miles northeast of the City of Napa. Walt Ranch is zoned for agricultural watershed use, which allows a wide range of land uses without a permit, including construction of "one single family dwelling per each legal lot," as well as construction and operation of "small residential care facilities, antennas, telecommunications facilities, hunting clubs, recreation vehicle parks, campgrounds, and floating docks." There are no residences located on Walt Ranch. The Circle Oaks subdivision is located to the southeast of Walt Ranch and contains the nearest residential land uses.

Hall initially proposed the development of 397 net vineyard acres on Walt Ranch (the Project). The Project included the development of 65 vineyard blocks on sloped terrain, which required an Erosion Control Plan (ECP) from the County.

In May 2008, the County released a Notice of Preparation (NOP) and Initial Study for Hall's proposal to develop 397 net vineyard acres within 538 gross acres. Following a revised ECP, the County issued a second NOP and Initial Study in October 2012, reflecting a reduced area of 356 net vineyard acres within 507 gross acres.

The Napa County Department of Planning, Building, and Environmental Services (Planning Department), as the lead agency responsible for administering environmental review of the Project, released its draft EIR (DEIR) in July 2014. The DEIR

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argument and decision. Where appropriate, the groups will be individually referenced by name.

[2] All further statutory references are to CEQA provisions as codified in Public Resources Code sections 21000–21177, unless otherwise indicated.

analyzed potential impacts to surface water, groundwater, biological resources, greenhouse gas (GHG) emissions, and more. The DEIR determined that the Project, as mitigated, would have no significant impacts. The County received over 3,700 pages of public- and agency-written comments on the DEIR.

The Planning Department held a public hearing regarding the adequacy of the DEIR in November 2014. In March 2016, the Planning Department published its responses to public comments, which, together with the DEIR, made up the final EIR.[3]

Following a noticed public hearing, the Planning Department certified the EIR as complete, finding it to be adequate, accurate, and objective. The Planning Department (1) adopted CEQA findings, a statement of overriding considerations, and an updated mitigation-and-monitoring report program; and (2) approved the Project with a reduced-intensity alternative that would provide for "the avoidance of approximately 100 gross acres of developed area which have been targeted to further protect special-status species and associated habitats; preserve individual trees that are identified as specimen or notable trees; enhance sensitive biotic communities; and enhance wildlife movement on the project site." The Project, as approved, was reduced to 209 net acres of vineyard within 316 gross acres of overall land disturbance.

LRC, CBD, and Circle Oaks filed appeals with the Napa County Board of Supervisors (Board), challenging the Project's approval and the certification of the EIR. After holding three hearings, the Board unanimously voted to deny the appeals and to uphold the Planning Department's decision. The Board also adopted numerous conditions of approval. The Board certified the EIR and approved the Project on December 20, 2016.

In January 2017, LRC, CBD, and Circle Oaks filed petitions for writ of mandate in the trial court. The parties stipulated to relate the cases. Following extensive briefing, the court heard argument and denied all three petitions.

[3] Unless otherwise indicated, all further references to the EIR are to the final EIR.

DISCUSSION

I. CEQA Principles and Standard of Review

" ' "The basic purposes of CEQA are to: [¶] (1) Inform governmental decision makers and the public about the potential, significant environmental effects of proposed activities. [¶] (2) Identify ways that environmental damage can be avoided or significantly reduced. [¶] (3) Prevent significant, avoidable damage to the environment by requiring changes in projects through the use of alternatives or mitigation measures when the governmental agency finds the changes to be feasible. [¶] (4) Disclose to the public the reasons why a governmental agency approved the project in the manner the agency chose if significant environmental effects are involved." ' " (*McCorkle Eastside Neighborhood Group v. City of St. Helena* (2018) 31 Cal.App.5th 80, 88–89.) CEQA is designed to compel the government to make decisions with environmental consequences in mind. (*Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 393 (*Laurel Heights I*).) "[A] public agency is not required to favor environmental protection over other considerations, but it must disclose and carefully consider the environmental consequences of its actions, mitigate or avoid adverse environmental effects if feasible, explain the reasons for its actions, and afford the public and other affected agencies an opportunity to participate meaningfully in the environmental review process." (*Ballona Wetlands Land Trust v. City of Los Angeles* (2011) 201 Cal.App.4th 455, 466–467.)

If an agency determines that a project is not exempt from CEQA and it may have a significant effect on the environment, the agency must prepare an EIR before approval of the project. (See §§ 21100, subd. (a), 21151, subd. (a), 21080, 21084, subd. (a).) The EIR "is the heart of CEQA" (Guidelines,[4] § 15003, subd. (a)), and it protects both the environment and informed self-government. (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564.) The agency notifies the public that a draft EIR

[4] "Guidelines" refer to the Guidelines for Implementation of CEQA, which are found in the California Code of Regulations, title 14, section 15000 et seq. All subsequent citations to Guidelines are to title 14 of the California Code of Regulations.

is being prepared (§§ 21092, 21092.1) and evaluates the draft EIR in light of public comments. (Guidelines, §§ 15087, 15088.) The lead agency then prepares a final EIR, incorporating comments on the draft EIR and the agency's responses to significant environmental points raised. (*Id.,* §§ 15090, 15132, subds. (b)–(d).) An EIR must include a detailed statement summarizing (1) all of a project's significant effects on the environment, (2) any unavoidable or irreversible significant effects on the environment, (3) mitigation measures, (4) alternatives to the proposed project, and (5) the growth-inducing impacts of the proposed project. (§ 21100, subd. (b).) The lead agency must certify that the final EIR has been completed in compliance with CEQA and that the information therein was considered by the agency before approving the project. (Guidelines*,* § 15090.)

"An appellate court's review of the administrative record for legal error and substantial evidence in a CEQA case, as in other mandamus cases, is the same as the trial court's: [We] review[ ] the agency's action, not the trial court's decision; in that sense appellate judicial review under CEQA is de novo." (*Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 427 (*Vineyard Area Citizens*).) The court reviews the administrative record for prejudicial abuse of discretion. (*Laurel Heights Improvement Assn. v. Regents of University of California* (1993) 6 Cal.4th 1112, 1132–1133; *Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 512 (*Sierra Club*).) " '[A]n agency may abuse its discretion under CEQA either by failing to proceed in the manner CEQA provides or by reaching factual conclusions unsupported by substantial evidence.' " (*Banning Ranch Conservancy v. City of Newport Beach* (2017) 2 Cal.5th 918, 935.)

The California Supreme Court recently addressed this procedural/factual-issues dichotomy and explained, " 'Judicial review of these two types of error differs significantly: While we determine de novo whether the agency has employed the correct procedures, "scrupulously enforc[ing] all legislatively mandated CEQA requirements" [citation], we accord greater deference to the agency's substantive factual conclusions. In reviewing for substantial evidence, the reviewing court "may not set aside an agency's

approval of an EIR on the ground that an opposite conclusion would have been equally or more reasonable," for, on factual questions, our task "is not to weigh conflicting evidence and determine who has the better argument." ' " (*Sierra Club, supra*, 6 Cal.5th at p. 512.)

"In most cases, the question whether an agency has followed proper procedures will have a clear answer. Did the agency provide sufficient notice and opportunity to comment on a draft EIR? [Citations.] Did the agency omit the required discussion of alternatives? [Citation.] As to these legal requirements, the agency has no discretion, and courts will invalidate an EIR that fails to meet them. In that sense, judicial review is de novo. [¶] But the question whether an agency has followed proper procedures is not always so clear. This is especially so when the issue is whether an EIR's discussion of environmental impacts is adequate, that is, whether the discussion sufficiently performs the function of facilitating 'informed agency decisionmaking and informed public participation.' " (*Sierra Club, supra*, 6 Cal.5th at pp. 512–513.)

After reviewing several of its own decisions and those of the Court of Appeal, the Supreme Court summarized three "basic principles" regarding the standard of review for claims challenging the adequacy of an EIR: "(1) An agency has considerable discretion to decide the manner of the discussion of potentially significant effects in an EIR. (2) However, a reviewing court must determine whether the discussion of a potentially significant effect is sufficient or insufficient, i.e., whether the EIR comports with its intended function of including ' " 'detail sufficient to enable those who did not participate in its preparation to understand and to consider meaningfully the issues raised by the proposed project.' " ' [Citation.] (3) The determination whether a discussion is sufficient is not solely a matter of discerning whether there is substantial evidence to support the agency's factual conclusions." (*Sierra Club, supra*, 6 Cal.5th at pp. 515–516.)

"The ultimate inquiry, as case law and the CEQA guidelines make clear, is whether the EIR includes enough detail 'to enable those who did not participate in its preparation to understand and to consider meaningfully the issues raised by the proposed project.' " (*Sierra Club, supra*, 6 Cal.5th at p. 516.) Generally, that inquiry is a mixed

question of law and fact subject to de novo review, but to the extent factual questions (such as the agency's decision which methodologies to employ for analyzing an environmental effect) predominate, a substantial evidence standard of review will apply. (*Ibid*.)

Substantial evidence "includes fact, a reasonable assumption predicated upon fact, or expert opinion supported by fact," but it does not include "argument, speculation, unsubstantiated opinion or narrative, evidence that is clearly inaccurate or erroneous, or evidence of social or economic impacts that do not contribute to, or are not caused by, physical impacts on the environment." (§ 21080, subd. (e)(1), (2).) Substantial evidence is defined by the Guidelines as "information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached." (Guidelines, § 15384, subd. (a).) In reviewing for substantial evidence, we may not set aside the approval of an EIR on the ground that a different conclusion would have been equally or more reasonable. (*Vineyard Area Citizens, supra,* 40 Cal.4th at p. 435.)

In reviewing claims challenging an EIR's adequacy, courts "do not require technical perfection or scientific certainty: ' " '[T]he courts have looked not for an exhaustive analysis but for adequacy, completeness and a good-faith effort at full disclosure.' " ' " (*Sierra Club, supra*, 6 Cal.5th at p. 515.) Because an EIR is presumed to be adequate, project opponents bear the burden of proving otherwise. (*South of Market Community Action Network v. City and County of San Francisco* (2019) 33 Cal.App.5th 321, 329 (*SOMCAN*); see § 21168.5.) " ' " 'The overriding issue on review is thus 'whether the [lead agency] reasonably and in good faith discussed [a project] in detail sufficient [to enable] the public to discern from the [EIR] the "analytic route the . . . agency traveled from evidence to action." ' " ' " (*SOMCAN,* at p. 331.) Moreover, " '[i]nsubstantial or merely technical omissions are not grounds for relief. [Citation.] "A prejudicial abuse of discretion occurs if the failure to include relevant information precludes informed decisionmaking and informed public participation, thereby thwarting the statutory goals of the EIR process." ' (*Neighbors for Smart Rail v. Exposition Metro Line Construction Authority* (2013) 57 Cal.4th 439, 463 [160

Cal.Rptr.3d 1, 304 P.3d 499]; *id.* at pp. 464–465 [160 Cal.Rptr.3d 1, 304 P.3d 499], [failure to comply with CEQA's informational mandate 'did not deprive agency decision makers or the public of substantial information relevant to approving the project and is therefore not a ground for setting that decision aside'].)" (*SOMCAN,* at p. 331.)

With these principles in mind, we turn to the merits.

II. Specific Environmental Impacts and Mitigation Measures

A. Impact of the Project on Future Development

CBD argues that the EIR should have analyzed the impacts of future residential development on Walt Ranch. According to CBD, the development of 35 large residences or estates is reasonably foreseeable because: (1) the zoning enables "by right" such development without any future discretionary approvals; and (2) the Project's expansion of water rights and road improvements will facilitate this development. CBD maintains that the County's failure to analyze the reasonably foreseeable impacts of the Project violates the rule against "piecemealing" a project.

"There is no dispute that CEQA forbids 'piecemeal' review of the significant environmental impacts of a project." (*Berkeley Keep Jets Over the Bay Com. v. Board of Port Comrs*. (2001) 91 Cal.App.4th 1344, 1358 (*Berkeley Keep Jets*).) Rather, CEQA mandates "that environmental considerations do not become submerged by chopping a large project into many little ones—each with a minimal potential impact on the environment—which cumulatively may have disastrous consequences." (*Bozung v. Local Agency Formation Com.* (1975) 13 Cal.3d 263, 283–284.)

Courts have found that agencies improperly piecemealed environmental review of projects in various situations. "First, there may be improper piecemealing when the purpose of the reviewed project is to be the first step toward future development." (*Banning Ranch Conservancy v. City of Newport Beach* (2012) 211 Cal.App.4th 1209, 1223 (*Banning Ranch I*); see, e.g., *Laurel Heights I, supra,* 47 Cal.3d at p. 398 [agency, when evaluating lease of 100,000 square feet of a building, should have also examined lease of remaining square footage that would soon become available for lease].) Additionally, "there may be improper piecemealing when the reviewed project legally

compels or practically presumes completion of another action." (*Banning Ranch I,* at p. 1223; see, e.g., *Tuolumne County Citizens for Responsible Growth*, *Inc*. *v*. *City of Sonora* (2007) 155 Cal.App.4th 1214, 1231 [agency improperly piecemealed review of home improvement center development and road realignment because realignment was condition precedent to development].)

