

NAPA COUNTY AGREEMENT NO. _____

**AGREEMENT TO CONTRIBUTE FUNDS TOWARDS THE
NAPA RIVER RESTORATION PROJECT**

This Agreement is made and entered into as of this 8th day of July, 2021, by and between Colgin Partners LLC, a California limited liability company ("**Colgin**") and Napa County, a political subdivision of the State of California ("**County**"). The County and Colgin are sometimes referred to as "**Parties**" and may be individually referred to as "**Party**."

RECITALS

WHEREAS, Colgin intends to develop an agricultural improvement project at 220 Long Ranch Road in Napa County, California, more commonly known as Assessor Parcel Number 032-560-036; and

WHEREAS, the development of the Colgin Cellars, LLC – Agricultural Road Improvement Plan requires a Section 401 Water Quality Certification ("**Certification**") from the SF Bay Regional Water Quality Control Board ("**RWQCB**") due to impacts to several unnamed drainage courses that cross the project site and flow to Lake Hennessy; and

WHEREAS, the Certification requires Colgin to mitigate for the impacts to the unnamed ephemeral drainage courses, which lie within the Napa River Watershed; and

WHEREAS, the County is undertaking the Napa River Restoration: Oakville to Oak Knoll, Group D Revegetation Project, a project with high aquatic and biological resource values, within the Napa River Watershed (the "**Project**"); and

WHEREAS, Colgin and RWQCB have agreed that the Certification's mitigation requirements can be satisfied by Colgin providing funds to the County for the purpose of supporting the Project in lieu of Colgin separately mitigating the impacts of its project; and

WHEREAS, the County desires to accept Colgin 's funding for the Project in a one-time payment to the County;

NOW, THEREFORE, for valuable consideration, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

TERMS

1. **Funding.** Colgin shall pay the County Ninety Nine Thousand, Four Hundred Seventy Two Dollars and Fifty Eight Cents (\$99,472.58), to be used solely and exclusively in support of the Project, as further described and depicted in **Exhibit A** attached hereto and hereby incorporated by this reference.

2. **Payment Date.** Colgin shall pay the County in full no later than 90 days after the date this Agreement is approved by the Napa County Board of Supervisors.

3. Project Completion. The County is responsible for obtaining all permits, performing the necessary environmental review, constructing the Project and submitting any required mitigation and monitoring reports. Colgin's sole obligation with regards to the Project is providing the funding set forth in section 1 of this Agreement.

4. Successors in Interest. This Agreement and all rights and obligations contained herein shall be in effect whether or not any or all Parties to this Agreement have been succeeded by another entity, and all rights and obligations of the Parties signatory to this Agreement shall be vested and binding on their successors in interest.

5. Refunds. If the County does not complete the Project, and the RWQCB determines that Colgin's contribution toward the Project no longer satisfies the Certification's mitigation requirements, County shall refund the amount paid by Colgin under section 1 of this Agreement within 60 days after written notification from the RWQCB of such determination.

6. 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..

7. Complete Agreement; Amendments. This is the complete and final Agreement between the Parties and supersedes all prior written or oral agreements between the Parties with respect to the subject matter hereof. Any amendments to this Agreement shall be in writing and signed by the Parties.

8. Relationship of Parties. Neither Party is acting as the agent of the other in any respect hereunder and each Party is an independent contracting entity with respect to the terms, covenants, and conditions contained in this Agreement. None of the terms or provisions of this Agreement shall be deemed to create a partnership or joint venture between the Parties.

9. Counterparts. This Agreement may be executed and delivered in any number of counterparts, each of which so executed and delivered shall be deemed to be an original and all of which shall constitute one and the same instrument.

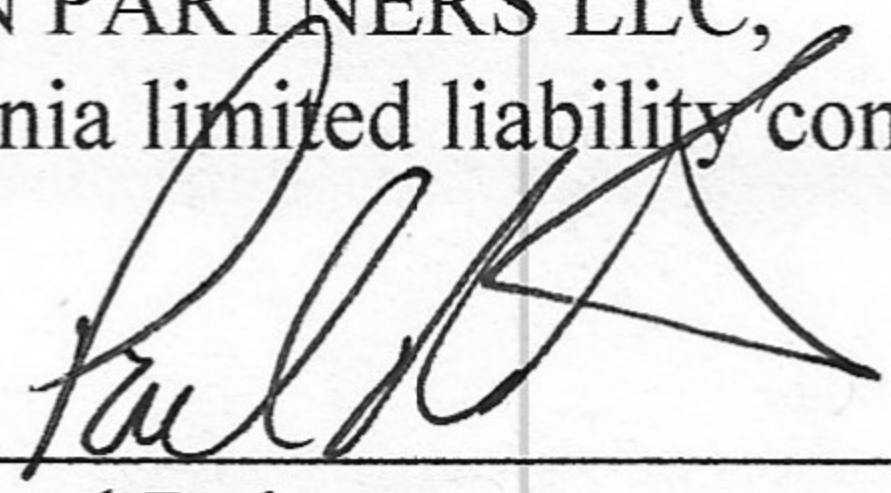
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IN WITNESS WHEREOF, this Agreement was executed by the Parties as of the date first above written.

