



Local Agency Formation Commission of Napa County

Subdivision of the State of California

We Manage Government Boundaries, Evaluate Municipal Services, and Protect Agriculture

■ Diane Dillon, Chair ■ Margie Mohler, Vice Chair ■ Mariam Aboudamous ■ Kenneth Leary
■ Brad Wagenknecht ■ Ryan Gregory, Alternate ■ Eve Kahn, Alternate ■ Beth Painter, Alternate

Administrative Office
1754 Second Street, Suite C
Napa, California 94559
Telephone: 707-259-8645
www.napa.lafco.ca.gov

Consistent with California Assembly Bill 361 and California Government Code Section 54953 due to the COVID-19 State of Emergency and the recommendations for physical distancing, there will be no physical or in-person meeting location available to the public. Instead, the meeting will be conducted solely by teleconference. All staff reports for items on the meeting agenda are available on the Commission's website at https://www.napa.lafco.ca.gov/staff_reports.aspx. The meeting will be accessible for all members of the public to attend via the link and phone number listed below.

REGULAR MEETING AGENDA Monday, December 6, 2021, 2:00 PM

This meeting will be conducted by teleconference. Written public comments may be submitted PRIOR to the meeting by 10:00 A.M. on December 6, 2021. Public comments DURING the meeting: See "COVID-19 – Notice of Meeting Procedures" on pages 4 and 5 of the agenda.

*Join Teleconference Meeting **Electronically** (computer, tablet, or smartphone):*
<https://countyofnapa.zoom.us/j/82979380663>

*Join Teleconference Meeting by **Telephone**:*
Dial: (669) 900-6833
Follow the prompts: Meeting ID: 82979380663#

If you need assistance before or during the meeting, please contact Commission Clerk Kathy Mabry at: kmabry@napa.lafco.ca.gov or call the LAFCO office at (707) 259-8645.

1. CALL TO ORDER BY CHAIR; ROLL CALL

2. PLEDGE OF ALLEGIANCE

3. AB 361 REMOTE TELECONFERENCING ACTION

Pursuant to AB 361, the Commission will consider the status of the ongoing emergency and facts related to health and safety of meeting attendees due to COVID-19 and consider further findings related to holding this Commission meeting by teleconference pursuant to the provisions of subdivision (e) of Government Code Section 54953.

4. APPROVAL OF AGENDA

The Chair will consider approving the agenda as prepared by the Executive Officer with any requests to remove or rearrange items by members of the Commission or staff. A vote of the Commission is not required for this item.

5. PUBLIC COMMENTS

The public is encouraged to address the Commission concerning any matter not on the Agenda. The Commission is prohibited from discussing or taking action on any item not appearing on the posted Agenda.

6. SPECIAL PRESENTATION

- a) **CALAFCO Achievement Award Presentation, Proclamation for CALAFCO Executive Director Pamela Miller, and Other CALAFCO Announcements (Approx. 15 Minutes)**

7. CONSENT ITEMS

All items calendared as consent are considered ministerial or non-substantive action or information items. As such, all consent items may be approved or accepted under one vote of the Commission. With the concurrence of the Chair, a Commissioner may request discussion of an item on the consent calendar.

Action Items:

- a) **Approval of Meeting Minutes:** October 4, 2021 Regular Meeting
b) **Contract Extension with Brown Armstrong for Audit Services**
c) **Meeting Calendar for 2022**

Receive Report for Information Only:

- d) **First Quarter Budget Report for Fiscal Year 2021-22**
e) **Legislative Report**
f) **Outreach Committee Update**
g) **Current and Future Proposals**
h) **Expiring Commissioner Terms in 2022**

8. PUBLIC HEARING ITEMS

Any member of the public may address the Commission with respect to a scheduled public hearing item.

- a) **Sphere of Influence Amendment Request Involving the City of American Canyon, American Canyon Fire Protection District, and 1661 Green Island Road (Approx. 45 Minutes)**

The Commission will consider a landowner request to amend the spheres of influence for the City of American Canyon and American Canyon Fire Protection District involving 1661 Green Island Road (APN 058-030-041). The recommended action is for the Commission to deny the request.

9. DISCUSSION ITEMS

A member of the public may receive permission to provide comments on any item calendared for discussion at the discretion of the Chair. General direction to staff for future action may be provided by Commissioners.

- a) **CALAFCO U Course: Fire and Emergency Medical Services (Approx. 15 Minutes)**

The Commission will receive a presentation on a recent four-part CALAFCO session titled *Fire and Emergency Medical Services Basics, Challenges and LAFCOs' Role and Responsibility*. The Commission is invited to provide direction to staff with respect to scheduling a future study related to fire protection and emergency medical services, if desired.

- b) **Direction on Future Commission Meetings (Approx. 10 Minutes)**

The Commission will consider alternatives for holding future Commission meetings in person, remotely, or as a hybrid. The Commission is invited to provide direction to staff with respect to its preference for future Commission meetings.

10. ACTION ITEMS

Items calendared for action do not require a public hearing before consideration by the Commission. Applicants may address the Commission. Any member of the public may provide comments on an item.

a) Appointments to the Fiscal Year 2022-23 Budget Committee (Approx. 10 Minutes)

The Commission will consider appointing two members to advise the Executive Officer on the fiscal year 2022-23 Budget Committee. The Budget Committee is an ad hoc subcommittee responsible for preparing a draft and final budget for review and adoption by the Commission at its April and June regular meetings, respectively. The Commission will also consider providing direction to the Budget Committee with respect to including appropriations in the budget for strategic planning.

b) Consideration of Legal Counsel Contract (Approx. 10 Minutes)

The Commission will consider its options related to contracted legal services prior to the expiration of the contract term on June 30, 2022. The recommended action is for the Commission to provide direction to the Executive Officer with respect to contracted legal services.

c) Financial Audit for Fiscal Year Ending June 30, 2021 (Approx. 10 Minutes)

The Commission will receive and file a financial audit prepared by Brown Armstrong for the fiscal year ending June 30, 2021.

d) Consideration of Appointment Procedure for Public Member (Approx. 10 Minutes)

The Commission will consider providing direction to staff with respect to appointment procedures for the Public Member. The term of the Public Member expires on May 2, 2022. Commissioner Leary currently serves as the Public Member and is eligible to seek reappointment consistent with local policy.

11. COMMISSIONER COMMENTS/REQUESTS FOR FUTURE AGENDA ITEMS

This is an opportunity for Commissioners to comment on issues not listed on the agenda, provided that the subject matter is within the jurisdiction of the Commission. No discussion or action may occur or be taken, except to place the item on a future agenda if approved by a majority of the Commission.

12. ADJOURNMENT TO NEXT SCHEDULED MEETING

Monday, February 7, 2022 at 2:00 P.M. It is anticipated the meeting will be conducted by teleconference due to COVID-19 in compliance with California Assembly Bill 361. If the meeting is held in person the meeting location will be at the Napa County Board of Supervisors Chambers, located at 1195 Third Street, 3rd floor, Napa, CA 94559.

MEETING INFORMATION

COVID-19 – Notice of Meeting Procedures

TELECONFERENCE MEETING: In order to slow the spread of the Coronavirus (COVID-19) pandemic, the Commission will conduct this meeting as a teleconference in compliance with California Assembly Bill 361 and California Government Code Section 54953 due to the COVID-19 State of Emergency and the recommendations for physical distancing, and members of the Commission or Commission staff may participate in this meeting telephonically or electronically. Members of the public may participate in the meeting, as described below.

*Join Teleconference Meeting **Electronically** (computer, tablet, or smartphone):*
<https://countyofnapa.zoom.us/j/82979380663>

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Dial: (669) 900-6833
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SUBMITTING WRITTEN COMMENTS TO BE READ AT THE MEETING: Any member of the public may submit a written comment to the Commission before the meeting by **December 6, 2021 at 10:00 A.M.** by email to kmabry@napa.lafco.ca.gov or by mail to Napa LAFCO at 1754 Second Street, Suite C, Napa, CA 94559-2450. If you are commenting on a particular item on the agenda, please identify the agenda item number and letter. Any comments of 500 words or less (per person, per item) will be read into the record if: (1) the subject line includes “COMMENT TO COMMISSION – PLEASE READ”; and (2) it is received by the Commission Clerk prior to the deadline of **December 6, 2021 at 10:00 A.M.**

SUBMITTING SUPPLEMENTAL WRITTEN COMMENTS: Any member of the public may submit supplemental written comments to the Commission, beyond the 500-word limit for comments read into the record, and those supplemental written comments will be made a part of the written record.

SUBMITTING SPOKEN COMMENTS DURING THE COMMISSION MEETING:

Electronically:

1. We request that you identify yourself by name as this will be visible online and will be used to notify you that it is your turn to speak.
2. When the Commission calls for the item on which you wish to speak, click “participants”, a menu will appear. On computer or tablet: click on the “raise hand” icon or word. On a smartphone: click on your name in the list of participants, click on “raise hand”. Staff will unmute speakers in turn.
3. When you are called upon to speak, please provide your name and address for the record.
4. When called, please limit your remarks to the time limit allotted (3 minutes).

By phone (please avoid the speakerphone function to prevent echoing):

1. Your phone number will appear but not your name.
2. When the Commission calls for the item on which you wish to speak, press *9 to “raise your hand”. Staff will unmute speakers in turn. You will be called upon using the last four digits of your phone number, since your name is not visible. You will be prompted to press *6 to be unmuted.
3. When you are called upon to speak, please provide your name and address for the record.
4. When called, please limit your remarks to the time limit allotted (3 minutes).

VIEWING RECORDING OF TELECONFERENCE MEETING: The Commission's teleconference meeting will be recorded. Members of the public may access the teleconference meeting and other archived Commission meetings by going to https://www.napa.lafco.ca.gov/cm_meeting_video.aspx. Please allow up to one week for production time.

AGENDA ITEMS: The Commission may reschedule items on the agenda. The Commission will generally hear uncontested matters first, followed by discussions of contested matters, and staff announcements in that order.

CONDUCT OF HEARINGS: A contested matter is usually heard as follows: (1) discussion of the staff report and the environmental document; (2) testimony of proponent; (3) testimony of opponent; (4) public testimony; (5) rebuttal by proponent; (6) provision of additional clarification by staff as required; (7) close of the public hearing; (8) Commission discussion and Commission vote.

VOTING: A quorum consists of three members of the Commission. No action or recommendation of the Commission is valid unless a majority of the quorum of the Commission concurs therein.

OFF AGENDA ITEMS: Matters under the jurisdiction of the Commission and not on the posted agenda may be addressed by the public under "Public Comments" on the Agenda. The Commission limits testimony on matters not on the agenda to 500-words or less for a particular subject and in conformance with the COVID-19-Notice of Meeting Procedures. The Commission cannot take action on any unscheduled items.

SPECIAL NEEDS: Meetings are accessible to persons with disabilities. Requests for assistive listening devices or other considerations should be made 72 hours in advance through the Commission Clerk at (707) 259-8645 or kmabry@napa.lafco.ca.gov.

POLITICAL REFORM ACT: Pursuant to Government Code Sections 56700.1 and 81000 et seq., any person or combination of persons who directly or indirectly contributes \$1,000 or more or expends \$1,000 or more in support of or in opposition to a change of organization or reorganization that will be, or has been, submitted to LAFCO must comply, to the same extent as provided for local initiative measures, with reporting and disclosure requirements of the California Political Reform Act of 1974. Additional information can be obtained by contacting the Fair Political Practices Commission. Pursuant to Government Code Section 84308, if you wish to participate in the proceedings indicated on this agenda, you or your agent is prohibited from making a campaign contribution of \$250 or more to any Commissioner or Alternate Commissioner. This prohibition begins on the date you begin to actively support or oppose an application before LAFCO and continues until three months after a final decision is rendered by LAFCO. If you or your agent has made a contribution of \$250 or more to any Commissioner or Alternate Commissioner during the 12 months preceding the decision, that Commissioner or Alternate Commissioner must disqualify themselves from the decision in the proceeding. However, disqualification is not required if the Commissioner or Alternate Commissioner returns that campaign contribution within 30 days of learning both about the contribution and the fact that you are a participant in the proceedings.

MEETING MATERIALS: Any writings or documents provided to a majority of the members of the Commission regarding any item on this agenda after the posting of the agenda and not otherwise exempt from disclosure will be made available for public review at <https://www.napa.lafco.ca.gov> or by contacting the Commission Clerk at kmabry@napa.lafco.ca.gov or call the LAFCO office at (707) 259-8645. If the supplemental materials are made available to the members of the Commission at the meeting, a copy will be available for public review at <https://www.napa.lafco.ca.gov>. Staff reports are available online at https://www.napa.lafco.ca.gov/staff_reports.aspx or upon request to the Commission Clerk at kmabry@napa.lafco.ca.gov or call the LAFCO office at (707) 259-8645.



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Agenda Item 6a (Special Presentation)

TO: Local Agency Formation Commission

PREPARED BY: Brendon Freeman, Executive Officer *BF*
Dawn Mittleman Longoria, Analyst II *DML*

MEETING DATE: December 6, 2021

SUBJECT: CALAFCO Achievement Award Presentation, Proclamation for CALAFCO Executive Director Pamela Miller, and Other CALAFCO Announcements

SUMMARY

This item involves the presentation of several notable items related to the California Association of Local Agency Formation Commissions (CALAFCO). A summary follows.

Achievement Award

The Commission recently received the “Mike Gotch Excellence in Public Service Award” from CALAFCO for the Commission’s role in advancing the Napa Pipe project. This award is named for Mike Gotch: former Assembly Member, LAFCO Commissioner, LAFCO Executive Officer, and CALAFCO Executive Director responsible for much of the foundations of LAFCO law and CALAFCO. A press release and the Commission’s nomination submittal for the award are included as Attachment One.