Improper piecemealing, however, does not occur when "projects have different proponents, serve different purposes, or can be implemented independently." (*Banning Ranch I*, *supra*, 211 Cal.App.4th at p. 1223.) *Laurel Heights I* instructs that "an EIR must include an analysis of the environmental effects of future expansion or other action if: (1) it is a reasonably foreseeable consequence of the initial project; and (2) the future expansion or action will be significant in that it will likely change the scope or nature of the initial project or its environmental effects. Absent these two circumstances, the future expansion need not be considered in the EIR for the proposed project." (*Laurel Heights I, supra,* 47 Cal.3d at p. 396.)

"The key term here is 'consequence.' " (*Aptos Council v. County of Santa Cruz* (2017) 10 Cal.App.5th 266, 282 (*Aptos Council*).) Thus, the issue is whether residential development is a reasonably foreseeable *consequence* of the County's approval of the vineyard conversion. We do not believe it is.

A consequence is not reasonably foreseeable simply because the project under consideration makes that consequence a *possibility*—even when the public agency is subjectively aware of that possibility (that is, even when it is "a gleam in [the] planner's eye"). (*Laurel Heights I*, *supra*, 47 Cal.3d at p. 398; see *Save Round Valley Alliance v. County of Inyo* (2007) 157 Cal.App.4th 1437, 1450–1451 (*Save Round Valley*) [when evaluating residential development project, agency need not evaluate impact of future owners' decision to build second units on each lot because, while possible, there was no evidence this would occur]; see also *Berkeley Keep Jets, supra,* 91 Cal.App.4th at p. 1362 [when evaluating airport development plan, agency not required to consider expanded runway capacity that was merely possible]; *Pala Band of Mission Indians v. County of San Diego* (1998) 68 Cal.App.4th 556, 575–576 [when adopting waste management plan,

agency need not evaluate impact of future landfills where plan identified 10 tentative landfill sites, when there was no evidence any other site would be developed]; *Topanga Beach Renters Assn. v. Department of General Services* (1976) 58 Cal.App.3d 188, 195–196 [when considering project to restore beach to natural state, agency not required to consider impact of future residential development on nearby properties that might seek to capitalize on pristine beach absent any evidence such development would occur].)

Moreover, a consequence is not reasonably foreseeable when it is entirely independent of the project under review. (See, e.g., *Christward Ministry v. County of San Diego* (1993) 13 Cal.App.4th 31, 42–44) [when considering expansion of landfill, agency need not consider "independent" landfill projects]; *Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70, 75–76, 100–101 (*CBE v. Richmond*) [when considering expansion to refinery's gasoline output, agency not required to consider expansion to refinery's hydrogen pipeline because the two "are not interdependent"].) Indeed, the Guidelines require an agency to consider an "indirect physical change" "only if that change is a reasonably foreseeable impact which may be *caused by the project*." (Guidelines, § 15064, subd. (d)(3), italics added.) Thus, even if a future phase is imminent, where the future development is not a consequence caused by the project, an EIR need not analyze the current project and the later phase as a single project. (See, e.g., *Banning Ranch I, supra,* 211 Cal.App.4th at pp. 1225–1226 [although park access road was "consistent" with adjacent residential development, it would be "a stretch" to say the development was "a consequence of the access road"]; *Aptos Council, supra,* 10 Cal.App.5th at p. 282.)

Here, the County approved a vineyard-conversion project. The construction of the vineyard does not compel or presume residential development. (See, e.g., *Banning Ranch I*, *supra*, 211 Cal.App.4th at p. 1223 [review of consequence required when "reviewed project legally compels or practically presumes completion" of that consequence]; see, e.g., *Santiago County Water Dist. v. County of Orange* (1981) 118 Cal.App.3d 818, 829–830 [agency, when evaluating sand-and-gravel mining project, must also analyze water delivery system necessary for operation of the mining

project]; *San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713, 729–733 [agency, when evaluating residential development, must also analyze the sewer expansion necessary for that development].) Similarly, the improvements to the roads and water supply are not catalysts for future development. The upgraded roads will not provide any new access to the parcels, and the water expansion will not create capacity beyond what the vineyards require. The pending water applications, which were filed by the previous owner of Walt Ranch and transferred to Hall upon its purchase of the property, are for two on-stream reservoirs related to recreational use and fire protection. The two on-stream reservoirs would not involve any consumptive uses of water and would be subject to independent environmental review.

Stanislaus Audubon Society, Inc. v. County of Stanislaus (1995) 33 Cal.App.4th 144 (*Stanislaus Audubon Society*), cited by CBD, does little to advance its position. First, *Stanislaus Audubon Society* was not concerned with the sufficiency of an EIR, but with the adequacy of a negative declaration. The court stressed that the petitioner's only burden in that posture was to show evidence in the record supporting a *fair argument* that the project *might* have a significant growth-inducing effect. (*Id.* at pp. 150–153.) In contrast, the question in this case is whether there is substantial evidence supporting the EIR's conclusion that the project will not have a growth-inducing impact. (*Banning Ranch I, supra,* 211 Cal.App.4th at p. 1230; *North Coast Rivers Alliance v. Marin Municipal Water Dist. Bd. of Directors* (2013) 216 Cal.App.4th 614, 626 (*North Coast*) ["[w]here, as here, the agency prepares an EIR, the issue is whether substantial evidence supports the agency's conclusions, not whether others might disagree with those conclusions"].) Second, in *Stanislaus Audubon Society*, at pp. 153–156, there was significant evidence—including from the County's own planning department—that the proposed country club in a basically uninhabited area would likely be a "catalyst" that would "trigger[] requests for residential development" and thereby induce growth. No such evidence exists here.

In further support of its argument that the EIR should have considered the development of dozens of residential homes as a growth-inducing impact of the vineyard,

CBD also relies on *City of Antioch v. City Council* (1986) 187 Cal.App.3d 1325. That case, too, is distinguishable. Like *Stanislaus Audubon Society*, and unlike this case, *City of Antioch* involved a negative declaration. (*Id.* at p. 1328.) In *City of Antioch*, the "sole reason" for the proposed road and sewer project was to "provide a catalyst for further development in the immediate area," (*id.* at p. 1337) making it "virtually certain that additional development [would] result" (*id.* at p. 1335). Here, there is no evidence that Hall plans to build houses or estates on Walt Ranch, and the construction of the vineyard does not "presage" the development of residential homes. (*Id.* at p. 1336 ["[c]onstruction of the roadway and utilities cannot be considered in isolation from the development it presages"].) CBD's speculation that development will occur on Walt Ranch because Hall has previously developed estates on a different vineyard in another county does not constitute substantial evidence. Substantial evidence does not include "[a]rgument, speculation, unsubstantiated opinion[,] or narrative." (§ 21082.2, subd. (c).) " 'Complaints, fears, and suspicions about a project's potential environmental impact likewise do not constitute substantial evidence.' " (*Joshua Tree Downtown Business Alliance v. County of San Bernardino* (2016) 1 Cal.App.5th 677, 690.)

Moreover, the fact that single-family residences *may* be developed at some point in the future does not mean that the Project is likely to induce growth. In *Save Round Valley, supra,* 157 Cal.App.4th at pp. 1450–1451, the court rejected a similar challenge. There, an EIR was not insufficient for failing to discuss the speculative possibility that future owners of subdivided lots would someday seek to build second dwelling units. The record disclosed no substantial evidence that possible expansion of the project was " 'a reasonably foreseeable consequence of the initial project.' " (*Id.* at p. 1451.)

CBD argues that *Save Round Valley* is distinguishable because there, unlike here, any future development required a conditional use permit. According to CBD, future residential development is all but certain to occur due to the expansive nature of the agricultural zoning on Walt Ranch. While we understand CBD's concern that future development on Walt Ranch may occur without further review, this contention is essentially a zoning challenge—not a viable CEQA claim. In sum, we reject CBD's

assertion that the County engaged in prohibited "piecemeal" environmental review and improperly ignored growth-inducing impacts when it evaluated the vineyard-conversion project.

B. Impact of the Project on Biological Resources

The EIR states that several special-status[5] amphibians and reptiles "occur or have the potential to occur" on the property "either seasonally or year round." The EIR acknowledges that the development and operation of the Project could pose potentially significant impacts to the western pond turtle, the California red-legged frog, and the foothill yellow-legged frog. According to the EIR, however, impacts to special-status amphibians and reptiles will be reduced to less-than-significant levels after implementation of various mitigation measures. Plaintiffs assert a variety of challenges to the EIR's analysis of the Project's impact on biological resources.

1. Baseline Environmental Setting

CBD and LRC each challenge the adequacy of the description of the baseline environmental setting regarding the California red-legged frog.[6]

"Before the impacts of a project can be assessed and mitigation measures considered, an EIR must describe the existing environment. It is only against this baseline that any significant environmental effects can be determined. (Guidelines, §§ 15125, 15126.2, subd. (a).)" (*County of Amador v. El Dorado County Water Agency* (1999) 76 Cal.App.4th 931, 952.) CEQA requires that the EIR describe the environmental "baseline," which is normally " 'the physical environmental conditions in

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[5] "Special-status species" are those that have been: (1) listed as endangered, threatened, or a candidate for such listing under the federal Endangered Species Act (16 U.S.C. § 1531 et seq.) or the California Endangered Species Act (Fish & G. Code, § 2050 et seq.); and (2) designated as a species of "special concern" by the California Department of Fish and Wildlife.

[6] CBD purports to challenge the baseline analysis for the foothill yellow-legged frog and the western pond turtle. However, CBD's arguments in its opening and reply briefs focus solely on the California red-legged frog. Accordingly, claims regarding the baseline information for the foothill yellow-legged frog and the western pond turtle are forfeited. (See *Paulus v. Bob Lynch Ford, Inc.* (2006) 139 Cal.App.4th 659, 685 [issues do not have a life of their own].)

the vicinity of the project, as they exist at the time the notice of preparation is published.' " (*Communities for a Better Environment v. South Coast Air Quality Management Dist.* (2010) 48 Cal.4th 310, 320–321 (*CBE v. South Coast Air*); Guidelines § 15125, subd. (a).)

"[A]n agency enjoys the discretion to decide, in the first instance, exactly how the existing physical conditions without the project can most realistically be measured, subject to review, as with all CEQA factual determinations, for support by substantial evidence." (*CBE v. South Coast Air, supra,* 48 Cal.4th at p. 328.) "Because the chief purpose of the EIR is to provide detailed information regarding the significant environmental effects of the proposed project on the 'physical conditions which exist within the area,' it follows that the existing conditions must be determined, to the extent possible, in the EIR itself. [Citations.] On the other hand, the agency has the discretion to resolve factual issues and to make policy decisions. If the determination of a baseline condition requires choosing between conflicting expert opinions or differing methodologies, it is the function of the agency to make those choices based on all of the evidence." (*Save our Peninsula Committee v. Monterey County Bd. of Supervisors* (2001) 87 Cal.App.4th 99, 120.)

The EIR reflects that in 2007, between March and September, WRA Environmental Consultants conducted protocol-level surveys on the entire property. Biologists spent more than 80 hours surveying the Capell Creek watershed. The surveys did not locate any California red-legged frogs in the Capell Creek watershed or anywhere else on the property. The results of the surveys were forwarded to the United States Fish and Wildlife Service (USFWS). Based on feedback from the USFWS, additional surveys were conducted in 2008 and 2012, focusing on the Milliken Creek watershed. Further surveys of the Capell Creek watershed were not conducted because, in light of its supportive habitat, the California red-legged frog was presumed in the Capell Creek watershed.

In 2008, Analytical Environmental Services (AES) conducted protocol-level surveys consisting of eight separate multi-day surveys during the breeding (January,

February, and March) and non-breeding (July) seasons at 25 separate survey sites on the Milliken Creek watershed portion of the property. California red-legged frogs were not observed at any site. In 2012, AES conducted one day survey and one night survey during the non-breeding (August) season. As in past surveys, California red-legged frogs were not located.

a. Capell Creek

LRC argues that presuming the presence of the California red-legged frog in the Capell Creek watershed without additional protocol-level surveys renders the baseline analysis "informationally deficient." Here, unlike the cases cited by LRC, the record reflects an intense effort to locate the California red-legged frog. (Cf. *Galante Vineyards v. Monterrey Peninsula Water Management Dist.* (1997) 60 Cal.App.4th 1109, 1122–1123 [no information on dam's impact on adjacent vineyard]; *Santiago Water Dist. v. County of Orange, supra,* 118 Cal.App.3d at pp. 829–831 [no estimate of project's water demand or impact of water services]; *San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, 661–664 [no information on groundwater use during typical operations].)

Presuming the presence of this sensitive species, despite the fact that no California red-legged frogs were ever observed during the studies, did not skew the baseline information. If anything, this conservative estimate triggered additional environmental review, not less. Based on the potential presence of the California red-legged frog, the EIR identifies possible impacts to the species and proposes mitigation measures to avoid them.

b. Milliken Creek

CBD and LRC argue that the baseline analysis was inadequate because the surveys conducted in the Milliken Creek watershed failed to adhere strictly to USFWS protocols regarding the time and number of the surveys and the qualifications of the surveyors.

Legally, CEQA does not require "protocol-level" surveys. (*Association of Irritated Residents v. County of Madera* (2003) 107 Cal.App.4th 1383, 1396–1397 (*AIR v. County of Madera*); *Gray v. County of Madera* (2008) 167 Cal.App.4th 1099, 1124–

1125 (*Gray*).) The choice of methodology is up to the agency. (*North Coast, supra,* 216 Cal.App.4th at pp. 642–643.) Biological surveys need only provide " 'adequate information to ensure that "decisions be informed, and therefore balanced." ' " (*AIR v. County of Madera,* at p. 1347.)