COLGIN:

COLGIN PARTNERS LLC,
a California limited liability company

By: _____


Paul Roberts,
Chief Operating Officer

COUNTY:

NAPA COUNTY,
a political subdivision of the State of California

By: _____

Alfredo Pedroza,
Chair of the Board of Supervisors

<p>APPROVED AS TO FORM Office of County Counsel</p> <p>By: <u>Thomas C. Zeleny</u> Deputy County Counsel</p> <p>Date: <u>July 7, 2021</u></p>	<p>APPROVED BY THE NAPA COUNTY BOARD OF SUPERVISORS</p> <p>Date: _____</p> <p>Processed By: _____</p> <p>_____ Clerk of the Board</p>	<p>ATTEST: NEHA HOSKINS Clerk of the Board</p> <p>By: _____</p>
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Exhibit A Project Description

Purpose of Funds: Funds under the Agreement will be applied to the Napa River Restoration: Oakville to Oak Knoll Revegetation Project, Group D (Project) as shown on the attached Figure A-1. Group D revegetation is scheduled for implementation beginning in May of 2021.

Description: The Napa River is one of the few large watersheds in the San Francisco Bay Area which has not been significantly urbanized and supports a wide range of wildlife and habitats. Prior to agriculture and development in the Napa Valley, the Napa River, its floodplain, and riparian corridor supported extensive forest and wetland habitats. Much of this habitat has been reduced over time. Prior to development, the Napa River was a broad, shallow river system with multiple channels. The Napa River is now generally confined to a single channel that is deeply incised by 12-15 ft. in some reaches. Much of the river corridor is bound by flood berms at the top of the river banks to protect neighboring properties from flooding. This confinement keeps the channel zone fairly homogenous in terms of instream complexity features, such as bars, benches, pools, alcoves, etc. This lack of geomorphic complexity results in a less diverse riparian community and reduced quality and quantity of instream habitat for native aquatic species, such as Chinook salmon, steelhead, and California freshwater shrimp. The constricted channel condition has resulted in bank erosion and slumping in several locations resulting in the loss of valuable riparian habitat and vineyard land and infrastructure.

The Project has several design elements that are intended to restore physical and biological processes to the Napa River, including channel widening, floodplain and wetland restoration, biotechnical stabilization, instream habitat structures, managed retreat, and native vegetation enhancement. The overall objective of the Project is to implement the adopted Napa River Sediment TMDL by reducing fine sediment and polluted runoff within the Napa River watershed and to restore habitat and beneficial uses, including spawning and rearing habitat for Chinook salmon and steelhead trout. The 9 mile Project reach has been divided into four Construction Groups A-D encompassing 23 distinct restoration sites. Implementing construction of the entire Project would restore up to 83 acres of transitional riparian and aquatic habitat and reduce fine sediment loading from channel erosion. The goals of this joint public-private project are to reduce property damage and sediment delivery associated with ongoing bank erosion processes, restore and enhance long-term river and floodplain functioning, and improve the quality and resilience of aquatic and terrestrial riparian habitat.

Groups A, B and C are constructed and in the vegetation establishment phase. Restoration grading at Group D is planned to be fully implemented over two seasons, 2020 and 2021. Revegetation of the sites constructed in 2020, sites 10, 7 and 4, will proceed in May 2021 and revegetation at the remaining sites will begin once grading is completed in October 2021. Design plans for Group D revegetation include the following restoration outputs.

- Native planting and seeding over 14 acres, including within 9 acres of newly graded floodplain, freshwater wetland and riparian habitats
- Invasive plant management over 6 acres

- Installation of over 60,000 native plants

Permits:

CEQA: The Project is considered a project under California Environmental Quality Act (CEQA). Napa County is the lead agency that prepared the CEQA IS-MND. The OVOK CEQA document was adopted by the Napa County Board of Supervisors in April 2015 (State Clearing House #2014012057).

NEPA: National Environmental Protection Act (NEPA) consistency (ESA Section 7 and NHPA Section 106) is conducted by the United States Army Corps of Engineers through the approval of a Nationwide Permit for each restoration construction phase of the OVOK project. USFWS and NMFS have completed Biological Opinions (BOs) for the entire OVOK Project.

Section 1600: California Department of Fish and Wildlife (CDFW) reviews each restoration construction group of the Project through the Section 1600- Lake or Streambed Alteration Agreement (LSAA) process. A CDFW LSAA was issued for Group D on April 14, 2020.

Section 401: SF Bay Regional Water Quality Control Board (RWQCB) issued Water Quality Certification of Waste Discharge Requirements for the project in April 2015. Each restoration construction phase requires written approval before work may proceed. Such approval will follow review of the 30% and 65% designs and consultation with appropriate State and Federal agencies. RWQCB approved design plans for Group D Phase 1 on June 25, 2020 and Phase 2 on September 24, 2020.

Monitoring and Maintenance:

The Napa County Flood Control and Water Conservation District (District) will be responsible for the long-term monitoring and maintenance of the Project. The *Napa River Restoration: Oakville to Oak Knoll Project Monitoring Plan* describes the monitoring protocols and frequency of monitoring and maintenance surveys that will be used to evaluate and report on the Project's effectiveness. Monitoring will include Cross Section Transect Surveys, Longitudinal Survey, Instream Structure Velocity and Habitat Assessment, Vegetation Surveys and Habitat Typing Surveys. Additionally a maintenance program has been developed to guide adaptive management needs for installed and created restoration features within the project reach. Monitoring results of the revegetation project will be reported to the RWQCB, along with other project stakeholders, as part of the annual monitoring report by March 31 each year. The Napa River Restoration: Oakville to Oak Knoll Annual Monitoring Report shall serve as the Mitigation and Monitoring Report described in the Agreement.

Exhibit A
Project Description
Figure A-1

[site map included on following page]