The Napa Pipe Project is an outstanding example of a “smart-growth” community and of collaborative determination between Napa LAFCO (with special assistance from Commissioners Dillon and Wagenknecht), the County of Napa, the City of Napa, and Senator Bill Dodd to create an innovative approach to provide housing, control urban sprawl, and to protect agricultural land and open space. The project is a reuse of an existing industrial site. Senator Dodd has championed the project for over 15 years, including his tenure as a LAFCO Commissioner and County Supervisor. Various agency coordination was necessary to achieve project success, including land use regulations and assignment of Regional Housing Needs Allocation (RHNA). The agreement between the County and City provided for the City to serve as planning authority in exchange for RHNA credits assigned to the County. However, assignment of RHNA credits required one-time special legislation. Senator Dodd provided the political will for passage of the necessary legislation. Commissioners Dillon and Wagenknecht were instrumental in fostering the necessary actions required by LAFCO, since timing was a crucial factor.

Margie Mohler, Vice Chair
Councilmember, Town of Yountville

Mariam Aboudamous, Commissioner
Councilmember, City of American Canyon

Beth Painter, Alternate Commissioner
Councilmember, City of Napa

Diane Dillon, Chair
County of Napa Supervisor, 3rd District

Brad Wagenknecht, Commissioner
County of Napa Supervisor, 1st District

Ryan Gregory, Alternate Commissioner
County of Napa Supervisor, 2nd District

Kenneth Leary, Commissioner
Representative of the General Public

Eve Kahn, Alternate Commissioner
Representative of the General Public

Brendon Freeman
Executive Officer

Proclamation for Executive Director Pamela Miller

On October 4, 2021, the Commission directed staff to prepare and issue a proclamation honoring Pamela Miller upon retirement as CALAFCO's Executive Director. Staff prepared a proclamation, included as Attachment Two, which was signed by the Commission Chair prior to issuance to Ms. Miller. The Commission is invited to read the proclamation during the presentation of this item if desired.

Board of Directors

Vice Chair Mohler was re-elected to a third consecutive term on the CALAFCO Board of Directors as the Coastal Region City Member. CALAFCO Board members serve two-year terms and are elected by the individual LAFCOs within each of four regions (Coastal, Central, Northern, and Southern). Napa County is in the Coastal Region. Vice Chair Mohler's current term on the CALAFCO Board expires in October 2023. A press release is included as Attachment Three.

Coastal Region Deputy Executive Officer

The Commission's Administrative Analyst, Dawn Mittleman Longoria, was appointed to the position of CALAFCO Coastal Region Deputy Executive Officer. The position includes a budget contribution of \$4,000 per year to offset staff time dedicated to CALAFCO business during this two-year assignment. A letter from CALAFCO announcing the appointment of Ms. Longoria is included as Attachment Four.

ATTACHMENTS

- 1) CALAFCO Achievement Award Press Release & Napa LAFCO's Submitted Nomination Form
- 2) Proclamation for CALAFCO Executive Director Pamela Miller
- 3) Margie Mohler Re-Elected to CALAFCO Board of Directors Press Release
- 4) Announcement: Dawn Mittleman Longoria Appointed as CALAFCO Coastal Region Deputy EO



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PRESS RELEASE

**LOCAL AGENCY FORMATION COMMISSION OF NAPA COUNTY
 WINS STATEWIDE AWARD**

The California Association of Local Agency Formation Commissions (CALAFCO) awards Napa LAFCO, the City of Napa, the County of Napa, and Senator Bill Dodd the Mike Gotch Excellence in Public Service Award for their efforts related to the Napa Pipe Project. This award is named for Mike Gotch: former Assembly Member, LAFCO Executive Officer, and CALAFCO Executive Director responsible for much of the foundations of LAFCO law and CALAFCO. He is remembered as a source of great inspiration for staff and legislators from throughout the state.

The Napa Pipe Project is an outstanding example of a “smart-growth” community and of collaborative determination between Napa LAFCO with special assistance from Commissioners Diane Dillon and Brad Wagenknecht, the County, the City of Napa, and Senator Dodd to create an innovative approach to provide housing, control urban sprawl, and to protect agricultural land and open space. The project is a reuse of a World War II steel foundry site on 150 acres along the Napa River. It will be a walkable community with numerous amenities to support 945 housing units (including moderate, low, and very low-income housing), senior housing, and a school site. The project will go a long way in addressing Regional Housing Need Allocation (RHNA) for the County and the City.

With a foundation of strong policies that prioritize the protection of agricultural land and open space and direct urban development to the cities, a thorough Municipal Service Review and an updated sphere of influence, Napa LAFCO approved annexation of Phase One in 2015 with authorization for the City to provide a full range of municipal services to the balance of the project site that remained unincorporated.

After a series of delays, it was determined that the agreed upon swapping of housing credits was not legal under current state law. In 2019, former LAFCO Commissioner, now Senator Bill Dodd, introduced Senate Bill 235 to allow a one-time swap of housing credits. Based on the bill, the County was allowed to claim the RHNA credit even though the property had already been annexed to the City.

The bill was signed into law on October 12, 2019. Shortly thereafter, Napa LAFCO approved the final annexation of the remaining Napa Pipe Project territory with special conditions for the purpose of confirming the agreements between the County and City. One month later, the City and County met the conditions and the annexation of the remaining Napa Pipe territory became final on December 23, 2019. The project could now proceed with one land use authority.

For additional information, please contact Napa LAFCO Executive Officer Brendon Freeman at bfreeman@napa.lafco.ca.gov or (707) 259-8645.

Margie Mohler, Vice Chair
 Councilmember, Town of Yountville

Mariam Aboudamous, Commissioner
 Councilmember, City of American Canyon

Beth Painter, Alternate Commissioner
 Councilmember, City of Napa

Diane Dillon, Chair
 County of Napa Supervisor, 3rd District

Brad Wagenknecht, Commissioner
 County of Napa Supervisor, 1st District

Ryan Gregory, Alternate Commissioner
 County of Napa Supervisor, 2nd District

Kenneth Leary, Commissioner
 Representative of the General Public

Eve Kahn, Alternate Commissioner
 Representative of the General Public

Brendon Freeman
 Executive Officer



2021 Achievement Award Nominations
 Due by Friday, August 13, 2021 at 3:00 p.m.

Achievement Award Nomination Form

NOMINEE - Person or Agency Being Nominated

Name: Napa Pipe Project, Napa LAFCO, Commissioners Diane Dillon and Brad Wa

Organization: Napa LAFCO

Address: 1754 2nd St., Suite C Napa, CA 94559

Phone: 707.259.8645

E-mail: bfreeman@napa.lafco.ca.gov

NOMINATION CATEGORY (check one – see category criteria on attached sheet)

Outstanding CALAFCO Volunteer

Outstanding CALAFCO Associate Member

Outstanding Commissioner

Outstanding LAFCo Professional

Mike Gotch Excellence in Public Service (choose one category below)

Protection of agricultural and open space lands and prevention of sprawl

Innovation, collaboration, outreach and effective support of the evolution and viability of local agencies, promotion of efficient and effective delivery of municipal services

Legislator of the Year (must be approved by the full CALAFCO Board)

Lifetime Achievement Award

NOMINATION SUBMITTED BY:

Name: Napa LAFCO (Dawn Mittleman Longoria)

Organization: Napa LAFCO

Address: 1754 2nd St., Suite C Napa, CA 94559

Phone: 707.259.8645

E-mail: dlongori@napa.lafco.ca.gov



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We Manage Local Government Boundaries, Evaluate Municipal Services, and Protect Agriculture

Achievement Award Nomination: Napa Pipe Project, Napa LAFCO, Commissioners Diane Dillon and Brad Wagenknecht, the County of Napa, the City of Napa, and Senator Bill Dodd

The Napa Pipe Project is an outstanding example of a “smart-growth” community. It is a reuse of a WWII steel foundry site, on 150 acres along the Napa River. It will be a walkable community with a promenade along the river, outdoor entertainment areas, walking and bike trails, parks and open space, 945 housing units (including moderate, low and very low-income housing), senior housing, a school site, retail shops and a hotel.

The Napa Pipe Project is an exemplary example of coordination and collaboration among agencies, including Napa LAFCO, Commissioners Diane Dillon and Brad Wagenknecht, the County of Napa, the City of Napa, and Senator Bill Dodd. Even a vote of City residents was necessary to expand the City’s Rural Urban Limit Line¹. The project is also an example determination, over the past 15 years, to create an innovative approach to provide housing, control urban sprawl and to protect agricultural land and open space.

The project will go a long way in addressing Regional Housing Need Allocation (RHNA) numbers for the County and the City.² Agreements were reached to share the housing allocation numbers. Special legislation was necessary to achieve this goal (SB235).

The developer, Keith Rogal of Napa Redevelopment Partners stated, 'It is a beautiful place, and it is the single best opportunity Napa has had in decades, or ever will have, for truly substantial amounts of well-planned new housing,' Rogal wrote in an email. 'It was agonizing — working and waiting and wondering if it would happen — if that huge obsolete site would be allowed to be recycled in this badly needed way. And it was wonderful to see the community, the County and City and State leadership, pull together in the end to make it possible.'³

The developer originally submitted “overly ambitious” plans to the County for the unincorporated property (2007). The 2018-19 Grand Jury report stated that the City objected to a new “town center” removed from the City’s downtown.⁴ The City Council felt the City should be the lead for the development. Seven years of delays occurred with inconsistent input from the City and County. An ad-hoc committee of City and County electives was formed to reach a realistic solution (2013). Bill Dodd, LAFCO Commissioner and County Supervisor, served on the committee. As a result, the County and City entered into a “Memorandum of Understanding”

¹ Measure A, November 2014

² RHNA is the state-mandated process to identify the total number of housing units by affordability level that each jurisdiction must accommodate in its General Plan Housing Element.

³ Napa Valley Register, March 30, 2021

⁴ Napa County Grand Jury 2018-19, Final Report

“Where’s My Costco? A History of the Napa Pipe Project”

(MOU). The City would serve as lead agency and fulfill 80% of the County's RHNA obligations from 2022-2058. Property taxes, sales taxes and transient occupancy taxes would be split between the agencies. Also, the MOU required the annexation of the entire property by 2022.

An important element of the agreement would be annexation to the City, including SOI expansion and expansion of the Rural Urban Limit line (Measure A). City voters approved Measure A. The Commission's adopted policies clearly prioritize the protection of agricultural land and open space, directing urban development to the cities.⁵ LAFCO conducted the Central County Region MSR (2014) to determine that all service providers had the ability and planned capacity to provide the necessary services to the project. The SOI was updated to include the unincorporated project area into the City's SOI (September 22, 2015).

In 2015, LAFCO approved annexation of the Phase One (Eastern Parcel). The Commission authorized the City to provide the full range of municipal services to the balance of the project site that remained unincorporated.⁶ However, since the Western Parcel remained unincorporated, it meant the developer needed to comply with process, regulations and design requirements of both the City and the County. Further delays occurred. Previously approved permits expired.

At this point, it was determined that the agreed upon swapping of house credits was not legal under current state law. Former LAFCO Commissioner, now Senator Bill Dodd, introduced a bill to allow a onetime swap of housing credits.⁷ Of course, the bill had to pass both houses and be signed by the Governor. It became law in 2019. The new law enabled the one-time transfer of RHNA credits. The Code Section states that the Legislature recognized the unique circumstances stating; "Since the county approved the project, the project's intent has been for the county to help fund the construction of affordable units in the project while counting any constructed affordable and moderate-income housing units toward the county's regional housing need allocation before the annexation." The County was allowed to claim the RHNA credit, though the property had already been annexed to the City.

The 2018-19 Grand Jury recommended: "...the City and County of Napa should move as quickly as possible to annex the balance of the Napa Pipe Property into the City so that the Developer only has to deal with one entity for permitting, zoning, design, and other related building issues. The annexation should take place no later than January 1, 2020."

In November of 2019, Napa LAFCO held a special meeting to facilitate the final annexation of the remaining Napa Pipe Property. The Commission's action included special conditions, for the purpose of confirming the agreements between the County and City.⁸

All conditions were met and the annexation of Napa Pipe Property became final on December 23, 2019. The project could now proceed with one land use authority.

⁵ Supplemental Information attached

⁶ G. C. Section 56133

⁷ G.C. Section 65584.08 (SB 235)

⁸ Supplemental Information attached

CALAFCO 2021 Awards Nomination: Achievement Award Nomination: Napa Pipe Project, Napa LAFCO, Commissioners Diane Dillon and Brad Wagenknecht, the County of Napa, the City of Napa, and Senator Bill Dodd

Supporting Information

**A. Current Approved Uses and Proposed Modified Land Uses
City of Napa EIR Addendum 5, November 2019**



B. Napa LAFCO's Special Conditions (summary): Napa Pipe 2 Reorganization

A-1 The City of Napa (the City) and the County of Napa (the County) enter into a mutually acceptable agreement.

A-2 The City, County and Developer established a Memorandum of Understanding amending the Development agreement's Affordable Housing Plan.

A-3 The City and County agreed upon future Regional Needs for Future Housing Elements.

C. Napa LAFCO's relevant policies:

Commission Declarations (summary):

The Commission review shall be made in adherence to its policies and Napa County General Plan on proposals, projects, studies and to determine designated agricultural an open-space lands.

D. Letter of Support from Napa Farm Bureau (page 3):



VIA ELECTRONIC MAIL

July 28, 2021

Brendon Freeman
Executive Officer
LAFCO of Napa County
bfreeman@napa.lafco.ca.gov

Dear Mr. Freeman:

I write to nominate Supervisor Diane Dillon in the CALAFCO award categories for "Lifetime Achievement Award" and "Excellence in Public Service – Protection of agricultural and open space lands and prevention of sprawl".