Factually, the surveys sufficed. CBD asserts that, according to USFWS guidelines, the "best survey period" is between January 1 and February 28. However, USFWS guidelines provide that this date range is the best period for conducting "egg surveys" to detect egg masses. USFWS guidelines in fact state that surveys "may begin anytime during January and should be completed by the end of September." The USFWS guidelines explain that "adult frogs are most likely to be detected at night between January 1 and June 30, somewhere in the vicinity of a breeding location, whereas sub-adults are most easily detected during the day from July 1 through September 30." The August 2012 daytime survey during non-breeding season was an acceptable methodology within the parameters established by the USFWS guidelines.

CBD and LRC also attack the competency of the biologists conducting the surveys based on the purported inability to differentiate between a tadpole and a subadult, by referring to a "subadult/tadpole" in a survey. They also criticize the methodologies utilized to identify the species.

First, the professional resumes attached to the surveys reflect that the biologists were more than qualified to conduct the surveys; all four biologists had several years of prior training and experience, with three of the four having previously conducted protocol surveys for California red-legged frogs. The reference to "subadult/tadpole" in one of the handwritten surveys does not demonstrate that the biologists were incapable of identifying the life stages of the California red-legged frog, particularly where the survey in question explains that the creature "moved under overhanging ledge and out of sight," and notes that "[h]ind legs [were] present on tadpole." Second, the critique of the methodologies employed ignores the substantial evidence standard of review. "The fact that different inferences or conclusions could be drawn, or that different methods of gathering and compiling statistics could have been employed, is not determinative in a

substantial evidence review." (*Evans v. City of San Jose* (2005) 128 Cal.App.4th 1123, 1148.) Pointing to evidence purportedly casting doubt on the biologists' qualifications and attacking the methodology used by the County are not enough to carry CBD's and LRC's burden of showing a lack of substantial evidence to support the baseline determination. (*North Coast, supra,* 216 Cal.App.4th at p. 643.)

The issue is not whether other methods might have been used, but whether the agency relied on evidence that a " ' "reasonable mind might accept as sufficient to support the conclusion reached" ' in the EIR." (*North Coast, supra,* 216 Cal.App.4th at p. 642.) Ultimately, it comes down to whether the surveys were "sufficiently credible" to provide a substantial basis for an informed decision. (*Laurel Heights I, supra,* 47 Cal.3d at p. 409.) We conclude they were. The numerous surveys, containing three years of data, were "more than adequate." (*North Coast*, at p. 640.) "The fact that additional studies might be helpful does not mean they are required." (*AIR v. County of Madera, supra,* 107 Cal.App.4th at p. 1396.)

2. Adequacy of the Impacts Analysis Regarding the Foothill Yellow-legged Frog

CBD argues that the EIR failed to analyze or mitigate the potentially significant impacts on the foothill yellow-legged frog due to vehicle traffic. Relying on a report from the Sierra Club, CBD contends that vehicle traffic on the Project's network of roads and stream crossings is likely to kill foothill yellow-legged frogs and destroy their eggs, which may attach to rock crossings.

We conclude, however, that CBD fails to meet its burden in its challenge to the EIR in this respect. In order to succeed, CBD must specify what evidence the County relied upon in making its purportedly erroneous determination that there will be less-than-significant impacts to the foothill yellow-legged frog and that as a result, no mitigation was required. (*Save Panoche Valley v. San Benito County* (2013) 217 Cal.App.4th 503, 526.) CBD cannot simply rely on contrary conclusions asserted by the Sierra Club. (*Ibid.*)

In any event, substantial evidence supports the County's finding that the impact of vehicle traffic on the foothill yellow-legged frog would be insignificant. The EIR notes

that breeding season for the foothill yellow-legged frog occurs from March to June. The Project's peak activity, with the potential to generate the most traffic, occurs from August to October and does not overlap with the breeding season. Moreover, there is substantial evidence that the population of the foothill yellow-legged frog within the Project area may always be small due to breeding constraints and robust populations of predatory species. Except in years with high rainfall, the transitory nature of the creeks renders foothill yellow-legged frog breeding unlikely in all but the largest waterways. Milliken Creek, the largest waterway, is heavily populated with predatory non-native species that negatively impact the foothill yellow-legged frog population, especially its eggs, tadpoles, and juveniles. Creek surveys that were conducted at the start of breeding season in March 2007 identified eight separate occurrences of the foothill yellow-legged frog. A few juveniles were reported, but the majority of the foothill yellow-legged frogs observed were adults. No eggs or tadpoles were observed during the surveys. On this record, we conclude that there is substantial evidence that the impact of vehicle traffic on the foothill yellow-legged frog is not significant. (See *North Coast*, *supra*, 216 Cal.App.4th at pp. 639–643.)

3. Adequacy of Impact and Mitigation Analysis

The EIR acknowledges that vineyard operations may include pesticide use that could impact the western pond turtle, the California red-legged frog, and the foothill yellow-legged frog. However, after implementation of integrated pest management (IPM) techniques, riparian buffers, and stream setbacks, the impacts will be less than significant. CBD and LRC claim these mitigation measures are inadequate and fail to consider the effect of pesticide drift.

a. IPM Techniques

The goal of IPM is to minimize "the harmful effects of chemical pesticides on humans and natural resources, including wildlife," by applying chemical pesticides only as a last resort, at the lowest possible toxicity levels and application rates. IPM techniques include a variety of measures to prevent pest infestation, including permanent cover crops, beneficial insects, and minimal to no use of chemical pesticides except when

found necessary from monitoring. The IPM plan included in the EIR requires Hall to use only Category 3 ("Low Toxicity") and Category 4 ("Very Low Toxicity") pesticides.

Mitigation Measure 4.5-4 requires use of "IPM techniques where feasible . . . [including] minimal to no use of pesticides except when found necessary from monitoring." CBD argues that the phrase "where feasible" makes this measure illusory. However, it is important to note that IPM is but one item on a lengthy list of standard operating procedures, which "shall" be followed when applying pesticides in the vineyard. That Hall must implement IPM where "feasible" does not render the entire package of measures illusory. (*City of Hayward v. Trustees of California State University* (2015) 242 Cal.App.4th 833, 854–856 [approving mitigation committing agency to pursue "feasible" strategies to reduce traffic and parking impacts].) CBD's distrust of Hall's commitment to use lower-toxicity chemicals does not invalidate the efficacy of the IPM plan as one aspect of the mitigation.

Similarly, CBD's skepticism about the effectiveness of the IPM plan does not undermine the validity of the EIR. (*Barthelemy v. Chino Basin Mun. Water Dist.* (1995) 38 Cal.App.4th 1609, 1620 ["the mere presence of conflicting evidence in the administrative record does not invalidate" EIR's conclusions]; *Chaparral Greens v. City of Chula Vista* (1996) 50 Cal.App.4th 1134, 1143 [same]; *Laurel Heights I*, *supra*, 47 Cal.3d at p. 407 [court does not weigh conflicting evidence concerning effectiveness of mitigation].) "[W]hether others might disagree" is immaterial, so long as substantial evidence supports the County's conclusion that use of IPM techniques (in conjunction with other mitigation measures) will reduce impacts on biological resources to less-than-signifcant levels. (*North Coast*, *supra*, 216 Cal.App.4th at pp. 626–627.) Contrary to plaintiffs' implicit suggestion that IPM is the sole mitigation measure, the EIR analyzed the impacts of pesticide use, concluded that consequences to special-status species are potentially significant, and proposed a range of measures aimed at minimizing these impacts, including that Hall: 1) maintain appropriate buffers (Mitigation Measure (MM) 4.2-1); 2) prepare and follow a hazardous materials plan (MM 4.5-1); 3) follow standard operating procedures for vineyard equipment (MM 4.5-2); 4) follow restrictions on

chemical mixing (MM 4.5-3); 5) follow restrictions on pesticide application (MM 4.5-4); 6) follow restrictions on oil use and storage (MM 4.5-5); and 7) minimize pesticide drift through IPM techniques (MM 4.2-10 & MM 4.2-11) The EIR thus contains substantial evidence supporting the County's conclusion that this array of measures would be effective to minimize impacts.

Citing *Californians for Alternatives to Toxics v. Dept. of Food & Agriculture* (2005) 136 Cal.App.4th 1, CBD also argues that the EIR impermissibly relies on compliance with existing regulations as CEQA mitigation. *Californians for Alternatives to Toxics*, however, is distinguishable. There, the court held that an agency's uncritical, unelaborated reliance on a regulatory program was insufficient. (*Californians for Alternatives to Toxics*, at p. 16.) In this case, compliance with regulatory programs is but one of multiple measures designed to mitigate impacts on special-status species. Agencies routinely, and appropriately, cite compliance with regulatory standards to support the conclusion that impacts will not be significant. (Guidelines, § 15126.4, subd. (a)(1)(B); *Citizens for a Sustained Treasure Island v. City and County of San Francisco* (2014) 227 Cal.App.4th 1036, 1059–1060 (*Treasure Island*) [requirement that site cleanup comply with regulatory standards supported conclusion that mitigation would avoid impacts from hazardous substances]; *City of Maywood v. Los Angeles Unified School Dist.* (2012) 208 Cal.App.4th 362, 409–413 [cleanup of school site under supervision of regulatory agency supported conclusion that impact would be insignificant]; *Clover Valley Foundation v. City of Rocklin* (2011) 197 Cal.App.4th 200, 236 [requiring compliance with regulations as a common and reasonable mitigation measure]; cf. *Oakland Heritage Alliance v. City of Oakland* (2011) 195 Cal.App.4th 884, 896 (*Oakland Heritage*) [use of regulatory standard to determine significance].)

Finally, contrary to LRC's contention, the EIR does not impermissibly defer development of mitigation measures by failing to specify the IPM techniques to be used. Generally, "it is inappropriate to postpone the formulation of mitigation measures." (*POET*, *LLC v. State Air Resources Bd.* (2013) 218 Cal.App.4th 681, 735 (*POET*.) "However, this general rule against deferring the formulation of mitigation measures is

not absolute. ” (*Ibid*.) Deferral of selection of mitigation measures is permissible “ ‘for kinds of impacts for which mitigation is known to be feasible, but where practical considerations prohibit devising such measures early in the planning process . . . . [T]he agency can commit itself to eventually devising measures that will satisfy specific performance criteria articulated at the time of project approval. Where future action to carry a project forward is contingent on devising means to satisfy such criteria, the agency should be able to rely on its commitment as evidence that significant impacts will in fact be mitigated.’ ” (*Sacramento Old City Assn. v. City Council* (1991) 229 Cal.App.3d 1011, 1028–1029; *California Native Plant Society v. City of Rancho Cordova* (2009) 172 Cal.App.4th 603, 621 (*CNPS*).)

The IPM techniques described in Mitigation Measure 4.5-4 are incorporated into the mitigation measures designed to minimize the impacts to the western pond turtle (MM 4.2-10) and the California red-logged frog and foothill yellow-legged frog (MM 4.2-11). As noted, these techniques include permanent cover crops, beneficial insects, and minimal to no use of chemical pesticides, except when found necessary from monitoring. The failure to specify the precise techniques that must be used is not fatal. (*Ebbetts Pass Forest Watch v. California Dept. of Forestry & Fire Protection* (2008) 43 Cal.4th 936*,* 955 (*Ebbetts Pass*) [detailed environmental analysis of every precise use that “ ‘may conceivably occur’ ” not required]. The specific IPM techniques to be employed will depend on the “ ‘conditions on the ground,’ ” such as the amount and type of insect damage and “ ‘other factors that are not known at this time.’ ” (*Ibid.*) If conditions require the use of pesticides, the IPM plan sets forth the specific performance standard that “[a]ll products that will be applied at Walt Ranch will be Category 3 [Low Toxicity] or 4 [Very Low Toxicity] . . . represent[ing] the lowest risk category of chemicals.” In addition, the EIR sets forth the standard operating procedures and best management practices (BMPs) that must be followed when applying pesticides to the vineyards.

“CEQA does not define how specific the performance standards set forth in an EIR must be in order to defer formulating mitigation measures.” (*Center for Biological*

Diversity v. Department of Fish & Wildlife (2015) 234 Cal.App.4th 214, 242.) What is clear is that " 'the rule prohibiting deferred mitigation prohibits loose or open-ended performance criteria. . . . If the measures are loose or open-ended, such that they afford the applicant a means of avoiding mitigation during project implementation, it would be unreasonable to conclude that implementing the measures *will* reduce impacts to less than significant levels.' " (*Ibid.*) The IPM and other mitigation measures adopted here comply with CEQA requirements. (See *CNPS, supra*, 172 Cal.App.4th at p. 621 ["when a public agency has evaluated the potentially significant impacts of a project and has identified measures that will mitigate those impacts, the agency does not have to commit to any particular mitigation measure in the EIR, as long as it commits to mitigating the significant impacts of the project"].)

