

NAPA COUNTY AGREEMENT NO. 250451B

CONTRIBUTION AGREEMENT

THIS AGREEMENT is made and entered into by and between Napa County, a political subdivision of the State of California, hereinafter referred to as "County," and Quarry Vineyards, LP, whose address is P.O. Box 511, Rutherford, CA 94573, hereinafter referred to as "Property Owner."

RECITALS

- A. County will undertake a project to resurface various County Roads titled "Bale, Big Ranch, Lodi, Silverado Trail, and West Zinfandel Paving Project," RDS 25-06.
- B. Property Owner owns property adjacent to Silverado Trail, located at 1450 Silverado Trail S, Rutherford, CA 94573 and has been required by the County, as a condition of approval of Property Owner's application for a use permit modification, to install a continuous left turn lane with related driveway entrance improvements for the property ("Project") during the construction of RDS 25-06 in order to comply with Napa County Road and Street Standards.
- C. With Property Owner's contribution, County is willing and able to proceed with the Project.
- D. For good and valuable consideration, the sufficiency of which is acknowledged, County and Property Owner agree as follows:

AGREEMENT

ARTICLE I – SCOPE OF SERVICES

1.1 Scope of Services. County shall construct the Project in accordance with Property Owner's design as bid items 1B1 to 1B26 of Additive Alternate #1 of the accepted bid for construction of RDS 25-06, as further described in Exhibit "A."

1.2 Schedule. County shall use reasonable efforts to complete the Project by December 31, 2025. County may, however, extend this deadline in its reasonable discretion by providing written notice to Property Owner.

1.3 Project Design. Construction level plans shall be provided to County by Property Owner, being prepared by Summit Engineering, Property Owner's designated Civil Engineering Firm. County will review Property Owner's plans and provide comments and feedback, if any. During construction, County may make minor deviations from the project design at the County's expense, as reasonably necessary to successfully complete the Project, except as provided in paragraph 1.6 below.

1.4 Solicitation of Bids. County shall advertise for sealed bids for the construction of RDS 25-06. The contract for construction of RDS 25-06 will be awarded to the lowest responsible and responsive bidder as determined by County. County shall provide written notice to Property Owner of the bid results within five business days of bid opening. County may include the Project as a bid alternate(s) in the solicitation as additional work, and award such alternates upon execution of this Agreement.

1.5 Construction. Construction will be performed by one or more contractors licensed in California and qualified to construct the Project. County is responsible for administration, management, inspection, and all other activity, including review and approval of change orders, necessary to complete the Project in accordance with County standards and the plans and specifications. Property Owner hereby gives County, its officers, employees and contractors the right to enter Property Owner's property during normal business hours as reasonably necessary to construct the Project. County will use reasonable efforts to minimize interference with access to Property Owner's property through the Project area, but Property Owner acknowledges temporary disruptions are unavoidable.

1.6 Change Orders. County will promptly notify Property Owner if County encounters unknown subsurface conditions during construction of the Project on Property Owner's property outside of the public right-of-way that materially affect the cost of construction. County will provide Property Owner with the estimated cost of a change order to address the unknown subsurface conditions. If the contribution by Property Owner is insufficient to cover the estimated cost of the change order, the parties will proceed under paragraph 3.3 below regarding cost overruns.

1.7 Ownership. Property Owner does not obtain any ownership interest in the public right-of-way by virtue of its contribution. The public right-of-way and all its improvements shall remain the sole property and asset of County. Property Owner therefore assumes no liability for any and all claims, actions, proceedings, losses, injuries, damages, or expenses of every name, kind, and description in the public right-of-way by virtue of its contribution. Ownership of any part of the Project that is constructed on Property Owner's property that is outside the public right-of-way shall transfer to Property Owner upon completion. Property Owner is responsible for the repair and maintenance of such portion of the Project on the Owner's Property after completion.

ARTICLE II – DURATION OF AGREEMENT

2.1 Term of the Agreement. The effective date of this Agreement is the date the last party signs this Agreement. This Agreement shall expire on the date County provides a final accounting and returns any unexpended funds to Property Owner, pursuant to Paragraph 3.4 of this Agreement.

2.2 Termination for Convenience. At any time prior to award of a construction contract for the Project, either party may terminate this Agreement by giving ten (10) days prior written notice of such termination to the other party. Upon termination of the Agreement, County shall discontinue all affected performance and contracts, and complete any additional work necessary for the orderly filing of documents.

ARTICLE III – CONTRIBUTION

3.1 Amount of Contribution. Property Owner shall pay County FOUR HUNDRED SIXTY-THREE THOUSAND NINE HUNDRED TEN and 00/100 DOLLARS (\$463,910.00) which is the sum of all bid items referenced in the bid for RDS 25-06 as bid items 1B1 to 1B26 of Additive Alternate #1, as well as 15% construction contingency based on bid pricing to be used by County solely and exclusively towards construction.