Throughout her career, Diane has tirelessly worked with the agricultural community to understand and address the complex issues we face. Diane is regarded as a passionate and dedicated elected official and has been recognized for her hard work to protect the scenic resources and beautiful lands of Napa County's agricultural industry. She is both an honorable example of what it means to be a hard-working elected official and a role model to many in leadership and the agricultural sector.

To that end, the Napa County Farm Bureau Board of Directors recently voted to name Diane Napa Valley's 2021 Friend of Agriculture to honor her many achievements on behalf of agriculture in Napa County.

Supervisor Dillon is the consummate choice to receive a CALAFCO award in both of these categories and I highly encourage her selection.

If I can be of further assistance, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Ryan Klobas".

Ryan Klobas
Chief Executive Officer



2021 Achievement Award Nominations
Due by Friday, August 13, 2021 at 3:00 p.m.

EXECUTIVE SUMMARY

In no more than 250 words, summarize why this recipient is the most deserving of this award.

Benefits of the Napa Pipe Project:

1. Smart-growth community: 945 (including moderate, low and very low-income housing), senior housing, a school site, retail shops, a hotel, walking and bike trails, parks and open space.
2. Reuse of a WWII steel foundry site
3. Location near transportation and full range of municipal services
4. Prevents urban sprawl, protects agricultural land and open space

Originally unincorporated with the County as land use authority, low and very-low income units approved. City desired to be lead agency. An ad-hoc committee was formed, including Bill Dodd, LAFCO Commissioner. An MOU was reached between City and County to share RHNA numbers, property tax, sales tax and transient occupancy tax. Annexation of total area to City required by 2022. This required SOI expansion and City voter approval to expand URL.

LAFCO conducted an MSR to determine ability and planned capacity to provide the necessary services. The SOI was updated to include the project area into the City's SOI. In 2015, LAFCO approved annexation of the Phase One (Eastern Parcel). The Commission authorized the City to provide the full range of municipal services to the balance of the project site that remained unincorporated.

Sharing the RHNA numbers required special legislation: G.C. Section 65584.08 (SB 235 Dodd)

Napa LAFCO held a special meeting to facilitate the final annexation. Commission approval included special conditions. All conditions were met and the annexation of Napa Pipe Property became final on December 23, 2019.

RESOLUTION NO. 2021-23

**RESOLUTION OF
THE LOCAL AGENCY FORMATION COMMISSION OF NAPA COUNTY**

PROCLAMATION FOR PAMELA MILLER

WHEREAS, Pamela Miller has served as the Executive Director for the California Association of Local Agency Formation Commissions (CALAFCO) between 2012 and 2021; and

WHEREAS, under Pamela Miller's leadership and guidance, CALAFCO has become an effective and respected information resource and legislative advocate to the enduring benefit of all Local Agency Formation Commissions (LAFCOs) in California; and

WHEREAS, Pamela Miller earned the respect and gratitude of her colleagues with her thoughtful approach in assisting and improving the ability of LAFCOs to fulfill their legislative mission to oversee and facilitate logical and orderly municipal growth and development; and

WHEREAS, Pamela Miller provided exemplary leadership and innovation during the pandemic, moving the entire organization to a virtual environment, including conference sessions and CALAFCO U courses; virtually attending each county's Commission meeting; providing support for Commissioners and staff across the state during unprecedented times; and

WHEREAS, CALAFCO has been exceedingly fortunate to have Pamela Miller as the Executive Officer of the organization; and

WHEREAS, LAFCO of Napa County, hereinafter referred to as the "Commission," is particularly grateful for Pamela Miller for her commitment to further educate and empower LAFCOs in protecting against the premature conversion of open-space and agricultural resources; a commitment the Commission first came to appreciate in Pamela Miller's previous service as the Clerk of the Board for the County of Napa; and

WHEREAS, the Commission wishes Pamela Miller continued happiness and success upon her recent retirement from CALAFCO;


NOW, THEREFORE, BE IT RESOLVED, the members of the Commission, individually and collectively, convey their heartfelt appreciation and admiration for the service rendered by Pamela Miller to CALAFCO and wish to acknowledge and commend the value her service has added to this Commission and to the people of Napa County.

FURTHER RESOLVED, that a copy of this resolution be presented to Pamela Miller as a token of our respect.



Diane Dillon, Chair

Attest:



Brendon Freeman, Executive Officer



Local Agency Formation Commission of Napa County
 Subdivision of the State of California

1754 Second Street, Suite C
 Napa, California 94559
 Phone: (707) 259-8645
www.napa.lafco.ca.gov

We Manage Local Government Boundaries, Evaluate Municipal Services, and Protect Agriculture

PRESS RELEASE

**MARGIE MOHLER REELECTED TO THE
 CALAFCO BOARD OF DIRECTORS**

At the California Association of Local Agency Formation Commissions (CALAFCO) annual business meeting on October 7, 2021, Napa LAFCO Commissioner Margie Mohler was reelected to the CALAFCO Board of Directors representing the Coastal Region. The CALAFCO Coastal Region comprises 15 counties spanning from Sonoma to the north and Ventura to the south.

Margie was first elected to the CALAFCO Board in October 2017, reelected to a second term in October 2019, and serves as the Coastal Region City Member. Margie's third two-year term commences immediately and expires in October 2023.

CALAFCO was established in 1971 to assist members in fulfilling their duties to coordinate the orderly formation and development of governmental agencies and services. Key services include facilitating information sharing among members by organizing annual conferences and workshops as well as providing technical assistance through training classes. CALAFCO also serves as a resource to the Legislature and actively drafts and reviews new legislation. CALAFCO is divided into four geographic regions for purposes of elections; Central; Coastal; Northern; and Southern. Each region is responsible for electing four members to serve on the 16-member CALAFCO Board with representation from city, county, special district, and public member positions.

For additional information, please contact Napa LAFCO Executive Officer Brendon Freeman at bfreeman@napa.lafco.ca.gov or (707) 259-8645.

Margie Mohler, Vice Chair
 Councilmember, Town of Yountville

Mariam Aboudamous, Commissioner
 Councilmember, City of American Canyon

Beth Painter, Alternate Commissioner
 Councilmember, City of Napa

Diane Dillon, Chair
 County of Napa Supervisor, 3rd District

Brad Wagenknecht, Commissioner
 County of Napa Supervisor, 1st District

Ryan Gregory, Alternate Commissioner
 County of Napa Supervisor, 2nd District

Kenneth Leary, Commissioner
 Representative of the General Public

Eve Kahn, Alternate Commissioner
 Representative of the General Public

Brendon Freeman
 Executive Officer

November 12, 2021

Ms. Diane Dillon, Chair
Napa Local Agency Formation Commission
1754 2nd Street, Suite C
Napa, CA 94559

Dear Chair Dillon:

On behalf of the California Association of Local Agency Formation Commissions (CALAFCO), we extend our sincere thanks and appreciation to Napa LAFCo for its continued support and participation in CALAFCO.

CALAFCO relies a great deal on its volunteer Board members and regional officers to carry out its business and couldn't exist without the support of its members. The Association is served by an Executive Officer and three Deputy Executive Officers, representing each of the four regions. The term of office for these positions is typically two years.

CALAFCO is greatly honored that your Analyst II, Dawn Mittleman Longoria, has volunteered to serve as a CALAFCO Deputy Executive Officer, representing CALAFCO's coastal region, and appreciate the support of your Executive Officer, Brendon Freeman, in Dawn's appointment.

The CALAFCO Board of Directors confirmed this appointment during their meeting on November 12, 2021. We are pleased to welcome Dawn to the regional officer team of CALAFCO for the next two years.

Sincerely,

A handwritten signature in blue ink, appearing to read "Pamela Miller".

Pamela Miller
Executive Director, CALAFCO

A handwritten signature in blue ink, appearing to read "Stephen Lucas".

Stephen Lucas
Executive Officer, CALAFCO



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We Manage Local Government Boundaries, Evaluate Municipal Services, and Protect Agriculture

Agenda Item 7a (Consent/Action)

TO: Local Agency Formation Commission

PREPARED BY: Kathy Mabry, Commission Clerk *KM*

MEETING DATE: December 6, 2021

SUBJECT: Approval of Meeting Minutes:
October 4, 2021 Regular Meeting

DISCUSSION AND RECOMMENDATION

The Commission will consider approving the draft meeting minutes prepared by staff for the October 4, 2021 Regular Meeting, included as Attachment One.

Staff recommends approval.

ATTACHMENT

- 1) Draft Minutes for October 4, 2021 Regular Meeting

Margie Mohler, Vice Chair
Councilmember, Town of Yountville

Mariam Aboudamous, Commissioner
Councilmember, City of American Canyon

Beth Painter, Alternate Commissioner
Councilmember, City of Napa

Diane Dillon, Chair
County of Napa Supervisor, 3rd District

Brad Wagenknecht, Commissioner
County of Napa Supervisor, 1st District

Ryan Gregory, Alternate Commissioner
County of Napa Supervisor, 2nd District

Kenneth Leary, Commissioner
Representative of the General Public

Eve Kahn, Alternate Commissioner
Representative of the General Public

Brendon Freeman
Executive Officer



**LOCAL AGENCY FORMATION COMMISSION OF NAPA COUNTY
MEETING MINUTES OF OCTOBER 4, 2021**

1. WELCOME AND CALL TO ORDER; ROLL CALL (*NOTE: Audio recording started 2:50*)

Chair Dillon called the regular meeting of Monday, October 4, 2021 to order at 2:03 PM.

At the time of roll call, the following Commissioners and staff were present:

Regular Commissioners	Alternate Commissioners	Staff
Diane Dillon, Chair	Ryan Gregory	Brendon Freeman, Executive Officer
Margie Mohler, Vice Chair	Eve Kahn	DeeAnne Gillick, Commission Counsel
Brad Wagenknecht	Beth Painter	Dawn Mittleman Longoria, Analyst II
Mariam Aboudamous		Kathy Mabry, Secretary
Kenneth Leary		

2. PLEDGE OF ALLEGIANCE

Chair Dillon led the Pledge of Allegiance.

3. APPROVAL OF AGENDA

Chair Dillon asked if there were any requests to rearrange the agenda. There were no requests. Upon motion by Commissioner Mohler and second by Commissioner Aboudamous, the Commission unanimously adopted the agenda as submitted.

4. PUBLIC COMMENTS

Chair Dillon invited members of the audience to provide public comment. No public comments were received.

5. CONSENT ITEMS

Action Item:

a) Approval of Meeting Minutes: August 2, 2021 Regular Meeting

Upon motion by Commissioner Wagenknecht and second by Commissioner Mohler, the action item was approved:

VOTE:

AYES: WAGENKNECHT, MOHLER, LEARY, ABOUDAMOUS AND DILLON

NOES: NONE

ABSENT: NONE

ABSTAIN: NONE

Information Items:

a) CALAFCO Annual Conference Cancellation and Update on Achievement Awards and Board Elections – Report received for information only.

b) CALAFCO Quarterly Report – Item pulled for discussion.

Commissioner Mohler reminded everyone that the CALAFCO Awards will be held virtually on October 7th and encouraged all to attend. The Commission has formally nominated Napa LAFCO for the *Mike Gotch Excellence in Public Service – Protection of Agricultural and Open Space Lands and Prevention of Sprawl* award for the Napa Pipe Project.

c) Current and Future Proposals – Report received for information only.

There were no public comments were received on any consent items.

6. PUBLIC HEARING ITEMS

a) Sphere of Influence Reviews for Circle Oaks County Water District, Congress Valley Water District, Los Carneros Water District, Napa County Flood Control and Water Conservation District, and Napa River Reclamation District No. 2109

The Commission reviewed the spheres of influence (SOIs) for Circle Oaks County Water District (COCWD), Congress Valley Water District (CVWD), Los Carneros Water District (LCWD), Napa County Flood Control and Water Conservation District (NCFCWCD), and Napa River Reclamation District No. 2109 (NRRD) based on information in the adopted 2020 *Napa Countywide Water and Wastewater Municipal Service Review*.

The recommended action was for the Commission to adopt a resolution affirming the SOIs for all five districts with no changes and find the SOI reviews are exempt from further review under the California Environmental Quality Act pursuant to California Code of Regulations Section 15061(b)(3).

The Executive Officer provided an overview of each agency for the Commission and public.

Chair Dillon opened the public hearing. No public comments were received.

Chair Dillon closed the public hearing.

Upon motion by Commissioner Mohler and second by Commissioner Leary, the Commission adopted the Resolution of the Local Agency Formation Commission of Napa County Making Determinations – SOI reviews for COCWD, CVWD, LCWD, NCFCWCD, and NRRD and making California Environmental Quality Act (CEQA) findings, to include *revised labels* on the maps recommended by the Commission (**Resolution No. 2021-19**):

VOTE:

AYES: MOHLER, LEARY, ABOUDAMOUS, DILLON AND WAGENKNECHT

NOES: NONE

ABSENT: NONE

ABSTAIN: NONE

7. DISCUSSION ITEMS

a) Countywide Update on Housing and General Plans

The Commission received a presentation on countywide housing and general plan activities. Dawn Mittleman Longoria, Analyst II presented this item and introduced the speakers.

A supplemental item on housing Assembly Bills was also provided to the Commission.

Guest speakers included City of Napa Assistant City Manager Molly Rattigan, City of Napa Housing Manager Lark Ferrell, and Napa Valley Community Housing President/CEO Erica Sklar.

LAFCO's adopted strategic plan includes core guiding principles related to housing and general plans intended to assist the Commission in its future decision-making as it relates to encouraging logical and orderly growth and development throughout Napa County. This information is relevant to the Commission's municipal service reviews, sphere of influence reviews, annexation proposals, and outside service agreement requests.