LRC compares the EIR in this case to the ones found inadequate in *CBE v. City of Richmond* and *POET*. Those cases are inapposite and do not compel a contrary conclusion. For example, in *CBE v. City of Richmond*, *supra,* 184 Cal.App.4th at p. 75, Chevron sought permits to allow its Richmond refinery to process additional types of crude oil. A different panel of this division concluded the EIR improperly deferred mitigation measures to reduce GHG emissions where the "centerpiece" of its mitigation plan gave Chevron a year *after* project approval to submit a plan to achieve " 'complete reduction of greenhouse emissions' " up to 898,000 metric tons per year. (*Id.* at p. 91.) The city proposed only a general goal of no net increase in GHG emissions and then "set[ ] out a handful of cursorily described mitigation measures for future consideration," with no effort to calculate what, if any, reductions in GHG emissions would result from each measure. (*Id.* at p. 93.) Indeed, the measures were "nonexclusive, undefined, untested and of unknown efficacy." (*Ibid.*)

Similarly, in *POET, supra,* 218 Cal.App.4th at p. 740, the agency improperly deferred formulation of mitigation measures for possible increase in nitrogen oxide emissions that could result from the implementation of low-carbon fuel regulations. The EIR's reliance on future rulemaking to ensure that there would be no increase failed to

establish objective performance criteria for measuring whether the goal would be achieved. (*Ibid.*)

Here, in contrast, the IPM plan commits to using permanent crop cover, beneficial insects, and minimal to no use of pesticides. The IPM plan further commits Hall to using the lowest-toxicity pesticides (Categories 3 & 4), and only as a last resort. Beyond the IPM plan, the EIR requires Hall to comply with all applicable regulations, standard operating procedures for vineyards, and BMPs. That is enough. (*Defend the Bay v. City of Irvine* (2004) 119 Cal.App.4th 1261, 1276; *Engineered Habitats League, Inc. v. County of Orange* (2005) 131 Cal.App.4th 777, 795–796 (*EHL*) [BMPs required to address water quality impacts; mitigation upheld].)

b. Buffers

To minimize impacts on aquatic habitat for the California red-legged frog, the foothill yellow-legged frog, and the western pond turtle, the County adopted Mitigation Measure 4.2-4. In compliance with County Code section 18.108.025, this measure requires riparian buffers and stream setbacks to act as filters preventing sediment and agrichemicals such as nitrogen from reaching drainages that support habitat for these species. According to various peer reviews, riparian buffers are able to trap as much as 75 to 100 percent of sediment and agrichemicals found in runoff. Mitigation Measures 4.2-10 and 4.2-11 require IPM techniques and BMPs to provide further protection.

CBD, citing a critique by an LRC biologist, argues that riparian buffers are "plainly inadequate" to protect special-status species. Disagreement regarding the efficacy of buffer zones does not render the EIR inadequate. (See *North Coast*, *supra*, 216 Cal.App.4th at pp. 626–627.) Moreover, the record reflects that buffer width is only one factor in determining the effectiveness of agrichemical mitigation, which "may be more directly influenced by soil type, watershed hydrology . . . and subsurface biogeochemistry." Based on published recommendations from the Natural Resources Conservation Service and the University of California, Division of Agricultural and Natural Resources, the EIR appropriately concluded that a 50-foot buffer is "generally adequate . . . to provide enough vegetation to entrap sediments and soils, and filter

chemicals." This guidance provides ample support for the conclusion that 50-foot-minimum setbacks would protect aquatic habitats from sedimentation and agrichemicals. That plaintiffs disagree with this conclusion does not render the EIR inadequate.

In light of the substantial evidence that 50-foot buffers would adequately protect aquatic habitats, the EIR is not required to address the efficacy of still larger buffers. (§§ 21002, 21100 [measures that "substantially lessen" otherwise potentially significant impact comply with CEQA]; *South County Citizens for Smart Growth v. County of Nevada* (2013) 221 Cal.App.4th 316, 336–338 [no mitigation required for less-than-significant impacts]; *North Coast*, *supra*, 216 Cal.App.4th at pp. 649–650 [EIR need not address purchase of energy credits as mitigation, where energy impacts insignificant].)

In sum, substantial evidence supports the County's conclusion that mitigation by use of buffer zones will avoid significant impacts from sediment and agrichemical runoff. (*EHL, supra,* 131 Cal.App.4th at pp. 795–796 [BMPs as mitigation]; *Sierra Club v. Tahoe Regional Planning Agency* (2016) 840 F.3d 1106, 1117–1119 [BMP implementation to address water quality impacts].)

c. Pesticide Drift

CBD and LRC argue that the EIR failed to address the potential impact of pesticide drift on sensitive species. The EIR identifies the potential impact of pesticides on aquatic habitat (including from airborne drift), summarizes applicable regulations, and identifies mitigation to reduce this risk. Mitigation Measure 4.2-10 requires the use of IPM techniques to minimize impacts from pesticide drift on the western pond turtle. Mitigation Measure 4.2-10 is incorporated into Mitigation Measure 4.2-11, which in turn serves to minimize impacts from pesticide drift on the California red-legged frog and the foothill yellow-legged frog.

Citing *Lotus v. Department of Transportation* (2014) 223 Cal.App.4th 645 (*Lotus*), LRC claims that the County "unlawfully 'compresse[d]' the impact assessment with the identification of mitigation measures." *Lotus* bears little resemblance to this case. In *Lotus,* the court identified two errors in the EIR that are not present here: the failure to apply any identifiable standard of significance to analyze impacts on old growth redwood

trees, and the mischaracterization of mitigation measures as part of the project itself. (*Id.* at pp. 654–656.) In the face of those two defects, the court explained that the EIR improperly "shortcut" CEQA requirements: "Absent a determination regarding the significance of the impacts to the root systems of the old growth redwood trees, it is impossible to determine whether mitigation measures are required or to evaluate whether other more effective measures than those proposed should be considered. . . . Simply stating that there will be no significant impacts because the project incorporates 'special construction techniques' is not adequate or permissible." (*Id.* at pp. 656, 658.)

Unlike the situation in *Lotus*, the EIR discloses that pesticide drift is a potentially significant impact, and then proposes mitigation to reduce that impact. The EIR's responses to comments point the reader to the specific location where pesticide drift is discussed and describe the measures to minimize those impacts. (See *Los Angeles Conservancy v. City of West Hollywood* (2017) 18 Cal.App.5th 1031, 1040–1041 [upholding responses to comments].) In short, the EIR fulfills its informational purpose concerning pesticide drift. (See *Ebbetts Pass*, *supra*, 43 Cal.4th at pp. 953–954 [upholding discussion of pesticide use and related impacts].)

C. Impact of the Project on Groundwater

The EIR states that the Project would rely solely on groundwater to irrigate the proposed vineyards, which would be a significant impact. The proposed vineyards would extract water from three existing active irrigation wells and up to three proposed wells; the groundwater would be stored in four proposed reservoirs. The EIR concludes that the proposed wells and reservoirs, combined with the existing wells, and a groundwater monitoring program would reduce the impacts to less-than-significant levels. CBD and Circle Oaks raise numerous challenges, individually and collectively, regarding the adequacy of the EIR's groundwater analysis.

1. EIR's Analysis of Groundwater Supply and Demand

Groundwater available at the project site exists primarily in the fractured volcanic-rock aquifers beneath the property that are known as the Sonoma Volcanics (volcanic

aquifer). The three main users of the volcanic aquifer are Walt Ranch, Circle S Vineyard,[7] and the Circle Oaks County Water District (COCWD).

There are a total of five existing wells drilled on Walt Ranch—three functional irrigation-supply wells (WR-3, WR-4, and WR-5) and two inactive wells (WR-1 and WR-2). The nearest known off-site well is a private well (Gale Well), located 1,000 feet south of the property boundary and approximately 3,500 feet from WR-5. There are four wells on the Circle S Ranch. COCWD also owns four wells located in the Circle Oaks neighborhood.

Hall retained Richard C. Slade & Associates LLC (RCS), a hydrogeological consulting firm to compile information regarding the Project site and related area geology, precipitation data, and aquifer characteristics. RCS performed a pump test in June 2009 and issued a report in October 2009. RCS updated its report in February 2013 and April 2014. The April 2014 report is included in the DEIR and is attached as Appendix D. The pump test included (1) gathering five days' data in all wells prior to the pump test to establish baseline conditions; (2) performing a 96-hour constant rate pumping test, using WR-3 as the pumping well, pumped at or above the rate the vineyards would need; and (3) monitoring all wells for another five days afterwards to determine the rate at which water levels recovered. In addition to WR-3 (the pumping well), RCS monitored WR-4 and WR-5 on Walt Ranch, four irrigation wells on Circle S, and the Gale Well to the south.

RCS noted that, based on public information, COCWD had at least two wells on its property. RCS contacted COCWD to inquire about these wells but received no response. As little was known about those wells, RCS did not monitor them during the pump test. Instead, RCS selected three monitoring points to estimate the cumulative theoretical water-level drawdown on the COCWD wells.

RCS pumped WR-3 at a higher rate than will occur during operations. According to RCS, "[a]fter pumping WR-3 at a rate of 153 [gallons per minute] for a continuous

[7] The Circle S Vineyard is yet to be built on the Circle S Ranch but is considered as part of the cumulative groundwater analysis.

period of 96 hours, no definitive water level drawdown attributable to the pumping of WR-3 was observed in any of the seven other observation wells monitored during the subject pumping test." In particular, no detectable drawdown occurred at WR-4, the well closest to WR-3 (the pumping well).

RCS relied on the June 2009 pump test, together with other information on the aquifer's characteristics, to estimate groundwater elevations, flow direction, and transmissivity (the rate at which groundwater flows through the aquifer system). RCS then constructed an aquifer model and calibrated the model to match data obtained during the pump test. This model, in turn, enabled RCS to estimate groundwater contours and to simulate whether drawdown in WR-3 would affect other nearby wells.

Taking into account worst case-scenario conditions (which were not realistic, in that they assumed pumping at Circle S and Walt Ranch 24 hours a day for the entire irrigation and/or frost season), RCS's modeling led to the following conclusions: (1) monitoring points (which estimated the unknown location of COCWD wells) might experience temporary minor effects, but not enough to affect operations; and (2) annual precipitation recharge more than sufficed to replenish the aquifer. RCS also concluded that any observed effects could be avoided by altering the pumping regime on Walt Ranch. RCS concluded: "[C]umulative effects for the Walt Ranch and Circle S Ranch vineyard development projects will not have a significant impact on the groundwater production of others in the area."

2. Baseline Environmental Setting

CBD, joined by Circle Oaks, argues that the EIR lacks sufficient information regarding groundwater conditions. According to CBD, the County failed to use the current average precipitation rate, which created an inflated groundwater recharge rate. CBD insists that the inflated groundwater recharge rate will allow Hall to pump too much groundwater.

" 'When a challenge is brought to studies on which an EIR is based, "the issue is not whether the studies are irrefutable or whether they could have been better. The relevant issue is only whether the studies are sufficiently credible to be considered *as part*

of the total evidence that supports the" agency's decision.' " (*Town of Atherton v. California High-Speed Rail Authority* (2014) 228 Cal.App.4th 314, 349 (*Town of Atherton*).) The petitioner " 'bears the burden of demonstrating that the studies on which the EIR is based "are clearly inadequate or unsupported." ' " (*Id.* at p. 350.) The issue is "whether substantial evidence supports the agency's conclusions, not whether others might disagree with those conclusions." (*North Coast*, *supra*, 216 Cal.App.4th at p. 626.)

a. Annual Precipitation Rate

Based on RCS' calculations, the DEIR concluded that the project site receives an estimated 35 inches of precipitation annually. The County received comments stating that RCS should have relied on data from a Napa State Hospital rain gage, which recorded an average rainfall of roughly 25 inches per year. The EIR responded that the Napa State Hospital data was unrepresentative of the Project site, and that RCS' long-term average precipitation calculation, which spanned several decades, encompassed both drought and rainy periods. The EIR presents "additional sets of precipitation data," including the Atlas Peak rain gage, Walt Ranch rain gages, and the United States Geological Survey rainfall maps. The EIR concludes that this additional information corroborates "the fact that the average rainfall that occurs at . . . Walt Ranch . . . is much higher than the long-term average rainfall recorded at the Napa State Hospital [g]age and show[s] that an annual average rainfall estimate of 35 inches is a conservative estimate for the Walt Ranch area."

CBD contends that the County should have relied on 2012 data because that is when the County issued its NOP. The County actually issued two NOPs, one in 2008 and the other in 2012. In any event, the County had "discretion to decide, in the first instance, exactly how the existing physical conditions without the project can most realistically be measured," subject to substantial evidence review. (*CBE v. South Coast Air*, *supra*, 48 Cal.4th at p. 328; see *Association of Irritated Residents v. Kern County Bd. of Supervisors* (2017) 17 Cal.App.5th 708, 728–729 [substantial evidence supported EIR's description of existing level of operations at refinery, where operations fluctuated over time and refinery closed during bankruptcy proceedings]; *North County Advocates*

v. City of Carlsbad (2015) 241 Cal.App.4th 94, 102–106 [agency had discretion to determine historic traffic levels at vacant shopping center].)

It is not for CBD to define the parameters of the methodology that the County relied on in measuring the existing physical conditions. Substantial evidence supports the County's conclusion that the project site receives a long-term average precipitation of approximately 35 inches of precipitation per year.

b. Recharge Rate

CBD further argues that the County's failure to use the current average precipitation rate resulted in the adoption of an inflated groundwater recharge rate, which allows Hall to extract an unsafe amount of groundwater. According to CBD, once the project pumping is added to the amount regularly pumped from the COCWD-owned wells, the combined extraction will withdraw virtually all of the estimated recharge rate. CBD argues that the EIR failed to present any evidence to support the conclusion that extracting up to the average recharge rate is sustainable. The record belies this claim.