3.2 Payment Process. County shall submit one invoice for the full amount of Property Owner's contribution. Property Owner shall pay the full amount within 30 days of receipt of County's invoice, according to wiring instructions to be provided by County. County will not authorize its construction contractor to commence work on the Project until the funds are received by the County and, in the event that Property Owner fails to make the required payment within 30 days, the County may issue a change order to its construction contractor eliminating the Project from RDS 25-06.

3.3 Cost Overruns. County will notify Property Owner if it is determined after opening bids for construction or as a result of a change order that there will be insufficient funds to complete the Project. Property Owner shall pay County the amount County indicates is necessary to complete the Project within 10 days after notice from County, or County may stop work on the Project, restore the public right-of-way to its original condition, and return any remaining funds to Property Owner.

3.4 Accounting. County shall provide Property Owner an itemized accounting of the Project costs when it is complete. Such accounting shall include direct and any indirect costs of construction, and any material and equipment not already included in the cost of construction. County shall return any unexpended funds from Property Owner's contribution within 45 days after a Notice of Completion is recorded with the County Recorder's Office if no stop notices or claims have been received by County regarding RDS 25-06. If stop notices or claims have been received by County, County shall return any unexpended funds from Property Owner's contribution within 45 days after resolution of the stop notices or claims. County may use funds from Property Owner to resolve any stop notices or claims from contractors or suppliers working on the Project.

3.5 Records. County shall maintain books, records, logs, and other records sufficient to document the expenditure of funds from Property Owner, and to maintain such records for at least four years after expiration or termination of this Agreement. Property Owner may inspect and copy such records upon request.

3.6 Tax Implications. County makes no representation and provides no assurance as to whether Property Owner's contribution is tax deductible. Property Owner is solely responsible for seeking advice from tax professionals regarding any tax implications.

ARTICLE IV - INDEMNIFICATION

4.1 Indemnification and Hold Harmless. County shall defend at its own expense, indemnify, and hold harmless Property Owner, its officers and employees, from and against any and all liability, claims, actions, proceedings, losses, injuries, damages or expenses of every name, kind, and description, including litigation costs and reasonable attorney's fees incurred in connection therewith, brought for or on account of personal injury (including death) or property damage, arising from the construction of the Project, excluding, however, such liability, claims, actions, losses, injuries, damages or expenses arising from the active or sole negligence or willful misconduct of Property Owner, its officers or employees.

4.2 Survival. This Article shall survive termination or expiration of this Agreement and continue so long as a viable claim exists.

ARTICLE V – DISPUTE RESOLUTION

5.1 Mandatory Non-binding Mediation. If a dispute arises out of or relates to this Agreement, or the breach thereof, and if said dispute cannot be settled through normal contract negotiations, the parties agree to attempt to settle the dispute in an amicable manner, using mandatory mediation through Judicial Arbitration and Mediation Services (JAMS) or any other neutral organization agreed to by the parties. To initiate mediation, the initiating party shall send written notice of its request for mediation to the opposing party. Mediation is mandatory before either party may initiate litigation or have recourse in a court of law.

5.2 Mediation Costs. The expenses of witnesses for either side shall be paid by the party producing such witnesses. All other expenses of the mediation, including required traveling and other expenses of the mediator, and the cost of any proofs or expert advice produced at the direct request of the mediator, shall be borne equally by the parties, unless they agree otherwise.

5.3 Selection of Mediator. A single mediator that is acceptable to both parties shall be used to mediate the dispute. The mediator may be selected from lists furnished by JAMS or any other agreed upon mediator. The parties shall endeavor to agree on a mediator within ten (14) days after the date the final determination is issued, unless a longer period is mutually agreed to in writing by Property Owner and County. If the parties cannot agree on a mediator, JAMS or other neutral organization shall select the mediator.

5.4 Conduct of Mediation Sessions. Mediation hearings will be conducted in an informal manner and discovery will not be allowed. The discussions, statements, or admissions will be confidential to the proceedings and will not be used for any other purpose unless otherwise

agreed by the parties in writing. The parties may agree to exchange any information they deem necessary. Both parties shall have a representative attend the mediation who is authorized to settle the dispute, though County's recommendation of settlement may be subject to the approval of the Board of Supervisors. Either party may have attorney(s), witnesses or expert(s) present. Either party may request a list of witnesses and notification whether attorney(s) will be present.