This item was presented to the Commission for discussion only, and no action was taken.

Due to time constraints, the following agenda items were continued until a later date:

7b) CALAFCO U Course: Fire and Emergency Medical Services

7c) Discussion of Budget Alternative

Upon motion by Commissioner Wagenknecht and second by Commissioner Aboudamous, agenda items 7b and 7c were continued until a later date:

VOTE:

AYES: WAGENKNECHT, ABOUDAMOUS, DILLON, LEARY AND MOHLER

NOES: NONE

ABSENT: NONE

ABSTAIN: NONE

8. ACTION ITEMS

a) Proposed Amendment to Policy on CEQA

The Commission considered a proposed amendment to its *Policy on CEQA* as prepared by the ad hoc Policy Committee.

Staff provided an overview of this item, including specific proposed changes to the policy.

On July 14, 2021 and September 3, 2021, the Policy Committee met to review the *Policy on CEQA* and agreed to recommend significant revisions. The proposed revisions involved restructuring and simplifying the Policy to eliminate confusion for all parties and streamline the review process for projects subject to the California Environmental Quality Act (CEQA). This involves adopting the CEQA Guidelines to determine the appropriate course of Commission action for projects subject to the requirements of CEQA.

Upon motion by Commissioner Wagenknecht and second by Commissioner Mohler, the Commission adopted a resolution approving the amendment (**Resolution No. 2021-20**):

VOTE:

AYES: WAGENKNECHT, MOHLER, ABOUDAMOUS, DILLON AND LEARY

NOES: NONE

ABSENT: NONE

ABSTAIN: NONE

b) Outreach Committee Update

The Commission considered a draft newsletter and accompanying outreach materials as prepared by the ad hoc Outreach Committee. The recommended action was for the Commission to provide direction to staff to circulate the newsletter and outreach materials, with any desired changes, to local government agencies and the public.

Staff provided the Commission a sample of a newsletter with bullet points regarding recent activity. The Commission discussed the newsletter and suggested it be edited to only one page, briefly explaining what LAFCO does (such as MSR/SOI's) in language people will understand, and distribute to Napa elected officials, affected agencies, stakeholders, and members of LAFCO's email subscription list.

Upon motion by Commissioner Mohler and second by Commissioner Gregory, the Commission recommended the Committee take baby steps with a simple introductory letter and sending out a revised newsletter to elected officials via email with associated links:

VOTE:

AYES: MOHLER, GREGORY, DILLON AND LEARY

NOES: NONE

ABSENT: PAINTER AND WAGENKNECHT

ABSTAIN: NONE

8. ACTION ITEMS – continued:

c) Consider Adjustment to the Executive Officer’s Compensation

The Commission considered a proposed adjustment to the Executive Officer’s compensation based on the performance evaluation initiated during the Commission’s June 7, 2021 regular meeting. The proposed annual salary of \$148,179 would be effective July 1, 2021.

The Commission also considered designating a matching \$1,000 contribution to a 401(a) retirement savings account for the Executive Officer in addition to the Executive Officer’s annual salary and regular benefits.

Commission Counsel provided an overview of this agenda item.

Following the Commission’s recent review of the Executive Officer’s performance, it was recommended the Commission adopt a resolution approving the adjustment to the Executive Officer’s compensation, consenting to participation in the County of Napa 401(a) Retirement Savings Plan, and establishing an annual LAFCO match for all future calendar years.

Upon motion by Commissioner Wagenknecht and second by Commissioner Mohler, the Commission approved a resolution for an adjustment to the Executive Officer’s Compensation from step 4 to step 5, retroactive to July 1, 2021; Consenting to the Participation of LAFCO Management Staff in the County of Napa 401(a) Retirement Savings Plan; and Establishing the LAFCO Match for all Future Calendar Years (**Resolution No. 2021-21**):

VOTE:

AYES: WAGENKNECHT, MOHLER, ABOUDAMOUS, DILLON AND LEARY

NOES: NONE

ABSENT: NONE

ABSTAIN: NONE

d) Consider Resolution Approving Continued Remote Teleconference Commission Meetings due to COVID-19 Emergency

The Commission considered approving a resolution declaring its intent to continue remote teleconference only meetings due to the Governor’s Proclamation of State of Emergency and state regulations related to physical distancing due to the threat of COVID-19 consistent with California Assembly Bill 361.

Commission Counsel provided an overview of this agenda item.

The Governor’s Executive Orders on teleconference meetings expired on September 30, 2021.

The Legislature approved as an urgency matter AB 361, signed by the Governor on September 16, 2021, amending the Brown Act to allow continued flexibility for public meetings following the expiration of the Governor’s Executive Orders. AB 361 requires the Commission to continually evaluate the COVID-19 emergency and determine if teleconference only meetings will continue.

Upon motion by Commissioner Mohler and second by Commissioner Wagenknecht, the Commission approved a resolution stating that at the next scheduled Commission meeting on December 6, 2021, the Commission will consider the status of the ongoing emergency and facts related to the health and safety of meeting attendees and provide further direction related to future Commission meetings pursuant to the provisions of AB 361 (**Resolution No. 2021-22**):

VOTE:

AYES: MOHLER, WAGENKNECHT, ABOUDAMOUS, DILLON AND LEARY

NOES: NONE

ABSENT: NONE

ABSTAIN: NONE

9. COMMISSIONER COMMENTS/REQUESTS FOR FUTURE AGENDA ITEMS

There was a recommendation by Commissioner Mohler that Napa LAFCO send a proclamation to Pamela Miller, CALAFCO Executive Director, thanking her for all of her years of service on CALAFCO, and authorizing staff to prepare this proclamation. The Commission concurred.

10. ADJOURNMENT TO NEXT REGULAR SCHEDULED MEETING

The meeting was adjourned at 4:33 PM. The next regular LAFCO meeting is scheduled for Monday, December 6, 2021, at 2:00 PM. **It is anticipated the meeting will be conducted by teleconference due to COVID-19 in compliance with Executive Order N-29-20.**

Diane Dillon, LAFCO Chair

ATTEST:

Dawn Mittleman Longoria, Analyst II

Prepared by:

Kathy Mabry, Commission Secretary



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Agenda Item 7b (Consent/Action)

TO: Local Agency Formation Commission

PREPARED BY: Brendon Freeman, Executive Officer *BF*

MEETING DATE: December 6, 2021

SUBJECT: Approval of Contract with Brown Armstrong for Audit Services

RECOMMENDATION

It is recommended the Commission approve the audit contract with Brown Armstrong and authorize the Executive Officer to sign the contract (Attachment One).

BACKGROUND AND SUMMARY

The County of Napa previously entered into a contract with Brown Armstrong for audit services on behalf of the County, as well as several other joint powers agencies, special districts, and other designated units, including the Commission. Following the expiration of the previous contract, the County entered into a new contract with Brown Armstrong for audit services covering fiscal years ending 2021, 2022, and 2023 with an optional two-year extension (2024 and 2025). Brown Armstrong provided a bid that was less than their previous contract amount.

The new contract between the County and Brown Armstrong provides an option for the Commission to enter into a new contract with Brown Armstrong for its own annual audits. This opportunity allows for efficiency and cost savings for LAFCO.

Given that the County serves as LAFCO's treasurer, staff recommends the Commission follow the County's procurement effort and enter into a new contract with Brown Armstrong for audit services. It has been the Commission's practice to select this option in years past, and it appears appropriate to continue with this practice at this time.

Annual audit fees for the Commission throughout the term of the contract would remain consistent at \$4,200. The terms of the attached contract have been reviewed by legal counsel and accepted by Brown Armstrong, pending approval by the Commission.

ATTACHMENT

- 1) Draft Professional Services Agreement with Brown Armstrong

Margie Mohler, Vice Chair
Councilmember, Town of Yountville

Mariam Aboudamous, Commissioner
Councilmember, City of American Canyon

Beth Painter, Alternate Commissioner
Councilmember, City of Napa

Diane Dillon, Chair
County of Napa Supervisor, 3rd District

Brad Wagenknecht, Commissioner
County of Napa Supervisor, 1st District

Ryan Gregory, Alternate Commissioner
County of Napa Supervisor, 2nd District

Kenneth Leary, Commissioner
Representative of the General Public

Eve Kahn, Alternate Commissioner
Representative of the General Public

Brendon Freeman
Executive Officer

LOCAL AGENCY FORMATION COMMISSION OF NAPA COUNTY

AGREEMENT NO. _____

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is made and entered into as of this 6th day of December, 2021, by and between the LOCAL AGENCY FORMATION COMMISSION OF NAPA COUNTY, a public agency, hereinafter referred to as “COMMISSION”, and Brown Armstrong Accountancy Corporation, a California corporation, whose business address is 4200 Truxtun Avenue, Suite 300, Bakersfield, California 93309, hereinafter referred to as “CONTRACTOR”;

RECITALS

WHEREAS, COMMISSION wishes to obtain specialized services, as authorized by subdivision (k) of Government Code section 56375, in the form of specialized audit services; and

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

TERMS

NOW, THEREFORE, COMMISSION hereby engages the services of CONTRACTOR, and CONTRACTOR agrees to serve COMMISSION in accordance with the terms and conditions set forth herein:

- 1. Term of the Agreement.** The term of this Agreement shall commence on July 1, 2021 and shall expire on December 31, 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 COMMISSION 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 one-time for an additional 2 years at the end of the initial term, 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.
- 2. Scope of Services.** CONTRACTOR shall provide COMMISSION those services set forth in Exhibit “A”, attached hereto and incorporated by reference herein.

3. **Compensation.**

(a) Rates. In consideration of CONTRACTOR's fulfillment of the promised work, COMMISSION 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 COMMISSION.

(c) Maximum Amount. Notwithstanding subparagraphs (a) and (b), the maximum payments under this Agreement per fiscal year shall be a total of four thousand two hundred dollars (\$4,200) for professional services; provided, however, that such amounts shall not be construed as guaranteed sums, and compensation shall be based upon services actually rendered.

4. **Method of Payment.**

(a) Professional Services. All payments for compensation and reimbursement for expenses shall be made only upon presentation by CONTRACTOR to COMMISSION of an itemized billing invoice in a form acceptable to the COMMISSION 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) 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 COMMISSION, i.e., 35% design, 95% design, draft report, et cetera, at which time CONTRACTOR shall be paid the equivalent percentage of the fixed price.

(c) CONTRACTOR shall submit invoices not more often than 30 days to the COMMISSION who, after review and approval as to form and content, shall submit the invoice to the Napa County Auditor-Controller no later than fifteen (15) calendar days following receipt.

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, COMMISSION 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 COMMISSION may monitor the work performed by CONTRACTOR. COMMISSION 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, COMMISSION, in addition to any other

rights or remedies which COMMISSION 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 COMMISSION with certification of all such coverages upon request by the COMMISSION.

(b) Liability Insurance. Each party 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. Each party shall obtain and maintain in full force and effect during the term of this Agreement commercial or comprehensive general liability insurance coverage (personal injury and property damage) of not less than ONE MILLION DOLLARS (\$1,000,000) combined single limit per occurrence, either issued by a company admitted to do business in the State of California and having an A.M. Best Rating of no less than A:VII or by self-insurance satisfactory to other party's risk manager or employee designated by that party to perform such function, or by a combination thereof, covering liability 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 that party under this Agreement except for acts or omissions performed in strict compliance with express direction the other party's governing board, officers or personnel. If the coverage includes an aggregate limit, the aggregate limit shall be no less than twice the per occurrence limit.

(2) Professional Liability. Each party shall obtain and maintain in full force and effect during the term of this Agreement professional liability/errors and omissions insurance coverage in an amount of not less than ONE MILLION DOLLARS (\$1,000,000) combined single limit for each occurrence and, where provided through a policy of insurance, issued by a company admitted to do business in the State of California and having an A.M. Best Rating of A:VII or better, covering all professional acts or omissions of that party arising out of or in connection with this Agreement except for those acts or omissions performed in strict compliance with express direction from the other party's governing board, officers or personnel unless such direction was based upon professional advice from the first party or its personnel or other agents under this Agreement.

(3) Comprehensive Automobile Liability Insurance. Each party shall obtain and maintain in full force and effect during the term of this Agreement a comprehensive automobile liability insurance policy (Bodily Injury and Property Damage) on owned, hired, leased and non-owned vehicles used in conjunction with that party's activities under this Agreement of not less than ONE MILLION DOLLARS (\$1,000,000) combined single limit per occurrence.

(c) Certificates of Coverage. Insurance coverages referenced in 7(b), above, shall be evidenced by one or more certificates of coverage or, with the consent of COMMISSION's Risk

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

(2) **Waiver of Subrogation and Additional Insured Endorsements.** For the commercial general liability insurance coverage referenced in 7(b)(1) and, for the comprehensive automobile liability insurance coverage referenced in 7(b)(3) where the vehicles are covered by a commercial policy rather than a personal policy, CONTRACTOR shall also file with the evidence of coverage an endorsement from the insurance provider naming COMMISSION, 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 COMMISSION shall pertain only to liability for activities of CONTRACTOR under this Agreement, and that the insurance provided is primary coverage to COMMISSION with respect to any insurance or self-insurance programs maintained by COMMISSION. 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 COMMISSION'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 COMMISSION's Risk Manager.