RCS estimated that groundwater demand for the vineyard project is 187 acre-feet per year (AFY) (147 AFY for irrigation and 40 AFY for frost protection). RCS estimated Circle S Vineyard's demand to be 189.9 AFY. RCS also considered COCWD's reported annual groundwater demand of 56.7 AFY. RCS conservatively estimated the combined groundwater demand of the three primary users of the volcanic aquifer to be 433.6 AFY.

In estimating the average annual recharge of groundwater within the volcanic aquifer beneath Walt Ranch, RCS considered the long-term average rainfall and the estimated amount of deep percolation[8] of rainfall. RCS estimated the acceptable recharge range to be from 161.3 to 276.5 AFY, with 207 AFY representing the best estimate based on conservative assumptions. Based on numerous studies and reports, RCS used a conservative 7 percent percolation rate—well below the accepted 9 percent to 10.5

[8] Deep percolation refers to the movement of surface water by downward gravity through soil to groundwater. (See Jennifer L. Cordua, *The Search for New Supplies: Salvaging the Remains of Agricultural Water Conservation in California* (1998) 31 U.C. Davis L.Rev. 591, 623, fn. 41.)

percent range—which yielded a recharge rate of 161 AFY. RCS also considered the average groundwater recharge rate at neighboring Circle S (325 AFY), for a combined annual recharge rate of 486 AFY.

Using conservative projections, RCS estimated the volume of groundwater currently stored in the volcanic aquifer to be 4,301 AF. The Project, which sought to extract 187 AFY for vineyard irrigation and frost protection, would extract less than 5 percent of the groundwater available for extraction. The County subsequently imposed a 144.5 AFY cap on groundwater pumping on Walt Ranch, which results in the Project extracting just under 3.5 percent of the available groundwater. Using the groundwater cap of 144.5 AFY for the Project, the combined groundwater demand is reduced to 393.1 AFY, which is significantly below the combined annual recharge rate of 486 AFY, and which represents only 9 percent of the available groundwater resources beneath the Project site.

Substantial evidence thus supports the conclusion that sufficient groundwater resources are available beneath the Project site, and that the conservative demand and recharge estimates are sustainable.

c. Pump Test

CBD and Circle Oaks argue the above-described RCS pump test was not reflective of baseline conditions. RCS conducted a 96-hour constant rate pumping test at WR-3 and monitored water levels at wells WR-4 and WR-5, four irrigation wells on the adjacent Circle S property, and the Gale Well to the south. RCS also modeled theoretical drawdown at these wells. The analysis assumes that only 2 percent of groundwater is available. The EIR conservatively assumes that all neighboring wells draw from the same aquifer. RCS repeatedly updated its analysis as the Project (and groundwater demand) shrank, and as additional data (e.g., precipitation, groundwater levels) became available. The EIR also includes extensive information regarding geology, aquifer size, recharge rates, and precipitation.

That CBD and Circle Oaks disagree with the methodology is not enough to invalidate the EIR. (*AIR v. County of Madera, supra,* 107 Cal.App.4th at p. 1396.) "It is

well established an agency has discretion in selecting the methodology to be used in evaluating environmental impact, subject to review for substantial evidence." (*SOMCAN, supra*, 33 Cal.App.5th at p. 337.) LRC's complaint that RCS should have done an additional pump test based on the new information relating to Circle Oaks' well locations (rather than merely re-running its modeling to incorporate the new data) does not compel reversal, as the issue is not whether studies are irrefutable or could have been better. (*Laurel Heights I*, *supra*, 47 Cal.3d at p. 409.) We conclude the EIR's description of groundwater conditions is supported by substantial evidence, and that CBD and Circle Oaks have failed to sustain their burden of showing that the studies on which the EIR was based were " 'clearly inadequate or unsupported.' " (*State Waters Resources Control Bd. Cases* (2006) 136 Cal.App.4th 674, 795 (*State Waters*).)

3. Adequacy of Impacts Analysis

CBD and Circle Oaks challenge the adequacy of the EIR's groundwater impacts analysis. CBD focuses on the EIR's discussion of the potential impacts of groundwater extraction on stream flows. Circle Oaks, for its part, argues that the EIR failed to adequately address the impacts to the COCWD-owned wells. As we shall explain, neither contention has any merit.

a. Stream flows

CBD claims the EIR does not address the potential impact of pumping on Capell Creek and Milliken Creek stream flows and the effects of reduced stream flows on special-status species.

The EIR explains that the only well in the Capell Creek watershed (WR-2) is not functional and will not be used to irrigate the vineyard. Accordingly, there was no impact to analyze. Nevertheless, CBD asserts that the EIR should have analyzed possible future use of WR-2. The EIR identifies locations of future wells, if needed. No such wells would be located in the Capell Creek watershed. Thus, pumping of WR-2 is not "reasonably foreseeable." (*Laurel Heights I*, *supra*, 47 Cal.3d at p. 396.) No further analysis was required.

The EIR concludes that pumping at Walt Ranch will not affect creek flows in the Milliken Creek watershed because the groundwater aquifer is not connected to Milliken Creek. CBD challenges this conclusion as an "unsubstantiated assumption." The record reflects that WR-5 is roughly 1,000 feet from Milliken Creek. RCS explained that even when the creek is dry, the groundwater surface elevation in WR-5 is higher than the bottom of the creek; thus, RCS concluded that Milliken Creek is not connected to the groundwater table by a continuous saturated zone in the vicinity of WR-5. RCS explained that if the two were connected, then water would have been observed in Milliken Creek. Based on these observations, RCS concluded that there is no connection between Milliken Creek and the groundwater table.

CBD dismisses this conclusion but cites no data or analysis. Rather, CBD cites to a comment letter suggesting that more information is needed. "A project opponent or reviewing court can always imagine some additional study or analysis that might provide helpful information. It is not, however, for them to design the EIR. That further study [ ] might be helpful does not make it necessary." (*Laurel Heights I*, *supra*, 47 Cal.3d at p. 415.) Substantial evidence supports the conclusion that Milliken Creek is not connected to groundwater and, as such, groundwater pumping will not adversely affect the stream flow. By reason of this conclusion, there is no need to address CBD's claim that the EIR failed to analyze the impacts of groundwater extraction on special-status species and other wildlife in the Milliken Creek watershed.

b. COCWD Wells

Circle Oaks offers a lengthy recitation of the DEIR's failure to include meaningful information about the Project's impacts on COCWD-owned wells. Suffice it to say, after the County issued the DEIR, RCS obtained additional, albeit limited, information from COCWD regarding three of its four wells.

COCWD provided location coordinates for its horizontal well and for two of its three vertical wells (Well No. 1 and Well No. 3). Of the four COCWD-owned wells, the horizontal well, which is 2,100 feet from WR-4, is the closest to the Project site. The horizonal well is located between volcanic rocks and landslide deposits. As COCWD did

not provide construction details for the horizontal well, it was assumed that the horizontal well is drilled in the volcanic rocks. COCWD Well No. 1 is located in landslide deposits and is approximately 3,180 feet from WR-4. COCWD also did not provide any construction details for Well No. 1.

COCWD reported a total annual groundwater demand of 56.7 AFY. COCWD Well No. 1 supplies 40.5 AFY and the horizontal well supplies the remaining 16.2 AFY. Given its location and geology, RCS determined that it was unlikely that COCWD Well No. 1 draws from the volcanic aquifer. Nevertheless, RCS included COCWD Well No. 1 in its revised analysis, which is attached to the EIR as Appendix Q. In its revised analysis, RCS found that the modeled drawdown at the COCWD wells' actual locations tracked the results for the well locations RCS estimated in its earlier report. Having conducted the revised analysis, RCS again concluded that the Project will not adversely affect COCWD wells.

Circle Oaks' disagreement with this conclusion " 'does not make an EIR inadequate.' " (*Town of Atherton*, *supra*, 228 Cal.App.4th at p. 349, quoting Guidelines, § 15151.) And again, Circle Oaks' challenge to the methodologies used by RCS does not invalidate the EIR, as they have failed to sustain their burden of demonstrating that the RCS modeling is clearly inadequate or unsupported. (*AIR v. Madera County, supra,* 107 Cal.App.4th at p. 1396; *State Waters, supra,* 136 Cal.App.4th at p. 795.)

4. Adequacy of Mitigation Measures

Mitigation Measure 4.6-4 requires the development of a groundwater monitoring and mitigation plan (GWMMP), which has been developed and presented to the County for review and approval. The GWMMP provides methodology for the ongoing monitoring of designated wells (both on- and off-site) and trigger points, as well as a range of mitigation options if impacts to offsite wells occur. In addition, Conditions of Approval Nos. 15 and 18 were added to the Project. Condition of Approval No. 15 was added to require that groundwater monitoring efforts be consistent with other County approved projects and as required by the GWMMP. Condition of Approval No. 18 was added to acknowledge that the Project will be developed over four phases that allow

groundwater monitoring data to be collected and assessed by the County in consultation with a qualified hydrogeologist before each phase of development may occur.

CBD and Circle Oaks argue that mitigation measures and conditions of approval adopted by the County are inadequate in various respects. According to CBD and Circle Oaks, the mitigation measures "primarily consist of monitoring water levels, which is not mitigation; unlawfully defer analysis and development of mitigation measures until after Project approval; fail to specify performance standards; provide only 'potential mitigation measures'; and any mitigation is first premised on [Hall's] own determination that the impacts to groundwater resources are due to the operation of Walt Ranch before any mitigation would begin." Applying the substantial evidence standard, we conclude the mitigation measures and conditions of approval comply with CEQA. (See *Laurel Heights I, supra,* 47 Cal.3d at pp. 407–408.)

An EIR may rely on a resource-management plan as an element of mitigation as long as the agency has committed to reducing impacts to less-than-significant levels. (*CNPS, supra,* 172 Cal.App.4th at p. 621.) Mitigation Measure 4.6-4 and the GWMMP unequivocally commit the County to a robust monitoring program. Such monitoring is an appropriate component of mitigation. (*Laurel Heights I*, *supra*, 47 Cal.3d at p. 412; *Save Cuyama Valley v. County of Santa Barbara* (2013) 213 Cal.App.4th 1059, 1070–1071 (*Save Cuyama Valley*) [ongoing monitoring at gravel mine for signs of river erosion]; *Mount Shasta Bioregional Ecology Center v. County of Siskiyou* (2012) 210 Cal.App.4th 184, 208 [noise complaints trigger mitigation].)

Based on the monitoring program, the County, not Hall, will determine whether pumping at Walt Ranch has adversely affected groundwater resources, and if so, the County decides what to do about it. For example, if monitoring shows that the productivity at the COCWD wells is declining, and that decline is at least partly attributable to pumping at Walt Ranch wells, then the County must take appropriate steps until the problem is resolved. The GWMMP sets forth specific mitigation measures, which vary depending on the magnitude of the observed impact, and include the following: (1) reducing the instantaneous pumping rate in all or in selected project wells

(the specific wells will be determined by the RCS geologist after determining which project wells may be causing the impact); (2) reducing the volume of groundwater pumped in each irrigation season by all or by selected project wells (the specific wells will be determined by the geologist after determining which project wells may be causing the impact; (3) shifting of the rates and/or volumes of groundwater extraction by existing project wells to different portions of the subject property; (4) ceasing production from certain onsite wells and replacing that lost production by constructing new onsite wells at the project property; (5) lowering the pump, if possible, in an offsite well that has been shown to have been impacted; (6) constructing a new water well to replace an offsite well that has been shown to have been impacted; and/or (7) providing an alternative source of water to the owner of the impacted well in order to allow the owner to maintain the quantity and quality of the groundwater that has been otherwise lost by the impacts.

The details of exactly how mitigation measures will be achieved under the confines of the GWMMP can properly be determined at a later date within the confines of the plan. (See *North Coast*, *supra*, 216 Cal.App.4th at p. 629 [agency may establish specific performance criteria and determine details of how mitigation will be achieved pending completion of future study]; *Oakland Heritage, supra,* 195 Cal.App.4th at p. 906 [seismic studies]; *CNPS, supra,* 172 Cal.App.4th at p. 621 [wetlands design]; see also *Save Cuyama Valley*, *supra*, 213 Cal.App.4th at pp. 1070–1071 [if erosion is observed at gravel mine, mine operations must be modified; mitigation upheld].) CEQA does not require numerical standards. (*Gray v. County of Madera*, *supra*, 167 Cal.App.4th at p. 1116 ["[t]he fact that the mitigation measures require replacement water sufficient for consumptive use is sufficiently specific for the mitigation measures to be legally enforceable"]; *Save Cuyama Valley*, at p. 1070 ["adverse hydraulic impacts" was sufficiently specific performance standard for CEQA purposes]; *Friends of Oroville v. City of Oroville* (2013) 219 Cal.App.4th 832, 838 [deferred mitigation upheld where mitigation measure required pre-permit submission of a drainage plan that would ensure that runoff from the project site was " 'released at a rate no greater than that of the pre-development condition' "].)

In sum, we conclude that substantial evidence supports the County's finding that, as mitigated, impacts to groundwater resources will be less than significant.[9]

D. Impact of the Project on Watershed Resources

The EIR states that development of the Project would alter the existing drainage pattern of the project site, which is a potentially significant hydrological impact. However, the Project as mitigated would create an overall decrease in the volume and rate of runoff, resulting in a less-than-significant impact on the drainage system.