5.5 Mediation Results. Any resultant agreements from mediation shall be documented in writing. Mediation results and documentation, by themselves, shall be "non-binding" and inadmissible for any purpose in any legal proceeding, unless such admission is otherwise agreed to in writing by both parties. Mediators shall not be subject to any subpoena or liability and their actions shall not be subject to discovery.

ARTICLE VI – GENERAL PROVISIONS

6.1 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

Steven Lederer
Public Works Director
Napa County Administration Bldg.
1195 Third Street, Suite 101
Napa, CA 94559

PROPERTY OWNER

Timm Crull
Managing Partner
Quarry Vineyards, LP
P.O. Box 511
Rutherford, CA 94573

6.2 Third Party Beneficiaries. Unless expressly set forth in this Agreement, none of the provisions of this Agreement are intended to benefit any third party not specifically referenced herein. No person other than County and Property Owner shall have the right to enforce any of the provisions of this Agreement.

6.3 Force Majeure. In the event either party's performance is delayed due to causes which are outside the control of both parties and their subcontractors, consultants and employees, and could not be avoided by the exercise of due care, which may include, but is not limited to, delays by regulating agencies, wars, floods, adverse weather conditions, labor disputes, unusual delay in transportation, epidemics abroad, earthquakes, fires, terrorism, incidence of disease or other illness that reaches outbreak, epidemic and/or pandemic proportions, unusual delay in deliveries, riots, civil commotion or other unavoidable casualties, and other acts of God, both parties will be

entitled to an extension in their time for performance equivalent to the length of delay. Neither party will be entitled to compensation from the other for force majeure events.

6.4 Attorneys Fees. If either party commences legal action of any kind or character to either enforce the provisions of this Agreement or to obtain damages for breach thereof, the prevailing party in such litigation shall be entitled to all costs and reasonable attorney's fees incurred in connection with such action. This paragraph does not apply to attorney's fees or costs incurred during mediation.

6.5 Exhibits Incorporated. All Exhibits referenced in this Agreement are hereby incorporated into the Agreement by this reference.

6.6 Municipal Powers. Nothing contained in this Agreement shall be construed as a limitation upon the powers of County as a subdivision of the State of California. Nothing in this Agreement shall be interpreted as limiting the rights and obligations of County in its governmental or regulatory capacity.

6.7 Survival of Obligations. All representations, indemnifications, warranties and guarantees made in, required by or given in accordance with this Agreement, as well as all continuing obligations indicated in this Agreement, shall survive completion and acceptance of the scope of services and termination or completion of the Agreement.

6.8 Severability. Should any provision of this Agreement be held invalid or illegal by a court or administrative agency of competent jurisdiction, such invalidity or illegality shall not invalidate the whole of this Agreement, but rather, the Agreement shall be construed as if it did not contain the invalid or illegal provision, and the rights and obligations of the parties shall be construed and enforced accordingly, except to the extent that enforcement of this Agreement without the invalidated provision would materially and adversely frustrate either or both parties' essential objectives set forth in this Agreement.

6.9 Amendment/Modification. This Agreement may be modified or amended only in writing and with the prior written consent of both parties.

6.10 No Waivers. 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.

6.11 Successors in Interest. All rights and obligations created by this Agreement shall be in force and effect whether or not any parties to the Agreement have been succeeded by another entity, and all rights and obligations created by this Agreement shall be vested and binding on any party's successor in interest.

6.12 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.

6.13 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California without giving effect to conflicts of law principles.

6.14 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.

IN WITNESS WHEREOF, this Agreement is executed by County, acting by and through the Chair of the Board of Supervisors, and by Property Owner through its duly authorized officer(s).

QUARRY VINEYARDS, LP

By 
TIMM CRULL, Managing Partner

NAPA COUNTY, a political subdivision of
the State of California

By _____
ANNE COTTRELL, Chair of the Board of
Supervisors

APPROVED AS TO FORM Office of County Counsel By: <u>Thomas C. Zeleny</u> Deputy County Counsel Date: <u>July 2, 2025</u>	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: _____
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EXHIBIT "A"
SCOPE OF SERVICES

I. Project Description

Bid Items 1B1 to 1B26 of "The Bale, Big Ranch, Lodi, Silverado Trail, and West Zinfandel Paving Project, RDS 25-06" and Pages C1.0 to C8.0 as prepared by Summit Engineering, Inc., of the RDS 25-06 Addendum #1 Plans describe the construction, including mobilization, traffic control, and construction staking, necessary to install a left turn lane at 1450 Silverado Trail S, Rutherford, CA 94573 and the associated driveway entrance improvements as designed and requested by the Property Owner. The compensation also includes 15% contingency for any unforeseen work identified during the construction of the left turn lane and driveway entrance improvements.