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

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

(a) **In General.** To the full extent permitted by law, CONTRACTOR and COMMISSION shall each defend, indemnify and hold harmless each other as well as their respective officers, agents, employees, volunteers or representatives from and against any and all liability, claims, actions, proceedings, losses, injuries, damages or expenses of every name, kind and description, including litigation costs and reasonable attorney's fees incurred in

connection therewith, brought for or on account of personal injury (including death) or damage to property, arising out of or connected with any acts or omissions of that party or its officers, agents, employees, volunteers, or contractors or their subcontractors, when performing any activities or obligations required of that party under this Agreement. Each party shall notify the other party immediately in writing of any claim or damage related to activities performed under this Agreement. The parties shall cooperate with each other in the investigation and disposition of any claim arising out of the activities under this Agreement, providing that nothing shall require either party to disclose any documents, records or communications that are protected under peer review privilege, attorney-client privilege, or attorney work product privilege.

(b) Employee Character and Fitness. CONTRACTOR accepts responsibility for determining and approving the character and fitness of its employees (including volunteers, agents or representatives) to provide the services required of CONTRACTOR under this Agreement, including completion of a satisfactory criminal/background check and period rechecks to the extent permitted by law. Notwithstanding anything to the contrary in this Paragraph, CONTRACTOR shall hold COMMISSION 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 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 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 COMMISSION 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 60 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 COMMISSION unless an opportunity for consultation is provided prior to the effective date of the termination. COMMISSION hereby authorizes the COMMISSION'S Executive Officer to make all decisions and take all actions required under this Paragraph to terminate this Agreement on behalf of COMMISSION for the convenience of COMMISSION.

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 COMMISSION, COMMISSION shall promptly return the Software and Application materials to CONTRACTOR. In addition, to the extent CONTRACTOR maintains COMMISSION data on those portions of digital software hosted by CONTRACTOR and not controlled by COMMISSION ("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 COMMISSION 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 COMMISSION, the property of and shall be promptly returned to COMMISSION, 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 COMMISSION 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 COMMISSION 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 COMMISSION is a party. If the product involves a source code, CONTRACTOR shall either provide a copy of the source code to COMMISSION 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 COMMISSION 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 COMMISSION.

(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 COMMISSION for damages sustained by COMMISSION by virtue of any breach of the Agreement by CONTRACTOR whether or not the Agreement expired or otherwise terminated, and COMMISSION may withhold any payments not yet made to CONTRACTOR for purpose of setoff until such time as the exact amount of damages due to COMMISSION 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.

COMMISSION

Tracy A. Schulze
Napa County
1195 Third Street, Suite B10
Napa, CA 94559

CONTRACTOR

Lindsey McGuire
Brown Armstrong
4200 Truxton Avenue, Suite 300
Bakersfield, CA 98309

14. **Compliance With COMMISSION 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 COMMISSION 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 COMMISSION computer network shall sign and have on file with COMMISSION'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 COMMISSION'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 COMMISSION, expressed through the Executive Officer. Upon cancellation or expiration of this Agreement, CONTRACTOR shall return to COMMISSION 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 COMMISSION.

(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 COMMISSION Protected Information provided to, or accessed or created by, CONTRACTOR. Additionally, CONTRACTOR shall only access, use or disclose COMMISSION Protected Information if such access, use, or disclosure is expressly permitted by the terms of its agreement with COMMISSION. Any other access, use or disclosure of COMMISSION Protected Information is prohibited. Examples of prohibited accesses, uses and disclosures include, but are not limited to: the removal of confidential files, documents or devices containing COMMISSION Protected Information from a COMMISSION facility; the unauthorized transmission of COMMISSION Protected Information via email, fax or other means; and the discussion of such information with other individuals (including other CONTRACTOR or COMMISSION employees) who do not have a COMMISSION approved business reason to obtain the information.

(2) CONTRACTOR shall ensure that its staff and any third party organizations or individuals that it engages to perform services in conjunction with the terms of this agreement are trained to its privacy and security policies, as well as Paragraph 15 of this agreement; and procedures and that appropriate physical, technological and administrative safeguards are in place to protect the confidentiality of COMMISSION’s Protected Information. Upon request, CONTRACTOR shall make available to COMMISSION its policies and procedures, staff training records and other documentation of compliance with this Paragraph 15.

(3) CONTRACTOR agrees to notify COMMISSION immediately of any unauthorized access to or disclosure of Protected Information that it becomes aware of. This includes instances wherein CONTRACTOR encounters unsecured Protected Information in areas where CONTRACTOR employees are performing services.

(4) CONTRACTOR will be responsible for all costs associated with CONTRACTOR’s breach of the security and privacy of COMMISSION’s Protected Information, or its unauthorized access to or disclosure of COMMISSION’s Protected Information, including, but not limited to, mitigation of the breach, cost to the COMMISSION 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.

(c) Protection of COMMISSION Data. If CONTRACTOR will be processing and storing the COMMISSION’s data in an offsite location, such as a cloud service site, cloud storage site, hosted application site, or hosted storage site, CONTRACTOR shall guarantee that such data is encrypted using an encryption algorithm that meets the current US Department of Defense minimum requirements in order to protect COMMISSION data against a breach of protected data if lost or stolen. All offsite cloud applications and storage systems utilized by CONTRACTOR shall be located in the United States, which includes any backup and failover facilities. Application and storage solutions in any foreign location is prohibited.

All desktop and laptop computers, as well other similar type computer systems, used by CONTRACTOR shall be encrypted using the same encryption algorithm described above. All data in transit shall require the same encryption. Storage of COMMISSION data on removable portable storage is prohibited.

Upon termination of this agreement, CONTRACTOR shall purge all COMMISSION data from all CONTRACTOR systems using a forensic grade deletion that conforms to US Department of Defense DoD 5220.22-M (E) standards.

CONTRACTOR shall reimburse the COMMISSION for all associated costs of a breach, including but not limited to reporting costs and associated penalties the COMMISSION must bear.

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 COMMISSION, 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 COMMISSION to withhold its consent to assignment. For purposes of this subparagraph, the consent of COMMISSION may be given by the Executive Officer or Auditor-Controller or designee.

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

17. Amendment/Modification. Except as specifically provided herein, this Agreement may be modified or amended only in writing and with the prior written consent of both parties. Failure of CONTRACTOR to secure such authorization in writing in advance of performing any of the 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 COMMISSION by the State of California pursuant to agreement between COMMISSION 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 COMMISSION for inspection.

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

20. **Taxes.** CONTRACTOR agrees to file federal and state tax returns or applicable withholding documents and to pay all applicable taxes or make all required withholdings on amounts paid pursuant to this Agreement and shall be solely liable and responsible to make such withholdings and/or pay such taxes and other obligations including, without limitation, state and federal income and FICA taxes. CONTRACTOR agrees to indemnify and hold COMMISSION 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 COMMISSION is audited for compliance regarding any withholding or other applicable taxes or amounts, CONTRACTOR agrees to furnish COMMISSION with proof of payment of taxes or withholdings on those earnings.

21. **Access to Records/Retention.** COMMISSION, 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 COMMISSION 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 COMMISSION 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 COMMISSION 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 COMMISSION 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 COMMISSION relating to this Agreement. CONTRACTOR agrees that if such financial interest does exist at the inception of this Agreement, COMMISSION may terminate this Agreement immediately upon giving written notice without further obligation by COMMISSION to CONTRACTOR under this Agreement.

(b) **Statements of Economic Interest.** CONTRACTOR acknowledges and understands that COMMISSION has developed and approved a Conflict of Interest Code as required by state law which requires CONTRACTOR to file with the COMMISSION "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.

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

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

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

27. This Amendment may be executed in multiple counterparts, each of which shall be deemed to be an original but all of which shall constitute one and the same agreement. This Amendment may be executed by facsimile or electronic (.pdf) signature and a facsimile or electronic (.pdf) signature shall constitute an original for all purposes.

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.

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

BROWN ARMSTRONG ACCOUNTANCY CORPORATION

By _____
Lindsey McGuire, CPA/Partner

By _____
Christina M. Thornburgh, Corporate Secretary

"CONTRACTOR"

LOCAL AGENCY FORMATION COMMISSION,
a political subdivision of
the State of California

By _____
Brendon Freeman, Executive Officer

"COMMISSION"

<p>APPROVED AS TO FORM COMMISSION COUNSEL</p> <p>By: _____ Sloan Sakai Yeung & Wong LLP</p> <p>Date: _____</p>	<p>APPROVED BY THE LOCAL AGENCY FORMATION COMMISSION OF NAPA COUNTY</p> <p>Date: _____</p> <p>Processed By: _____ Commission Clerk</p>
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EXHIBIT "A"

SCOPE OF WORK

CONTRACTOR shall provide COMMISSION with the following services:

I. DESCRIPTION OF SERVICES

- Audit and report on the financial statements for the COMMISSION
- Express an opinion on the fair presentation of the COMMISSION'S basic financial statements.

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 COMMISSION 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.

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EXHIBIT “B”

COMPENSATION AND EXPENSE REIMBURSEMENT

Auditing Services:

Fiscal Year	<u>2020-21</u>	<u>2021-22</u>	<u>2022-23</u>
	\$4,200	\$4,200	\$4,200

Auditing Services if optional years exercised:

Fiscal Year	<u>2023-24</u>	<u>2024-25</u>
	\$4,200	\$4,200

DRAFT



Local Agency Formation Commission of Napa County
Subdivision of the State of California

1754 Second Street, Suite C
Napa, California 94559
Phone: (707) 259-8645
www.napa.lafco.ca.gov

We Manage Local Government Boundaries, Evaluate Municipal Services, and Protect Agriculture

Agenda Item 7c (Consent/Action)

TO: Local Agency Formation Commission

PREPARED BY: Brendon Freeman, Executive Officer *BF*

MEETING DATE: December 6, 2021

SUBJECT: Approval of Meeting Calendar for 2022

RECOMMENDATION

It is recommended the Commission approve a meeting calendar for 2022 consisting of the following dates: February 7; April 4; June 6; August 1; October 3; and December 5.

SUMMARY

The Commission's *Policy on Scheduling of Commission Meetings* ("the Policy"), included as Attachment One, states the Commission shall meet on the first Monday of all even-numbered months in the County Board of Supervisors Chambers at 2:00 PM. It is important to note all meetings of the Commission are being conducted via teleconference until further notice in response to the COVID-19 pandemic.

Consistent with the Policy, it is recommended the Commission schedule its regular meetings in 2022 on February 7, April 4, June 6, August 1, October 3, and December 5.

Under the Policy, the Chair of the Commission may also schedule special meetings as needed. If additional special meetings are needed, each meeting would be called by the Chair, consistent with the Brown Act and the Policy. Commissioners would be provided with a minimum of one month notice of any special meetings that are called by the Chair.

Notably, the recommended meeting calendar does not include a date for a strategic planning session. The Commission has previously indicated a desire to meet in person for the next strategic planning session during calendar year 2022. The Commission may pull this item from the consent calendar to discuss scheduling of a strategic planning session.

ATTACHMENT

- 1) Policy on Scheduling of Commission Meetings

Margie Mohler, Vice Chair
Councilmember, Town of Yountville

Mariam Aboudamous, Commissioner
Councilmember, City of American Canyon

Beth Painter, Alternate Commissioner
Councilmember, City of Napa

Diane Dillon, Chair
County of Napa Supervisor, 3rd District

Brad Wagenknecht, Commissioner
County of Napa Supervisor, 1st District

Ryan Gregory, Alternate Commissioner
County of Napa Supervisor, 2nd District

Kenneth Leary, Commissioner
Representative of the General Public

Eve Kahn, Alternate Commissioner
Representative of the General Public

Brendon Freeman
Executive Officer



LOCAL AGENCY FORMATION COMMISSION OF NAPA

Policy on Scheduling of Commission Meetings (Adopted: June 14, 2001; Last Amended: June 6, 2016)

I. Background

Meetings will be noticed and conducted in accordance with the Ralph M. Brown Act, Government Code Section 54950 et seq. In response to Government Code Section 54954, this policy establishes the time and place for regular meetings and additionally establishes how a special meeting may be scheduled.

II. Guidelines

A. Regular Meetings

- 1) The regular meeting day of the Commission is the first Monday of each even-number month (February, April, June, August, October, and December) at 2:00 PM. The location will be the County of Napa Board of Supervisors Chambers located at 1195 Third Street, Third Floor, Napa, California 94559.
- 2) The Chair may cancel or change the date or time of a regular meeting if he or she determines the Commission cannot achieve a quorum or there is a lack of business. Regular meetings may also be canceled or changed with the consent of a majority of the regular members of the Commission. For the purpose of this policy, a majority includes at least one member representing the cities and one member representing the county.

B. Special Meetings

- 1) Special meetings may be scheduled in accordance with the Ralph M. Brown Act which at the time of the adoption of this policy allows the Commission Chair to schedule special meetings as needed. The Chair shall consult with the Executive Officer in scheduling special meetings to ensure a quorum is available at a specified place and time.
- 2) Requests from outside parties for special meetings must be made in writing and submitted to the Executive Officer. If approved and scheduled by the Chair, the affected outside party requesting the special meeting will be responsible for any related charges pursuant to the Commission's *Schedule of Fees and Deposits*.



Local Agency Formation Commission of Napa County
Subdivision of the State of California

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We Manage Local Government Boundaries, Evaluate Municipal Services, and Protect Agriculture

Agenda Item 7d (Consent/Information)

TO: Local Agency Formation Commission

PREPARED BY: Brendon Freeman, Executive Officer *BF*

MEETING DATE: December 6, 2021

SUBJECT: First Quarter Budget Report for Fiscal Year 2021-22

BACKGROUND AND SUMMARY

This is a consent item for information purposes only. Accordingly, if interested, the Commission is invited to pull this item for additional discussion with the concurrence of the Chair. No formal action will be taken as part of this item.

The Commission will receive a first quarter budget report for fiscal year 2021-22 that compares budgeted versus actual transactions through September 30, 2021.

On June 7, 2021, the Commission adopted a final budget for fiscal year 2021-22.