LRC argues that the EIR is informationally deficient regarding watershed resource impacts. According to LRC, the Project will result in increased stormwater runoff, which will cause downstream transport of sediment that will negatively impact salmonids and their habitat. LRC challenges two aspects of the EIR's analysis: (1) whether "deep ripping" of certain vineyard soils will permanently change the volume and runoff rate from those soils; and (2) whether the modeling studies in the EIR properly accounted for drainage facilities incorporated into the ECP. Once again, the substantial evidence standard applies. (*City of Long Beach v. Los Angeles Unified School Dist.* (2009) 176 Cal.App.4th 889, 898 (*Long Beach*).)[10]

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[9] To the extent CBD contends the EIR is deficient for failing to consider the environmental consequences of using alternative water sources *if* Mitigation Measure 4.6-4 is applied, " '[c]rystal ball' inquiry is not required. . . . An agency need not devote itself to an extended discussion of the environmental impact of alternatives remote from reality such as those which are of speculative feasibility. [¶] . . . [a]bsolute perfection is not required." (*Residents Ad Hoc Stadium Com. v. Board of Trustees* (1979) 89 Cal.App.3d 274, 286–287.)

[10] In its briefs and at oral argument, LRC relied on *Visalia Retail, LP v. City of Visalia* (2018) 20 Cal.App.5th 1, to support its position that the "fair argument" standard, rather than the substantial evidence standard, applies to these contentions. *Visalia Retail* is inapposite, as that case involved an EIR's complete failure to analyze a land use policy's potential to cause a phenomenon known as "urban decay." (*Id.* at p. 5.) Where an EIR entirely omits discussion of a possible significant impact, the fair argument standard applies. (*Id.* at pp. 13–14.) Here, by contrast, the EIR discussed runoff as well as the potential impact of deep ripping and engineered drainage facilities; LRC simply disagrees with the EIR's scientific analysis and implementation of its methodology. Thus, the substantial evidence standard applies.

LRC launches its attack on the EIR by summarizing the inherent problems associated with the installation of engineered drainage facilities for hillside vineyard conversions in general. This is not a valid challenge to the EIR, as it merely represents LRC's view on this type of engineered drainage generally. (See *Laurel Heights I, supra,* 47 Cal.3d at pp. 392–393.)

LRC next argues that the EIR omits essential information for assessing the significance of changes in peak runoff. LRC contends that the EIR erroneously assumes that "deep ripping" the soil will *permanently* increase soil moisture and, as a result, the EIR fails to include key information to analyze the effect of deep ripping on soil infiltration. The EIR, citing to a 2014 letter from Ken Oster, a Natural Resources Conservation Service (NRCS) scientist, explains that "ripping *could* result in a change in the infiltration rate of a soil." (Italics added.)

LRC asserts that the EIR failed in its informational purpose because the 2014 Oster letter differs from how it was characterized in the EIR, as shown by a June 2016 follow-up letter from Mr. Oster that the County did not address until August 2016, after circulation of the final EIR in March 2016. LRC submitted the June 2016 letter (which was addressed to the Napa County Resource Conservation District) as an attachment to an August 26, 2016 letter from LRC's consultant in connection with LRC's appeal to the Board of Supervisors). In the June 2016 letter, Mr. Oster explained that deep ripping's effects may be temporary and that field testing is required to verify that a theoretical change in soil permeability is in fact permanent, as required by the 2009 NRCS National Engineering Handbook.

Preliminarily, we note that the 2014 Oster letter explains that ripping soil from a depth of less than 20 inches to a depth of more than 20 inches would change the hydrological soil group[11] even without regard to changes in saturated hydrological

[11] Hydrological soil groups are classifications based on the rate at which rainwater infiltrates soil and the potential for runoff. Soils are classified into four hydrologic soil groups (A, B, C, and D), ranging from a high infiltration rate and low runoff potential (soil group A) to very slow infiltration rate and a high runoff potential (soil group D).

conductivity (referred to as "Ksat," which is essentially the rate at which water moves through soil). It explains that ripping may only temporarily change the soil's Ksat but contrasts that temporary effect with the effect of increasing soil depth: "Nevertheless, the deepening of the soil alone would change the HSG." We also note that unlike the June 2016 letter, the 2014 Oster letter cited in the EIR does not mention the need for field testing to verify changes associated with deep ripping.

In any event, the field testing recommended in the June 2016 Oster letter was performed under Oster's supervision in October 2016. Mr. Oster himself verified that undisturbed soils outside the vineyard were in hydrological group D (i.e., the most impermeable and highest potential for runoff), whereas the adjacent vineyard soils that had been ripped to increase their depth to greater than 20 inches were properly classified in hydrological soil group B. The field testing thus confirmed the EIR's discussion of deep ripping and the validity of its reliance on the June 2014 Oster letter.

Although LRC is correct that the EIR did not specifically mention the need for field testing the effects of deep ripping (a requirement that was not mentioned in the June 2014 letter cited in the EIR), the County responded to LRC's post-EIR comments by conducting the very field testing LRC contended was necessary. That testing confirmed the soundness of the EIR's analysis with respect to the effects of deep ripping and the associated change in hydrological soil group. On this record, the EIR's failure to mention the need for field testing constitutes, at best, an "[i]nsubstantial or merely technical omission" that does not afford grounds for relief. (*Neighbors for Smart Rail v. Exposition Metro Line Construction Authority, supra,* 57 Cal.4th at p. 463.) As courts have frequently explained, CEQA does not require technical perfection or exhaustive analysis; it requires a good faith effort at full disclosure. (*E.g., Long Beach, supra,* 176 Cal.App.4th at p. 898.) As the omission here "did not deprive agency decision makers or the public of substantial information relevant to approving the project," it does not provide a basis for reversal. (*Neighbors for Smart Rail*, at pp. 464–465.)

LRC also asserts that the EIR inadequately analyzed and improperly omitted the effects of the Project's engineered drainage facilities on runoff. Contrary to LRC's

assertion, the EIR provides an in-depth evaluation of the Project's effect on runoff, including by analyzing the Project's engineered drainage facilities. LRC disagrees with the way in which the runoff analysis was performed, asserting that the methodology chosen improperly failed to include most of the Project's engineered drainage facilities. Substantial evidence supports the EIR's analysis of this issue.

A quantitative watershed hydrology study was completed by RiverSmith Engineering (RiverSmith) in 12 subwatersheds, eight in the Capell Creek and four in Milliken Creek. The EIR explains that runoff potential of different land uses was determined by assigning land use curve numbers to different land uses. Runoff curve numbers indicate the runoff potential of a soil and are based on ground cover type, the hydrologic condition of the land, and the hydrologic soil group. The higher the curve number, the higher the potential for runoff. RiverSmith used the NRCS Soil Survey for Napa County to assign hydrological soil groups for the entire watershed.

RiverSmith included runoff curve numbers for each of the 12 subwatersheds, both under existing conditions and after the installation of proposed vineyard, finding "a consistent reduction for the developed condition within the Milliken drainage and a mix of small increases and decreases within the subwatersheds that drain to Capell Creek." The report describes the results within each subwatershed, identifying the change in runoff curve number and the reasons for the observed changes.

RiverSmith incorporated this information into the "HEC-HMS" computer model developed by the United States Army Corps of Engineers, focusing on points at which runoff exits each subwatershed and leaves the property. The model allowed RiverSmith to estimate changes in peak and total flows under various precipitation scenarios. The report lists the results for two-, 10- and 100-year storms under existing and proposed conditions and estimates peak flows at particular junctions and reaches of Milliken and Capell Creeks, accounting for combined flows from all of the subwatersheds. The modeling shows "a consistent pattern of a modest reduction in rainfall runoff within the Milliken watershed . . . for the proposed vineyard blocks and the associated vineyard development practices. This is consistent for all modeled storm frequencies, 2-yr through

the 100-yr event. . . . [¶] The reduction in the runoff peaks and associated runoff volumes is due to an increase in soil infiltration rates, primarily associated with the deep ripping practice. However, credit for the increased rate was only taken in the rocky soil groups where the ripping practice effectively changes the soil classification from Hydrologic Group D to Group C (higher infiltration rate)."

Despite this in-depth analysis, LRC contends that the modeling improperly failed to account for actual peak runoff of the vineyard's engineered drainage facilities that do not lie along the longest hydrological paths within the 12 subwatersheds studied. LRC accuses the County of "gerrymandering" but cites to no evidence that RiverSmith manipulated boundaries to achieve a desired outcome. Instead, LRC argues that a smaller scale of subwatersheds should have been studied individually rather than as part of the 12 larger groups that were analyzed.

As part of its peak runoff analysis, RiverSmith assessed runoff "lag time," meaning the delay between when runoff begins and when runoff reaches its maximum peak. RiverSmith also calculated the time of concentration, defined as the time required for runoff to travel from the most distant location in a watershed to its outlet or measurement point. RiverSmith noted that the time of concentration for each of the 12 analyzed subwatersheds is "by definition the longest hydrological flow path," and explained that peak runoff occurs only when the entire watershed is contributing from the most hydraulically distant point. Accordingly, RiverSmith explained that engineered drainage facilities that are not on the longest hydrological path will not increase the peak runoff: "An improved drainage in itself does not create more water and, if it is off the longest hydrologic path, does not increase the peak flow within the analyzed unit [i.e., the subwatershed]."

Although LRC contends that the analysis should have been done on watersheds of smaller scale (which would then result in more of the engineered drainage facilities falling along differently-defined longest hydrological paths), this disagreement with the methodology and modeling does not support reversal. (Cf. *SOMCAN, supra,* 33 Cal.App.5th at p. 341 [agency's selection of geographic area studied falls within the

agency's discretion, and we assume discretion is appropriately exercised absent a showing of arbitrary action].) The hydrological studies conducted by RiverSmith and included within the EIR provide substantial evidence supporting the EIR's inclusion of only the engineered drainage facilities on the longest hydrological path when calculating the changes in runoff associated with the Project. (*State Waters, supra,* 136 Cal.App.4th at p. 795 ["When a challenge is brought to studies on which an EIR is based, 'the issue is not whether the studies are irrefutable or whether they could have been better. The relevant issue is only whether the studies are sufficiently credible to be considered *as part of* the total evidence that supports the' agency's decision"]; see also *Laurel Heights 1, supra,* 47 Cal.3d at p. 415 ["A project opponent or reviewing court can always imagine some additional study or analysis that might provide helpful information. It is not for them to design the EIR. That further study . . . might be helpful does not make it necessary"]; *North Coast, supra,* 216 Cal.App.4th at pp. 642–643.)

LRC further faults the County for adopting Condition of Approval No. 16. Condition of Approval No. 16 applies to those vineyard blocks where, for purposes of modeling, the hydrologic soil group is expected to change from D to C due to deep ripping. For these blocks, field testing must be performed before and after vineyard installation to confirm that the reclassification from hydrologic soil group D to C is correct. If field testing shows that reclassification is not warranted, then the block must be modified and a revised ECP and further CEQA review may be required.

LRC argues that the field verification at an existing vineyard demonstrates that "pre-approval field testing . . . is feasible," and is a concession that the EIR is legally inadequate. LRC accuses the County of hiding behind Condition of Approval No. 16 to avoid assessing the entire scope of the Project's impacts. There is nothing improper about incorporating a condition into a project that requires field surveys prior to breaking ground. (See *Rialto Citizens for Responsible Growth v. City of Rialto* (2012) 208 Cal.App.4th 899, 941–947 [surveys did not find sensitive species, but species had potential to occur; mitigation required further, pre-construction surveys; CEQA challenge rejected]; *Defend the Bay v. City of Irvine* (2004) 119 Cal.App.4th 1261, 1276–1277

[upholding mitigation measure requiring pre-construction surveys for sensitive species].) LRC's citation to *Lotus v. Department of Transportation*, *supra*, 223 Cal.App.4th 645 has no bearing on the EIR's hydrology analysis in this case. Unlike the EIR in *Lotus*, there is no improper compression of the impacts analysis and the mitigation measure. (*Id.* at pp. 650, 656.) The EIR quantifies the Project's impacts, identifies the criteria used to assess significance, evaluates the Project's impacts in light of those criteria, and identifies applicable mitigation measures.

Condition of Approval No. 16 allows the Project to be modified to account for hydrological soil group data obtained through field verification. This condition will allow for additional mitigation measures if and when they become needed, and it should be encouraged. (See *Sierra Club v. County of Fresno, supra,* 6 Cal.5th at pp. 523–524 [recognizing that adoption of future substitutions of adopted mitigated measures is consistent with CEQA and not improper deferral of mitigation.]) Verification of hydrological soil group classifications before and after vineyard installation and the possibility of future Project modifications promote CEQA's goal of environmental protection. Condition of Approval No. 16 is thus not an impermissible deferral of mitigation. (See, e.g., *Citizens for a Sustainable Treasure Island v. City and County of San Francisco*, *supra*, 227 Cal.App.4th at p. 1062 [approving condition requiring project redesign if, based on consultations with Coast Guard, proposed buildings would interfere with system for monitoring ship traffic]; *North Coast*, *supra*, 216 Cal.App.4th at pp. 645–648 [mitigation requiring consultation to address harm to marine life from pile driving]; *Save Cuyama Valley, supra,* 213 Cal.App.4th at pp. 1070–1071 [measure requiring corrective action if needed].)

Finally, LRC argues that the trial court abused its discretion in denying its motion in limine, requesting admission of 28 engineering drawings that had been marked up by one of its experts. In a CEQA case, "the only evidence that is relevant to the question of whether there was substantial evidence to support a quasi-legislative administrative decision . . . is that which was before the agency at the time it made its decision." (*Western States Petroleum Assn. v. Superior Court* (1995) 9 Cal.4th 559, 573, fn. 4; see

O.W.L. Foundation v. City of Rohnert Park (2008) 168 Cal.App.4th 568, 596, fn. 11 [court refused to consider extra-record map aggregating six maps that *were* part of the record]; *Eureka Citizens for Responsible Government v. City of Eureka* (2007) 147 Cal.App.4th 357, 366–367 [court declined to consider documents not provided to city]; *Santa Teresa Citizen Action Group v. City of San Jose* (2003) 114 Cal.App.4th 689, 706–707 [post-approval document inadmissible in CEQA case].)

LRC argues that because the *underlying* documents are part of the record, the highlighted versions are admissible as "demonstrative evidence." Here, however, the evidence is limited to the County's record. Had the marked-up documents been submitted to the County, they would have been part of the record. (§ 21167.6, subd. (e).) They were not. The documents are therefore irrelevant. The trial court did not abuse its discretion in denying the motion. (See *People v. Rodriguez* (1999) 20 Cal.4th 1, 10 [exclusion of irrelevant evidence not abuse of discretion].)

E. Impact of the Project on Roads and Infrastructure

Circle Oaks argues that the EIR's analysis of the impacts to roads and infrastructure was deficient in three primary areas: (1) the EIR failed to adequately assess the damage to roads and infrastructure; (2) the EIR failed to propose adequate mitigation for this damage; and (3) the EIR failed to consider alternate routes.

1. Impacts

Circle Oaks contends that the EIR fails to adequately analyze the Project's impacts on roads and infrastructure. Although the EIR analyzes four road-related impacts, Circle Oaks limits its challenge to the wear-and-tear to area roads from construction traffic and subsequent operational traffic.

Impact 4.7-4 states that the use of trucks to transport equipment and materials to and from the site during construction and worker trips during operation could affect road conditions on State Route 121 (SR-121) and Circle Oaks Drive by increasing the rate of road wear. The EIR concludes that the increase in worker related trips (estimated at a maximum of 60 trips per day during construction and 160 trips per day during operation) would not substantially increase the wear-and-tear of Circle Oaks Drive as the vehicles

are generally not expected to be heavy trucks. The EIR further notes that the small numbers of heavily-loaded trucks anticipated to travel on Circle Oaks Drive (estimated at a maximum of 15 trucks per day during construction and 8 trucks per day during operation) are not considered substantial and would create a less-than-significant impact on Circle Oaks Drive. The EIR references a report from the California Department of Transportation (Caltrans) and the Napa County Street Standards, which identify traffic levels on SR-121 and Circle Oaks Drive as far below capacity. Despite this minor increase in traffic, the EIR recommended Mitigation Measure 4.7-4 to further reduce this impact. This mitigation measure required heavy truck construction traffic to comply with the California Vehicle Code weight and width requirements.

Circle Oaks argues that the EIR fails to address the possibility of road failure and the environmental damage that would result if the underlying water and sewer infrastructure was damaged. Circle Oaks relies on a letter from KC Engineering Company, which concluded that road subsidence was already occurring and that this subsidence would only worsen with the Project's construction and operation. Circle Oaks supports this criticism with a letter from Mark Billings, a certified public infrastructure inspector, who happened to be long-time resident of the Circle Oaks neighborhood. Billings stated that Circle Oaks Drive was on the "verge of failing," as indicated by "several deep longitudinal cracks" that suggest the "subgrade has subsided[.]" According to Billings, repeated transportation of heavy equipment would cause "further damage to the subgrade," which would cause the road to fail and damage the underlying water and sewer utilities. Billings recommended that the County hire an independent engineering firm at Hall's expense to conduct a survey of the road and to determine the underlying subgrade materials. Billings also recommended that the County engage in a street savers program to identify road conditions and needed repairs based on the pavement condition index.

Based on Billings' comments, the County revised the EIR to state that "Circle Oaks Drive is currently in poor condition, with several deep longitudinal cracks and fractures." As revised, and consistent with Billings' recommendations, Mitigation

Measure 4.7-4 requires an assessment by a third party consultant prior to the start of construction and after completion of construction to assess whether damage to roadway and subsurface infrastructure has occurred. Mitigation Measure 4.7-4 further states, "If the third party determines that roadway deterioration, or deterioration of infrastructure located underneath Circle Oaks Dive, has occurred as a result of the construction traffic, the applicant [Hall] shall pay to have the roadway resurfaced . . . and shall repair the identified damage to sub-surface infrastructure."

"An EIR should be prepared with a sufficient degree of analysis to provide decisionmakers with information which enables them to make a decision which intelligently takes account of environmental consequences. An evaluation of the environmental effects of a proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in the light of what is reasonably feasible." (Guidelines, § 15151.) Here, the EIR included the comments critical of the DEIR's analysis, and included the County's responses, thereby alerting the public decision makers to potential environmental consequences. Although the EIR does not contain a detailed analysis of possible sub-surface infrastructure damage, "courts have looked not for perfection but for adequacy, completeness, and a good faith effort at full disclosure." (*Ibid.*) We conclude the EIR's analysis of the Project's potential impact on roads and infrastructure was adequate.

2. Mitigation

Circle Oaks complains that Mitigation Measure 4.7-4 is limited to reducing the Project's impacts during construction and does not address damage to the road or infrastructure caused during operation.

In evaluating the adequacy of an EIR's discussion of mitigation measures and alternatives, " ' "the key issue" ' " is whether the discussion " ' "fosters informed decisionmaking and informed public participation." ' " (*Laurel Heights I, supra,* 47 Cal.3d at p. 404, italics omitted.) An EIR must only consider " 'a reasonable range of project alternatives and mitigation measures.' " (*Concerned Citizens of South Central v. Los Angeles Unified School District* (1994) 24 Cal.App.4th 826, 843.)

Here, the EIR concluded that the construction period of the Project represented the most intensive period of heavy equipment entering and exiting the project site. As discussed in Impact 4.7-1, "during vineyard development, assuming peak day construction traffic estimates, there would be a maximum of 60 worker round-trips per day and 15 materials and heavy equipment deliveries per day." This would occur daily throughout the construction period, which will be during the dry season (approximately five months) for four years. As discussed in Section 3.4.5 and analyzed in Impact 4.7-2, the EIR explained that operation of the proposed vineyard has two peak seasons. During the pruning season from December to March, approximately 45 workers would be required onsite daily. During the harvest/crush season from August to October, the vineyard would require approximately 80 onsite workers and four grape trucks. Based on this evidence, the EIR concluded that the wear-and-tear during ongoing operational activities will be minimal when compared to the construction period (during which twice as many heavy trucks were expected), and that the small number of grape trucks traveling to the property from August to October would not result in a significant impact to the roads. Accordingly, Mitigation Measure 4.7-4's failure to specify separate mitigation for operations-period impacts is supported by substantial evidence.

Moreover, the ongoing operation of the Project is an agricultural use that is in keeping with the vineyards in the area. The use of the County-maintained roads for agricultural transport is in keeping with the goals and policies of the Napa County General Plan and is not significantly different from the existing vineyards in the area. Hall will pay a fair-share payment for any future wear-and-tear of roads from this typical and expected agricultural use via the ongoing payment of property taxes. Hall is also required to comply with all Caltrans permit requirements and Vehicle Code regulations regarding legal weight and width limits.

In sum, the scope of mitigation measure was reasonable. Substantial evidence supports the conclusion that the Project's road impacts, as mitigated, would be less-than-significant.

3. Alternative Routes

"An EIR need not consider every conceivable alternative to a project." (Guidelines, § 15126.6, subd. (a).) Moreover, "alternatives shall be limited to ones that would avoid or substantially lessen any of the *significant effects of the project.*" (Guidelines, § 15126.6, subd. (f), italics added; see also §§ 21002, 21002.1, subd. (b), 21081, subd. (a) [discussing mitigation of "significant" impacts].)

Here, the EIR concluded that Circle Oaks Drive would provide access during construction and that as mitigated, this access point would not have significant impacts. For this reason, the EIR did not need to discuss alternate access routes as an alternative mitigation measure for the road impacts of the Project. (*North Coast, supra,* 216 Cal.App.4th at pp. 649–650.) That Circle Oaks disagrees and thinks that the impact would be significant does not, however, invalidate the EIR. (*Id.* at pp. 642–643; *CNPS, supra,* 172 Cal.App.4th at p. 626.)

4. Response to Comments

Finally, Circle Oaks claims that the EIR failed to adequately respond to Billings' comment letter regarding his concern that heavy construction equipment could exacerbate preexisting road problems "result[ing] in a total structural failure and loss of the road." The EIR explained that although the amount of project-related truck and equipment trips would not be significant and would not create significant wear-and-tear on the roadway, Hall recognized that damage may still occur. As noted above, the EIR incorporated Billings' suggestion that the County hire an independent consultant to survey the underlying infrastructure. The County even went a step further by requiring Hall to repair any damage caused to the sub-surface infrastructure.

We disagree with Circle Oaks' characterization of the County's response as "[c]onclusory." The EIR addressed Billings' concerns about possible road failure. The EIR provided a response to the general concern that construction traffic, heavy equipment deliveries, and operational traffic would damage the road in the Circle Oaks neighborhood. The City considered Billings' comments and provided a thoughtful response that incorporated some of his suggestions. Nothing more is required. (See

Guidelines, § 15088, subd. (c); *Laurel Heights Improvement Assn. v. Regents of University of California, supra,* 6 Cal.4th at p. 1124).)

F. Impact of the Project on GHG Emissions

The EIR concludes that the Project's GHG emissions would have no significant adverse effect on the environment because emissions from the Project's construction would be offset by a long-term carbon-sequestration plan that preserves 524.8 acres of woodland habitat. CBD presents three challenges to this conclusion: 1) the EIR failed to use available, site-specific data from an existing tree inventory to calculate the number of trees cut down and their associated carbon-sequestration loss, relying instead on generic emissions factors from a computer model and understating the degree of sequestration loss; 2) the EIR failed to disclose or estimate the amount of GHG emissions that will be released into the atmosphere as result of the disposal of 14,000 trees; and 3) the EIR improperly found that preservation of woodland acreage on the property would reduce the Project's GHG emissions, thereby constituting adequate mitigation under CEQA. We turn first to CBD's two challenges to the EIR's choice of methodology, which we review for substantial evidence. (*City of Long Beach*, *supra*, 176 Cal.App.4th at pp. 898–899.)

CEQA does not mandate the use of any particular model or methodology to quantify a project's GHG emissions. Rather, CEQA grants agencies "discretion to determine, in the context of a particular project, whether to:" "[u]se a model or methodology" to quantify GHG emissions resulting from a project, and which model to use and/or "[r]ely on a qualitative analysis or performance based standards." (Guidelines, § 15064.4, subd. (a), (c).) Utilizing the second method, an agency may adopt an area-wide plan to reduce GHG emissions and determine that a project's incremental contribution to climate change is not significant, provided it supports its decision with substantial evidence. (Guidelines, §§ 15064.4, subd. (a),15183.5, subd. (b).)

Here, CBD fails to show that the County abused its discretion in using the CalEEMod to quantify the GHG emissions from the Project. The County exercised its discretion to use the California Emission Estimator Model (CalEEMod) to calculate the Project's GHG construction emissions, and both the California Air Resources Board

(CARB) and the Bay Area Air Quality Management District (BAAQMD) recommend this air quality software program. To calculate the changes in carbon sequestration associated with development, the CalEEMod assumes carbon-sequestration rates from default values for forest land and trees that generally apply to all areas of California without requiring detailed site-specific information. The emissions factors provided in the CalEEMod and its methodologies are described in detail in an Appendix to the EIR. Further, the emissions factors are based on default values set by the Intergovernmental Panel on Climate Change (IPCC)[12] and the United States Environmental Protection Agency. The County's election to rely on the CalEEMod is thus supported by substantial evidence.

CBD maintains that to accurately quantify the expected loss of carbon sequestration associated with cutting down thousands of trees, an inventory of the existing tree population by species, age, and size is required. CBD notes that the EIR includes such an inventory, but the County failed to use it. This argument ignores the substantial evidence standard of review. "This standard applies to disagreements concerning 'the methodology used for studying an impact, and the reliability or accuracy of the data upon which the EIR relied.' [Citation.] 'The fact that different inferences or conclusions could be drawn, or that different methods of gathering and compiling statistics could have been employed, is not determinative in a substantial evidence review.' [Citation.] The issue is not whether other methods might have been used, but whether the agency relied on evidence that a ' "reasonable mind might accept as sufficient to support the conclusion reached" ' in the EIR." (*North Coast, supra,* 216 Cal.App.4th at p. 642.) CBD's disagreement with the County's chosen methodology is not enough to carry its burden of showing a lack of substantial evidence supporting the County's finding that the Project would have a less-than-significant impact on the environment. (*CNPS, supra,* 172 Cal.App.4th at p. 626.)

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[12] The IPCC is an intergovernmental body of the United Nations dedicated to providing the world with an objective, scientific view of climate change. (See <https://www.ipcc.ch> [as of September 30, 2019].)

Equally without merit is CBD's contention that the EIR failed to include an estimate of the GHG emissions from downed trees based on the anticipated method of disposal. According to CBD, the GHG emissions will vary, depending on whether the trees are burned, left to decompose, or disposed of by some other means. The failure to include information regarding biogenic emissions,[13] CBD insists, prejudicially skews the EIR's analysis of the GHG emissions from the Project.