On August 2, 2021, the Commission approved a budget adjustment to increase expenses related to staff salaries and benefits by \$15,825. This amount will be covered by drawing down the Commission's undesignated/unreserved fund balance ("reserves").

The Commission's adjusted budget totals \$569,966. This amount represents the total approved operating expenses divided between salaries and benefits, services and supplies, and contingencies. Budgeted revenues total \$540,270 and are divided between intergovernmental fees, service charges, and investments. An operating shortfall of \$29,696 is intentionally budgeted to reduce the burden on the Commission's funding agencies. The intentional shortfall is covered by drawing down reserves.

A first quarter budget sheet with year-end projections is included as Attachment One. Based on actual and anticipated expenses and revenues, staff projects the Commission will finish the year with a budget shortfall of \$24,372 as summarized on the following page.

Margie Mohler, Vice Chair
Councilmember, Town of Yountville

Mariam Aboudamous, Commissioner
Councilmember, City of American Canyon

Beth Painter, Alternate Commissioner
Councilmember, City of Napa

Diane Dillon, Chair
County of Napa Supervisor, 3rd District

Brad Wagenknecht, Commissioner
County of Napa Supervisor, 1st District

Ryan Gregory, Alternate Commissioner
County of Napa Supervisor, 2nd District

Kenneth Leary, Commissioner
Representative of the General Public

Eve Kahn, Alternate Commissioner
Representative of the General Public

Brendon Freeman
Executive Officer

Operating Revenues

The Commission's operating revenues for 2021-22 are budgeted at \$540,270. Actual revenues collected through the first quarter totaled \$516,655. This amount represents 95.6% of the budgeted amount with 25% of the fiscal year complete. The majority of revenues collected to date are contributions from the Commission's funding agencies.

Actuals through the first quarter and related analysis suggest the Commission will finish the fiscal year with \$535,501 in total revenues, resulting in a shortfall of \$4,769 or 0.9% relative to the amount in the adjusted budget. The projected shortfall is based on lower than expected proposal activity to date.

See Attachment One for additional information on actual revenues through the first quarter and projected year-end revenues.

Operating Expenses

The Commission's operating expenses for 2021-22 are budgeted at \$569,966. Estimated expenses through the first quarter totaled \$142,714. This amount includes actuals in all accounts with the exception of Administration Services (Account No. 52100), which is an estimate at this time given the expenses have not yet been posted. This estimated total operating expenses amount represents 25% of the budgeted total with 25% of the fiscal year complete.

Actuals and estimates through the first quarter and related analysis suggest the Commission will finish the fiscal year with \$559,873 in total expenses and produce a surplus of \$10,093 or 1.8% relative to the amount in the adjusted budget.

See Attachment One for additional information on actual and estimated expenses through the first quarter and projected year-end expenses.

Reserves

Local policy directs the Commission to maintain reserves equal to a minimum of four months, or 33.3%, of budgeted operating expenses. The Commission's reserves totaled \$270,586 as of July 1, 2021, representing 47.4% of expenditures in the current budget. The Commission is projected to finish the fiscal year with a budget shortfall of \$24,372, which would reduce reserves to \$246,214, or 43.2%, of expenses in the current budget. These amounts are consistent with the aforementioned local policy directive.

ATTACHMENT

- 1) First Quarter Budget Sheet for Fiscal Year 2021-22 with Year-End Projections

LAFCO FY 2021-22 First Quarter Budget Report

Revenues and Expenses through 9/30/21 with Year-End Projections

Account	Category	Adopted Budget	Budget Adjustments	Adjusted Budget	Actual YTD	YTD Percent of Budget	Year-End Projection	Year-End Projection Percent of Budget
Revenues								
42690	Permits/Application Fees	20,000	-	20,000	4,500	22.5%	18,000	90.0%
43910	County of Napa	254,835	-	254,835	254,835	100.0%	254,835	100.0%
43950	Other-Governmental Agencies	254,835	-	254,835	254,835	100.0%	254,835	100.0%
45100	Interest	10,000	-	10,000	1,682	16.8%	6,728	67.3%
46800	Charges for Services	600	-	600	624	104.0%	924	154.0%
47900	Miscellaneous	-	-	-	179	0.0%	179	0.0%
Total Revenues		540,270	-	540,270	516,655	95.6%	535,501	99.1%
Expenses								
51210	Director/Commissioner Pay	12,500	-	12,500	1,950	15.6%	12,000	96.0%
51300	Medicare	250	-	250	28	11.2%	200	80.0%
51305	FICA	500	-	500	84	16.8%	400	80.0%
52100	Administration Services *	424,076	15,825	439,901	109,975	25.0%	439,901	100.0%
52125	Accounting/Auditing Services	7,500	-	7,500	442	5.9%	7,000	93.3%
52130	Information Technology Service	24,489	-	24,489	6,068	24.8%	24,489	100.0%
52131	ITS Communication Charges	1,837	-	1,837	459	25.0%	1,837	100.0%
52140	Legal Services	25,000	-	25,000	6,439	25.8%	25,000	100.0%
52345	Janitorial Services	300	-	300	-	0.0%	150	50.0%
52515	Maintenance-Software	1,930	-	1,930	120	6.2%	1,930	100.0%
52600	Rents and Leases - Equipment	4,000	-	4,000	623	15.6%	4,000	100.0%
52605	Rents and Leases - Bldg/Land	31,322	-	31,322	12,233	39.1%	29,800	95.1%
52700	Insurance - Liability	578	-	578	-	0.0%	578	100.0%
52800	Communications/Telephone	2,000	-	2,000	453	22.7%	1,812	90.6%
52830	Publications & Legal Notices	1,000	-	1,000	280	28.0%	1,120	112.0%
52835	Filing Fees	200	-	200	50	25.0%	200	100.0%
52900	Training/Conference Expenses	10,000	-	10,000	-	0.0%	3,000	30.0%
52905	Business Travel/Mileage	500	-	500	-	0.0%	250	50.0%
53100	Office Supplies	1,000	-	1,000	-	0.0%	800	80.0%
53110	Freight/Postage	500	-	500	-	0.0%	300	60.0%
53115	Books/Media/Subscriptions	-	-	-	119	0.0%	119	0.0%
53120	Memberships/Certifications	2,934	-	2,934	2,934	100.0%	2,934	100.0%
53205	Utilities - Electric	1,500	-	1,500	457	30.5%	1,828	121.9%
53415	Computer Software/License	225	-	225	-	0.0%	225	100.0%
Total Expenditures		554,141	15,825	569,966	142,714	25.0%	559,873	98.2%
Net Surplus (Deficit)		(13,871)	(15,825)	(29,696)	373,941	65.6%	(24,372)	(4.2%)

* Administration Services (52100) expenses in the first quarter have not yet posted and are estimated at this time.



Local Agency Formation Commission of Napa County
Subdivision of the State of California

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We Manage Local Government Boundaries, Evaluate Municipal Services, and Protect Agriculture

Agenda Item 7e (Consent/Information)

TO: Local Agency Formation Commission

PREPARED BY: Brendon Freeman, Executive Officer *BF*

MEETING DATE: December 6, 2021

SUBJECT: Legislative Report

BACKGROUND AND SUMMARY

This is a consent item for information purposes only. Accordingly, if interested, the Commission is invited to pull this item for additional discussion with the concurrence of the Chair. No formal action will be taken as part of this item.

The Commission's *Legislative Policy* ("the Policy") is included as Attachment One.

On June 7, 2021, the Commission directed staff to submit a letter to the Legislature in support of Senate Bill (SB) 13 as amended on May 11, 2021. Staff submitted the support letter on June 8, 2021. Consistent with the Policy, the support letter is included as Attachment Two.

SB 13 was subsequently amended on June 28, 2021 (Attachment Three). The amendments are considered minor and nonsubstantive, and therefore a new position letter from the Commission is not needed.

On October 4, 2021, the Governor signed SB 13 into law.

ATTACHMENTS

- 1) Legislative Policy
- 2) Submitted Letter to the Legislature in Support of SB 13 as Amended on May 11, 2021
- 3) SB 13 as Approved by the Governor on October 4, 2021

Margie Mohler, Vice Chair
Councilmember, Town of Yountville

Mariam Aboudamous, Commissioner
Councilmember, City of American Canyon

Beth Painter, Alternate Commissioner
Councilmember, City of Napa

Diane Dillon, Chair
County of Napa Supervisor, 3rd District

Brad Wagenknecht, Commissioner
County of Napa Supervisor, 1st District

Ryan Gregory, Alternate Commissioner
County of Napa Supervisor, 2nd District

Kenneth Leary, Commissioner
Representative of the General Public

Eve Kahn, Alternate Commissioner
Representative of the General Public

Brendon Freeman
Executive Officer



LOCAL AGENCY FORMATION COMMISSION OF NAPA

Legislative Policy (Adopted: December 4, 2017)

- 1) The Local Agency Formation Commission (LAFCO) of Napa County (“the Commission”) shall establish a standing committee to review proposed legislation (“Legislative Committee”). At the beginning of each two-year legislative session, the Commission shall appoint (or re-appoint) two members to the Legislative Committee, in addition to LAFCO’s Executive Officer. Meetings of the Legislative Committee must be noticed in accordance with the Ralph M. Brown Act.
- 2) The Legislative Committee shall, at least annually, review the California Association of LAFCOs’ legislative platform as well as the Commission’s adopted legislative platform if applicable and determine what action is needed in terms of adopting or amending a local legislative platform. The Legislative Committee shall present recommendations to the full Commission with respect to actions related to the local legislative platform.
- 3) The Legislative Committee shall, at least annually, review proposed legislation affecting LAFCO. The Executive Officer shall continue monitoring proposed legislation and present recommendations to the full Commission with respect to formal positions on proposed legislation.
- 4) In the event that proposed legislation affecting LAFCO cannot be considered by the full Commission due to timing, the Executive Officer is authorized to submit written correspondence to the legislation’s author regarding the Commission’s position if the position is consistent with the adopted legislative platform of the Commission. The Chair, or the Vice-Chair if the Chair is unavailable, shall review and approve the written correspondence prior to it being submitted by the Executive Officer.
- 5) All submitted correspondence pursuant to this policy will be included on the next available Commission agenda.



Local Agency Formation Commission of Napa County
 Subdivision of the State of California

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 Napa, California 94559
 Phone: (707) 259-8645
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We Manage Local Government Boundaries, Evaluate Municipal Services, and Protect Agriculture

June 8, 2021

Honorable Mike McGuire, Chair
 Senate Governance and Finance Committee
 State Capitol, 1303 10th Street, Room 5061
 Sacramento, California 95814

SUBJECT: Support for Senate Bill 13 as Amended on May 11, 2021 from Napa LAFCO

Honorable Chair McGuire:

The Local Agency Formation Commission (LAFCO) of Napa County is pleased to support Senate Bill 13, authored by Senator Bill Dodd, and as amended on May 11, 2021.

This bill would reestablish Government Code (G.C.) §56133.5, which is an expired pilot program involving Napa County. The pilot program allowed Napa and San Bernardino LAFCOs to authorize a city or special district to extend services outside its jurisdictional boundary and sphere of influence for additional purposes beyond responding to a threat to public health or safety, providing certain determinations are made by LAFCO. The reestablishment of the pilot program would remove many of the barriers to a balanced approach for service delivery in the unique and unusual circumstances that exist in Napa County. Napa LAFCO has already utilized the pilot program once and anticipates additional uses in the future. We believe the reestablishment of this pilot program will provide a transparent process that solves unique issues that must be identified and evaluated in municipal service reviews approved by LAFCO prior to any approvals.

In addition, amendments to this bill that were introduced on April 29, 2021 and May 11, 2021 would create a new pilot program codified as G.C. §56133.6 that is specific to Napa LAFCO and the City of St. Helena. Notably, G.C. §56133.6 would allow St. Helena to request LAFCO's approval to extend public sewer service to any of five properties located outside the City's jurisdictional boundary and sphere of influence that are specifically identified in the bill if LAFCO makes several determinations. This includes LAFCO determining the service extension will result in specific environmental benefits, will not result in growth-inducing impacts, and will serve either an agricultural employee housing development or a mobilehome park reuse or redevelopment. This pilot program can potentially contribute towards Napa County's lower income housing needs without creating urban sprawl within the nation's first Agriculture Preserve.

Margie Mohler, Vice Chair
 Councilmember, Town of Yountville

Diane Dillon, Chair
 County of Napa Supervisor, 3rd District

Kenneth Leary, Commissioner
 Representative of the General Public

Mariam Aboudamous, Commissioner
 Councilmember, City of American Canyon

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Eve Kahn, Alternate Commissioner
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Beth Painter, Alternate Commissioner
 Councilmember, City of Napa

Ryan Gregory, Alternate Commissioner
 County of Napa Supervisor, 2nd District

Brendon Freeman
 Executive Officer

Support for Senate Bill 13 as Amended on May 11, 2021 from Napa LAFCO

June 8, 2021

Page 2 of 2

G.C. §56133.5 and G.C. §56133.6 would both expire on January 1, 2026 and Napa LAFCO would be required to submit a report to the Legislature detailing its participation in each pilot program by January 1, 2025. This will ensure accountability and transparency in the establishment and potential application of these pilot programs in Napa County.

Should you or your staff have any questions, please contact me by e-mail at BFreeman@napa.lafco.ca.gov.