The EIR explains that the BAAQMD is the regulatory authority for air quality in the San Francisco Bay Area Air Basin (SFBAAB). As a member of the SFBAAB, the County chose to rely on the 2012 BAAQMD Climate Change Guidelines (BAAQMD Guidelines) to analyze the GHG emissions from the Project. The BAAQMD Guidelines do not require the quantification of biogenic emissions in analyzing project GHG emissions. In response to comments, the County sought further clarification from the BAAQMD regarding its position on biogenic emissions. According to the BAAQMD, biogenic emissions encompass a wide-range of materials and processes that are too unreliable to be accurately modeled and often represent a fraction of a project's emissions.

CBD fails to establish that the County abused its discretion in relying on the BAAQMD Guidelines. The EIR accounts for the loss of carbon sequestration due to tree removal in its GHG analysis. The chosen methodology, however, does not distinguish between burning or decomposing trees. The County was entitled to rely on the methodology set forth in the BAAQMD Guidelines and this decision is entitled to deference. (Guidelines, § 15064.4.) CEQA requires "a careful judgment by the lead agency" in its analysis of GHG emissions, and a "good-faith effort, based to the extent possible on scientific and factual data, to describe, calculate or estimate the amount of [GHG] emissions resulting from a project." (*Ibid.*) The County has done just that.

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[13] Biogenic emissions originate from materials that are derived from living cells, as opposed to emissions derived from fossil fuels, limestone, and other materials that have been transformed by geological processes.

Finally, CBD argues that preservation of existing woodlands does not constitute adequate mitigation for GHG impacts. According to CBD, preservation of existing woodland acreage cannot serve as adequate mitigation because it does not reduce the Project's GHG emissions and because there is no evidence the acreage would otherwise be destroyed but for the preservation.

Under CEQA, " '[m]itigation' includes: [¶] (a) Avoiding the impact altogether by not taking a certain action or parts of an action. [¶] (b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation. [¶] (c) Rectifying the impact by repairing, rehabilitating, or restoring the impacted environment. [¶] (d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action. [¶] (e) Compensating for the impact by replacing or providing substitute resources or environments, including through permanent protection of such resources in the form of conservation easements." (Guidelines, § 15370.) Mitigation measures related to GHG emissions may include: "(1) Measures in an existing plan or mitigation program for the reduction of emissions that are required as part of the lead agency's decision; [¶] (2) Reductions in emissions resulting from a project through implementation of project features, project design, or other measures . . . ; [¶] (3) Off-site measures, including offsets that are not otherwise required, to mitigate a project's emissions; [¶] [and] (4) Measures that sequester greenhouse gases." (Guidelines, § 15126.4, subd. (c).)

The County used the CalEEMod to calculate GHG emissions from the Project, including those associated with vegetation activities from the Project's proposed land-use change. The CalEEMod measures the change in sequestered carbon from land-use change as follows: "Overall change in sequestered CO_2 is the summation of sequestered CO_2 from initial land use type multiplied by area of land for initial land use type subtracted by the summation of sequestered CO_2 from final land use type multiplied by area of land for final land use type." The model further states, "There is no reduction in GHG emissions associated with preservation of a land." Preservation of the woodlands at

issue here thus does not directly reduce GHG emissions from the property's existing state or from the Project's proposed GHG emissions.

Although woodland preservation does not reduce the Project's GHG emissions directly, the County contends that it constitutes appropriate mitigation because it lessens the Project's cumulatively considerable impacts on climate change. The County essentially seeks to mitigate the Project's emissions by offset through tree preservation, stating "[t]his approach i[s] consistent with California's approach to reduce GHG emissions in accordance with Assembly Bill 32 and implementation of the Cap-and-Trade system which allows forest conservation to be sold as GHG offset credits on the GHG credit market." The County accurately points out that California's Cap-and-Trade program and the Compliance Offset Protocol U.S. Forest Projects recognize that forest conservation easements constitute appropriate offsets because of the permanent carbon dioxide sequestration derived therefrom. (See *Our Children's Earth Foundation v. State Air Resources Bd*. (2015) 234 Cal.App.4th 870, 881.)

However, under the Compliance Offset Protocol U.S. Forest Projects, carbon sequestration from permanent conservation constitutes an offset only if the forest conserved was under a significant threat of conversion. Under the Cap-and-Trade program, expressed in terms of "additionality," an offset credit must represent a GHG emission reduction or GHG removal enhancement that exceeds any GHG reduction or removals otherwise required by law, regulation or legally binding mandate, and that exceed any GHG reductions or removals that would otherwise occur in a conservative business-as-usual scenario.[14] (17 Cal. Code Regs., §§ 95970, subd. (a)(1), 95802, subd. (a).) Thus, while woodland preservation may constitute appropriate offsets for GHG emissions in certain circumstances, these regulations recognize that the preservation does not have offset value for GHG emissions if the trees would have

[14] " 'Business-as-Usual Scenario' means the set of conditions reasonably expected to occur within the offset project boundary in the absence of the financial incentives provided by offset credits, taking into account all current laws and regulations, as well as current economic and technological trends." (17 Cal. Code Regs., § 95802, subd. (a).)

reasonably remained otherwise. We believe that recognition of this concept also ensures that a proposed forest conservation offset measure mitigates the Project's impact on GHG emissions, although we understand that the Project applicant is not applying to sell a forest conservation offset in the Cap-and-Trade program.

Here, the EIR does not identify the location of the woodland acres that it commits to preserve. The property itself is undeveloped, but over 40 percent of the property is not developable under local regulations.[15] As we previously concluded herein, future development on the property is not a reasonably foreseeable consequence of the project. On this record, CBD has demonstrated a lack of substantial evidence supporting the inference that the trees to be permanently conserved would not reasonably have remained on the property. CBD has accordingly satisfied its burden of showing that substantial evidence does not support the EIR's conclusion that the project would have a less-than-significant GHG emission impact.

DISPOSITION

We affirm the judgments denying the petitions for writ of mandate as to Circle Oaks and LRC. We reverse the judgment denying CBD's petition for a writ of mandate, and we remand the CBD matter to the trial court to grant the petition as to the following EIR issue: to ensure that the GHG emissions associated with the Project, as mitigated, constitute a less-than-significant impact, as set forth in Section II.F of this opinion. In all other respects, we affirm the judgment as to CBD. The parties shall bear their own costs on appeal.

[15] Pursuant to Napa County Code section 18.108.060, 901.4 acres of the property are undevelopable as they contain slopes over a 30 percent grade, and 72.1 acres of tree canopy in the Milliken Reservoir watershed portion are protected from destruction under Napa County Code section 18.108.027, subdivision (B).

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BROWN, J.

WE CONCUR:

_____
STREETER, ACTING P. J.

_____
TUCHER, J.

Napa County

Board Agenda Letter

Board of Supervisors	**Agenda Date:** 4/19/2022	**File ID #:** 22-534

TO: Board of Supervisors

FROM: Minh C. Tran, County Executive Officer

REPORT BY: Nelson Cortez, Staff Assistant - BOS

SUBJECT: Amendment 1 - State Legislative and Regulatory Platform

RECOMMENDATION

County Executive Officer, on behalf of the Legislative Subcommittee, requests adoption of Amendment 1 to the 2022 State Legislative and Regulatory Platform (State Platform). UNANIMOUS VOTE REQUIRED

EXECUTIVE SUMMARY

Amendment 1 to the State Platform amends the Housing Element Law section.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact? No
County Strategic Plan pillar addressed: Effective and Open Government

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.

BACKGROUND AND DISCUSSION

On December 14, 2021, the Board adopted the State Platform. At that meeting, Supervisor Ramos requested the Subcommittee consider adding information about Priority Development Areas (PDAs) and any additional information consistent with the Board's letter to the Association of Bay Area Governments (ABAG) regarding the next Regional Housing Needs Allocation (RHNA) numbers for Napa County.

On March 7, 2022, the Legislative Subcommittee voted to recommend the proposed amendment to the Housing Element Law section of the State Platform.

Attached is a redlined file with the recommended changes.

Subsequently, staff added additional changes to Action Item 1, also attached.

HOUSING ELEMENT LAW

Issue

The County has had concerns for many years with the State-mandated Regional Housing Needs Allocation (RHNA) process due to the conflict it creates between local land-use policies (e.g., preservation of agricultural lands and city-centered growth policies) and State and regional mandates to create more housing. There are two major obstacles that continue to challenge Napa County in meeting housing obligations.

One obstacle in complying with these mandates is that agricultural areas like Napa County are largely unpopulated and have few public services in vast stretches within their unincorporated territory. The latest RHNA Methodology and Final Allocation prioritized an allocation that promotes infill development, protects environmental and agricultural resources, and reduces the region's greenhouse gas emissions by prioritizing specific growth geographies – Priority Development Areas (PDAs) and High Resource Areas (HRAs). The only PDAs that are designated within Napa County are located in the Cities of Napa and American Canyon; there are no PDAs within the unincorporated area. HRAs are either located within cities or are located in Moderate, High, or Very High Fire Hazard Severity Zones. Of those located in the unincorporated area, none are near transit. ~~Affordable H~~ousing should be built in locations near workplaces and urban centers that have the full complement of infrastructure, transit, and other services. Napa County supports enacting legislation and seeking administrative mechanisms that would achieve maximum flexibility for agricultural counties in their efforts to site and build affordable housing within a county. Further, Napa County seeks authority during state housing element cycles to recognize that expenditures made to support affordable housing are credited towards the County's RHNA obligation when those units are built.

The second obstacle is the State's effort to limit development in the Wildland – Urban Interface. Napa County is unique – it benefits from having the country's first Agricultural Preserve, which limits development in premium agriculture land, and prevents the County from urban sprawl. It is in large part because of these limitations that Napa County continues to be the Country's premier winegrape region, known worldwide, contributing billions to the State's economy. At the same time, however, the State is pushing local governments to meet increasing housing numbers, which together has proven to be extremely challenging, and almost impossible to meet the State's goals around preventing development in the WUI and increasing housing

numbers, while not losing what put Napa Valley on the world map – the Agricultural Preserve and the wine grape region that flourished subsequently.

Compounding the~~se critical~~ aforementioned issues in Napa County is climate change. Housing Element Law should take into consideration how local agencies are working to reduce GHG and should take a nuanced approach instead of one size fits all.

Action

1. Support legislative efforts intended to limit the exposure of county governments in civil liability lawsuits. Advocate and work with other counties in writing specific legislation and seeking administrative mechanisms that limit regional housing allocations in the unincorporated areas of prime agricultural counties such as Napa. Additionally work with HCD to formulate a high resource area definition and methodology that takes into consideration topography, wildland interface designations, and the lack of potential expansion for infrastructure, transit and social services.
2. Continue efforts at the administrative level with the Association of Bay Area Governments (ABAG) and HCD to help implement Plan Bay Area, which locates housing near jobs and transit, and preserves prime agricultural land. Also, the County will continue to work collaboratively with its municipalities to ensure future city-centered growth within Napa County.
3. Seek changes in State legislation that will broaden the actions that count towards progress in meeting regional housing allocations to include programs, such as the county's worker proximity housing program that provides financial assistance to home buyers with incomes below 100% of the county's average median income.
4. Seek legislative or administrative mechanisms to provide local jurisdictions with more input in identifying and certifying the adequacy of sites for housing throughout the County. In particular, provide that housing sites in unincorporated Napa County with densities less than 20 dwelling units per acre are suitable for affordable housing.
5. Seek legislation that would allow transfers of regional housing allocations during the housing element planning period when the County provides funds or land for affordable housing within cities.
6. Seek and/or support legislation that acknowledges the unique nature of Napa County, including exempting Napa County from onerous mandates that don't take into account agriculture. Oppose efforts that require Napa County to build in agricultural lands.-

Napa County

Board Agenda Letter

Board of Supervisors	**Agenda Date:** 4/19/2022	**File ID #:** 22-773

TO: Board of Supervisors

FROM: Minh C. Tran - County Executive Officer

REPORT BY: Neha Hoskins - Clerk of the Board

SUBJECT: CONFERENCE WITH LEGAL COUNSEL - POTENTIAL INITIATION OF LITIGATION

RECOMMENDATION

CONFERENCE WITH LEGAL COUNSEL - POTENTIAL INITIATION OF LITIGATION
Potential initiation of litigation pursuant to Government Code Section 54956.9(d)(4): (1 matter)

Napa County

Board Agenda Letter

Board of Supervisors | **Agenda Date:** 4/19/2022 | **File ID #:** 22-784

TO: Board of Supervisors

FROM: Minh C. Tran, County Executive Officer

REPORT BY: Neha Hoskins, Clerk of the Board

SUBJECT: CONFERENCE WITH LABOR NEGOTIATORS

RECOMMENDATION

SET MATTER 11:00 AM - CONFERENCE WITH LABOR NEGOTIATORS

(Government Code Section 54957.6)

Agency Designated Representatives:

Christine Briceño, Director of Human Resources

Employee Organization: SEIU Local 1021 - NAPE

(Public Services Employee Unit and Supervisory Unit of the County of Napa)

Napa County

Board Agenda Letter

Board of Supervisors	**Agenda Date:** 4/19/2022	**File ID #:** 22-865

TO: Board of Supervisors

FROM: Minh C. Tran - County Executive Officer

REPORT BY: Neha Hoskins - Clerk of the Board

SUBJECT: CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

RECOMMENDATION

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to Government Code Section 54956.9(d)(2). (1 Case)