Respectfully,



Brendon Freeman
Executive Officer

cc: Senator Bill Dodd, District 3
Diane Dillon, Napa LAFCO Chair
Mark Prestwich, St. Helena City Manager
Pamela Miller, Executive Director, CALAFCO
Assembly Local Government Committee Members
Senate Governance & Finance Committee Members
Clara Vazeix, Legislative Aide, Senator Bill Dodd
Jaleel Baker, Fellow, Senate Governance & Finance Committee
Anton Favorini-Csorba, Consultant, Senate Governance & Finance Committee

Senate Bill No. 13

CHAPTER 482

An act to add and repeal Sections 56133.5 and 56133.6 of the Government Code, relating to local agency formation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 4, 2021. Filed with Secretary
of State October 4, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

SB 13, Dodd. Local agency services: contracts: Counties of Napa and San Bernardino.

Under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, a city or district may only provide new or extended services by contract or agreement outside of its jurisdictional boundary if it requests and receives written approval, as provided, from the local agency formation commission in the county in which the extension of service is proposed. The act establishes a pilot program under which the commissions in the Counties of Napa and San Bernardino, upon making specified determinations at a noticed public hearing, may authorize a city or district to provide new or extended services outside its jurisdictional boundary and outside its sphere of influence to support existing or planned uses involving public or private properties, as provided. Existing law requires the Napa and San Bernardino commissions to submit a report to the Legislature on their participation in the pilot program, as specified, before January 1, 2020, and repeals the pilot program as of January 1, 2021.

This bill would reestablish the pilot program, which would remain in effect until January 1, 2026. The bill would impose a January 1, 2025, deadline for the Napa and San Bernardino commissions to report to the Legislature on the pilot program, and would require the contents of that report to include how many requests for extension of services were received under these provisions. The bill would require the Napa commission to include information on its decision to approve, deny, or approve with conditions any authorization for the City of St. Helena to provide new or extended services outside its jurisdictional boundary and sphere of influence. The bill would also authorize the Napa commission, until January 1, 2026, as part of the pilot program, to authorize the City of St. Helena to provide new or extended services outside its jurisdictional boundary and sphere of influence to specified property parcels, subject to approval at a noticed public hearing in which the Napa commission makes all of specified determinations concerning the extension of services.

This bill would make legislative findings and declarations as to the necessity of a special statute for the Counties of Napa and San Bernardino.

This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 56133.5 is added to the Government Code, to read:

56133.5. (a) A pilot program is hereby established for the Napa and San Bernardino commissions. If consistent with adopted policy, the Napa and San Bernardino commissions may authorize a city or district to provide new or extended services outside its jurisdictional boundary and outside its sphere of influence to support existing or planned uses involving public or private properties, subject to approval at a noticed public hearing in which the commission makes all of the following determinations:

(1) The extension of service or services deficiency was identified and evaluated in a review of municipal services prepared pursuant to Section 56430.

(2) The commission determines both of the following:

(A) The extension of service will not result in adverse impacts on open space or agricultural lands.

(B) The extension of service will not result in growth-inducing impacts.

(3) A sphere of influence change involving the affected territory and its affected agency is not feasible under this division or desirable based on the adopted policies of the commission.

(b) Subdivision (d) of Section 56133 shall apply to any request for new or extended services pursuant to this section.

(c) For purposes of this section, “planned use” means any project that is included in an approved specific plan as of July 1, 2015.

(d) The Napa and San Bernardino commissions shall submit a report before January 1, 2025, to the Legislature on their participation in the pilot program, including how many requests for extension of services were received on or after the effective date of this section, and the action by the commission to approve, disapprove, or approve with conditions. The Napa commission shall also include in the report on the pilot program information on its decision to approve, deny, or approve with conditions any authorization for the City of St. Helena to provide new or extended services outside its jurisdictional boundary and sphere of influence, as described in Section 56133.6. The report required to be submitted pursuant to this subdivision shall be submitted in compliance with Section 9795 of the Government Code.

(e) The pilot program established pursuant to this section shall be consistent with Chapter 8.5 (commencing with Section 1501) of Part 1 of Division 1 of the Public Utilities Code.

(f) This section shall remain in effect only until January 1, 2026, and as of that date is repealed.

SEC. 2. Section 56133.6 is added to the Government Code, to read:

56133.6. (a) As part of the pilot program established pursuant to Section 56133.5, the Napa commission may authorize the City of St. Helena to provide new or extended services outside its jurisdictional boundary and outside its sphere of influence to 341 Saint Helena Hwy S, St. Helena, Napa County, Assessor's Parcel Numbers 027-130-006 and 027-130-005, and to 401 St. Helena Highway S, St. Helena, Napa County, Assessor's Parcel Numbers 027-120-052, 027-120-061, and 027-120-062, subject to approval at a noticed public hearing in which the Napa commission makes all of the following determinations:

(1) The extension of service or services will result in specific environmental benefits, including transitioning septic systems to a treated sewer system, and either of the following:

(A) The extension of services will serve an agricultural employee housing development, as contemplated by Section 17021.8 of the Health and Safety Code, of no less than 6 units and no more than 12 units.

(B) The extension of services will serve a mobilehome park reuse or mobilehome park redevelopment of no more than 25 units.

(2) The extension of service or service deficiency was identified and evaluated in a review of municipal services prepared pursuant to Section 56430.

(3) The commission determines both of the following:

(A) The extension of service will not result in adverse impacts on open space or agricultural lands.

(B) The extension of service will not result in growth-inducing impacts.

(4) A sphere of influence change involving the affected territory and its affected agency is not feasible under this division or desirable based on the adopted policies of the commission.

(b) This section shall remain in effect only until January 1, 2026, and as of that date is repealed.

SEC. 3. The Legislature finds and declares that a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances relating to implementing the pilot program described in Sections 56133.5 and 56133.6 of the Government Code in the Counties of Napa and San Bernardino.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

Due to the public health crisis resulting from the coronavirus (COVID-19) pandemic, the Legislature was not able to vote on the extension of the pilot program described in Sections 56133.5 and 56133.6 of the Government Code, which provides necessary public services. In order to preserve the public peace and safety and avoid any interruptions in the approval process for a city or district to provide public services outside its boundaries and

sphere of influence, as soon as possible, it is necessary for this act to take effect immediately.

O



Local Agency Formation Commission of Napa County
Subdivision of the State of California

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We Manage Local Government Boundaries, Evaluate Municipal Services, and Protect Agriculture

Agenda Item 7f (Consent/Information)

TO: Local Agency Formation Commission

PREPARED BY: Brendon Freeman, Executive Officer *BF*
Dawn Mittleman Longoria, Analyst II *DML*

MEETING DATE: December 6, 2021

SUBJECT: Outreach Committee Update

BACKGROUND AND SUMMARY

This is a consent item for information purposes only. Accordingly, if interested, the Commission is invited to pull this item for additional discussion with the concurrence of the Chair. No formal action will be taken as part of this item.

The Commission will receive an update on activities involving the ad hoc Outreach Committee (“the Committee”). Commissioners Leary and Painter serve on the Committee.

On October 4, 2021, the Commission received a report from the Committee along with a recommendation to circulate outreach materials, including a letter to all local elected officials and a new quarterly newsletter. Following much discussion, the Commission directed staff to work with the Committee to make several changes to the newsletter as requested by members of the Commission and only circulate the modified newsletter to the general public as well as a scaled back cover letter with a link to the newsletter to all local elected officials in Napa County.

On October 25, 2021, the Committee met and discussed the Commission’s direction from the October 4th meeting. The Committee incorporated the Commission’s requested changes into the newsletter. The final version of the newsletter is included as Attachment One. The Committee also prepared a concise cover letter addressed to local elected officials, included as Attachment Two. Staff circulated these items via email consistent with the Commission’s direction.

Staff will continue to prepare and circulate similar quarterly newsletters every January, April, July, and October unless the Commission requests any changes.

ATTACHMENTS

- 1) Napa LAFCO Quarterly Newsletter (Issue 1, October 2021)
- 2) Cover Letter to Local Agencies and Elected Officials

Margie Mohler, Vice Chair
Councilmember, Town of Yountville

Mariam Aboudamous, Commissioner
Councilmember, City of American Canyon

Beth Painter, Alternate Commissioner
Councilmember, City of Napa

Diane Dillon, Chair
County of Napa Supervisor, 3rd District

Brad Wagenknecht, Commissioner
County of Napa Supervisor, 1st District

Ryan Gregory, Alternate Commissioner
County of Napa Supervisor, 2nd District

Kenneth Leary, Commissioner
Representative of the General Public

Eve Kahn, Alternate Commissioner
Representative of the General Public

Brendon Freeman
Executive Officer

Local Agency Formation Commission (LAFCO) of Napa County

We Manage Local Government Boundaries, Evaluate Municipal Services, and Protect Agriculture



Recent News:

- Completed the [Napa Countywide Water and Wastewater Municipal Service Review](#) (MSR). MSRs are how LAFCOs make decisions about governmental boundaries and services.
- Adopted a new [Policy on Spheres of Influence](#) (SOIs). SOIs are at the heart of what we do at LAFCO.
- Completed SOI reviews for eight special districts.
- Received a CALAFCO achievement award for the Napa Pipe development project.
- Commissioner Margie Mohler re-elected to CALAFCO Board of Directors.
- Office relocated! Find us at 1754 Second Street, Suite C in Downtown Napa.

On the Horizon:

- Initiate City of St. Helena MSR and SOI review in spring 2022.
- Initiate City of Napa MSR and SOI review in fall 2022.
- Review and update [Policy on MSRs](#).
- CALAFCO Executive Director recruitment.
- Next Meeting Monday, December 6, 2021 at 2:00 PM.

October 2021
Volume 1, Issue 1

Visit our Website:
www.napa.lafco.ca.gov

Contact Us:
Phone: (707) 259-8645
Email: info@napa.lafco.ca.gov

Commission Roster

Diane Dillon, Chair, County Member
Margie Mohler, Vice Chair, City Member
Mariam Aboudamous, City Member
Kenneth Leary, Public Member
Brad Wagenknecht, County Member
Beth Painter, Alternate City Member
Ryan Gregory, Alternate County Member
Eve Kahn, Alternate Public Member

Agency Staff

Brendon Freeman, Executive Officer
Dawn Mittleman Longoria, Analyst II
Kathy Mabry, Commission Clerk
DeeAnne Gillick, Legal Counsel



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Subdivision of the State of California

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We Manage Local Government Boundaries, Evaluate Municipal Services, and Protect Agriculture

TO: Elected Officials in Napa County

SUBJECT: LAFCO Quarterly Newsletter (October 2021)

The Local Agency Formation Commission (LAFCO) of Napa County is pleased to release its first quarterly newsletter. The newsletter is intended to provide relevant information about recent and planned LAFCO studies to elected officials and the general public. The newsletter also announces other LAFCO news and upcoming events. Please click the following link to view the newsletter on LAFCO's website: https://www.napa.lafco.ca.gov/uploads/documents/LAFCO_QuarterlyNewsletter_October2021.pdf.

Margie Mohler, Vice Chair
Councilmember, Town of Yountville

Mariam Aboudamous, Commissioner
Councilmember, City of American Canyon

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Councilmember, City of Napa

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County of Napa Supervisor, 2nd District

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Representative of the General Public

Eve Kahn, Alternate Commissioner
Representative of the General Public

Brendon Freeman
Executive Officer



Agenda Item 7g (Consent/Information)

TO: Local Agency Formation Commission
PREPARED BY: Brendon Freeman, Executive Officer *BF*
MEETING DATE: December 6, 2021
SUBJECT: Current and Future Proposals

SUMMARY

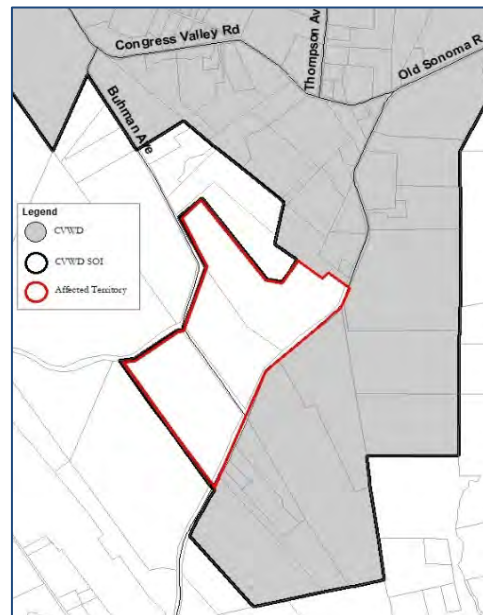
This is a consent item for information purposes only. Accordingly, if interested, the Commission is invited to pull this item for additional discussion with the concurrence of the Chair. No formal action will be taken as part of this item.

This report summarizes all current and future boundary change proposals. There is currently one active proposal on file and nine anticipated new proposals that are expected to be submitted in the future. A summary follows.

Active Proposals

Old Sonoma Road/Buhman Avenue Annexation to the Congress Valley Water District (CVWD)

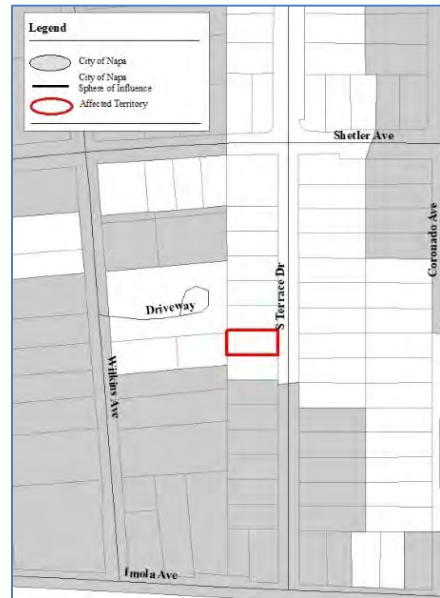
A landowner has submitted a proposal to annex three unincorporated parcels along with the adjacent portion of public right-of-way totaling approximately 141.5 acres in size to CVWD. The parcels are located along the northwestern side of Old Sonoma Road at its intersection with Buhman Avenue and identified as Assessor Parcel Numbers 047-030-005 & -020 and 047-080-001. Current land uses within the parcels include two single-family residences and commercial vineyards with auxiliary structures and facilities. Two of the parcels already receive water service through grandfathered outside service agreements. The purpose of annexation is to establish a permanent source of public water to all three parcels to serve agricultural land uses. CVWD has requested, and the landowners have agreed, to postpone any LAFCO action on the annexation until issues related to CVWD's water supply contract with the City of Napa, which expires in June 2022, are discussed by the affected parties.



Anticipated Proposals

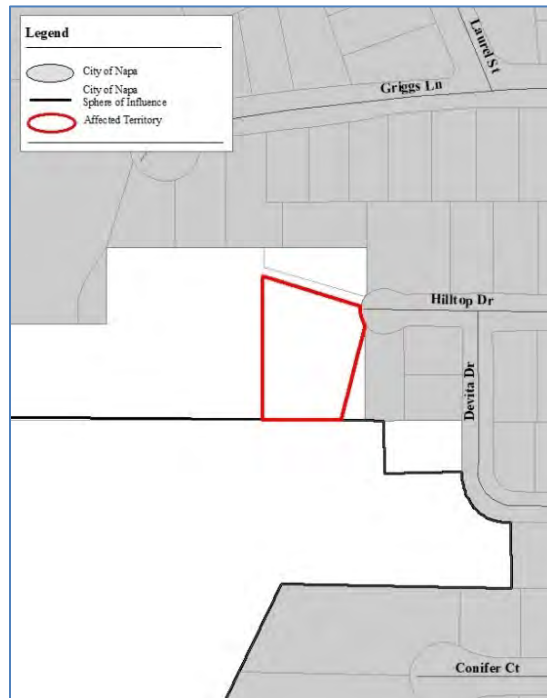
2159 S Terrace Drive Annexation to the City of Napa

The landowner of an unincorporated parcel located at 2159 S Terrace Drive is preparing to submit a proposal to annex the parcel to the City of Napa. The parcel is approximately 0.12 acres in size, identified as Assessor Parcel Number 046-271-007, and located within an unincorporated island referred to as “Imola/Parrish”. The current land use is limited to one single-family residence. Annexation is needed to allow the residence to connect to the City’s public water system. The parcel is already within the Napa Sanitation District’s (NSD) jurisdictional boundary and connected to NSD’s public sewer infrastructure. The proposal is expected to be presented for action as early as the Commission’s February 7, 2022 meeting.



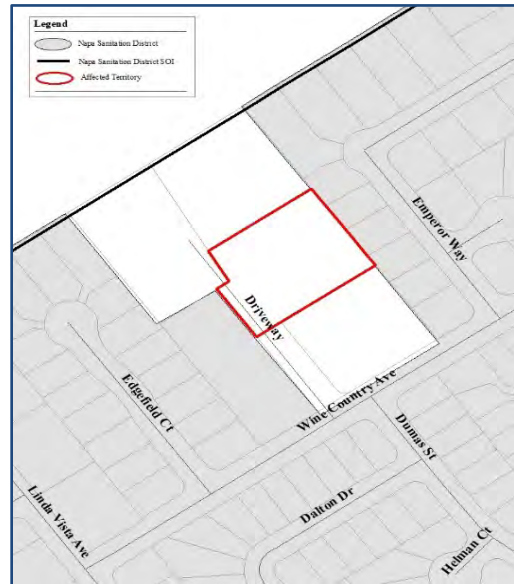
2991 Hilltop Drive Annexation to the City of Napa

The landowner of an unincorporated parcel located at 2991 Hilltop Drive is preparing to submit a proposal to annex the parcel to the City of Napa. The parcel is approximately 0.6 acres in size and identified as Assessor Parcel Number 043-020-008. The current land use is limited to a nine unit apartment complex. Annexation would facilitate the addition of an accessory dwelling unit that would be receive a full range of municipal services. The parcel is already within NSD’s jurisdictional boundary and connected to NSD’s public sewer infrastructure. Staff will work with the landowner to contact neighboring landowners who may also be interested in annexation. The proposal is expected to be presented for action as early as the Commission’s February 7, 2022 meeting.



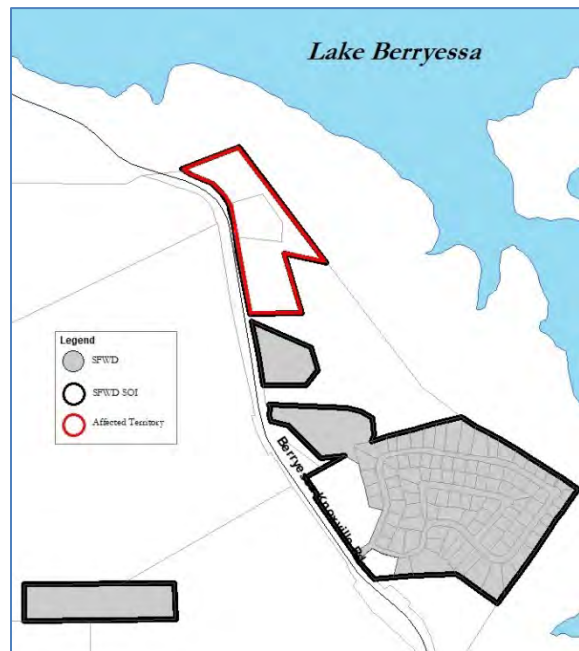
1118 Wine Country Avenue Annexation to NSD

The Commission previously approved an outside sewer service agreement involving NSD and one single-family residence located at 1118 Wine Country Avenue and identified as Assessor Parcel Number 035-511-014. The Commission's approval included a condition that requires the landowner to annex the parcel to NSD within one year. The parcel is approximately 1.2 acres in size and located in the City of Napa. Annexation would not be expected to facilitate any new development. Staff will work with the landowner to contact neighboring landowners who may also be interested in annexation. A proposal is expected to be submitted in the near future and will be presented for action as early as the Commission's February 7, 2022 meeting.



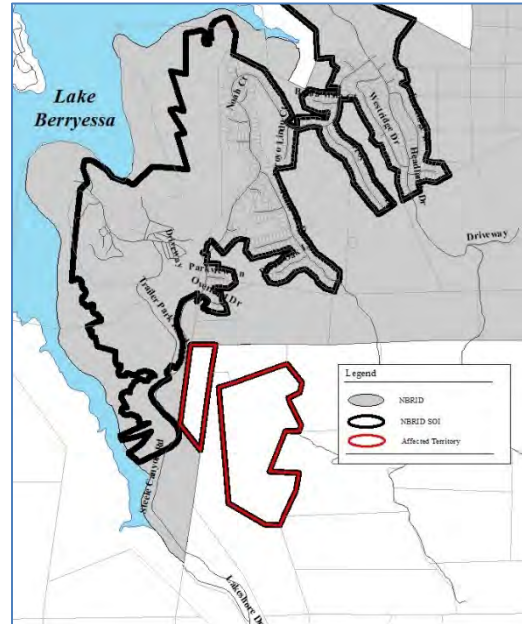
7140 & 7150 Berryessa-Knoxville Road Annexation to the Spanish Flat Water District (SFWD)

A landowner has inquired about annexation of one entire unincorporated parcel and a portion of a second unincorporated parcel totaling approximately 7.9 acres in size to SFWD. The parcels were recently added to SFWD's sphere of influence (SOI), are located at 7140 and 7150 Berryessa-Knoxville Road, and identified as Assessor Parcel Numbers 019-280-004 (entire) and 019-280-006 (portion). Current land uses within the parcels include a commercial boat and recreational vehicle storage facility (Lakeview Boat Storage), approximately 6,000 square feet of enclosed storage structures, an administrative office, and a detached single-family residence. The parcels are currently dependent on private water and septic systems to support existing uses. Annexation would facilitate the connection of existing uses to SFWD's water and sewer services. It is anticipated a proposal for annexation will be submitted in the future, but there is no current timetable.



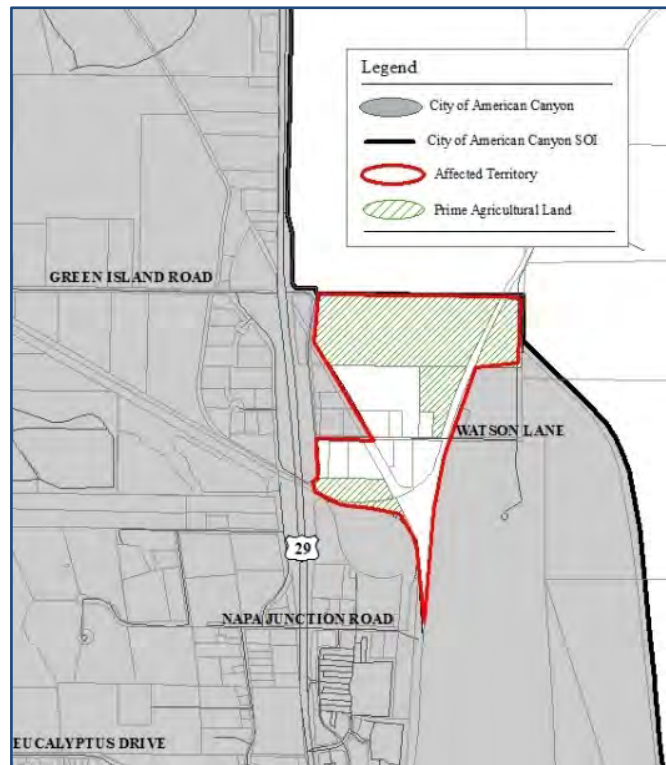
Wastewater Treatment Plant Annexation to the Napa Berryessa Resort Improvement District (NBRID)

Staff from NBRID has inquired about annexation of two unincorporated parcels totaling approximately 101 acres in size that serve as the location of the District’s wastewater treatment plant facilities. The parcels were recently added to NBRID’s SOI, are owned by NBRID, and are identified as Assessor Parcel Numbers 019-220-028 and 019-220-038. Annexation would reduce NBRID’s annual property tax burden. It is anticipated a proposal for annexation will be submitted in the future, but there is no current timetable.



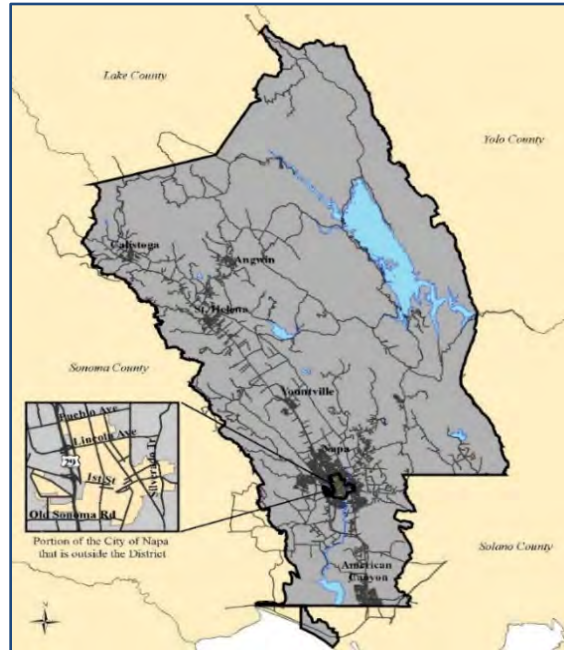
Watson Lane/Paoli Loop Annexation to the City of American Canyon

A landowner previously submitted a notice of intent to circulate a petition to annex 16 parcels and a portion of railroad totaling approximately 77.7 acres of unincorporated territory to the City of American Canyon. The area is located within the City’s SOI near Watson Lane and Paoli Loop and identified as Assessor Parcel Numbers 057-120-014, -015, -017, -028, -034, -036, -041, -045, -047, -048, -049, -050, & -051, 057-180-014 & -015, and 059-020-036. The area is within the American Canyon Fire Protection District’s boundary. The purpose of annexation is to allow development of the area for industrial and residential purposes as well as help facilitate the extension of Newell Drive to South Kelly Road. It is anticipated a proposal for annexation will be submitted in the future, but there is no current timetable.



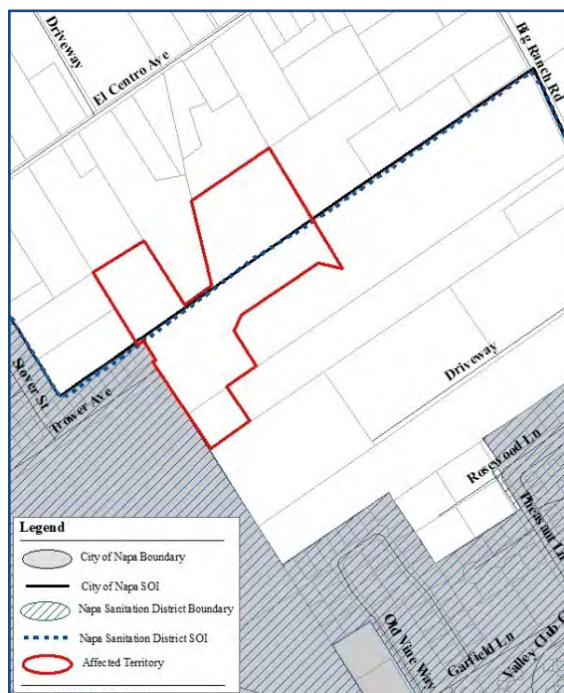
Napa County Resource Conservation District (NCRCD) Annexation

Staff from NCRCD has inquired about annexation of approximately 1,300 acres of incorporated territory located in the City of Napa. This area comprises the only remaining territory located within NCRCD’s SOI but outside its jurisdictional boundary. The purpose of annexation would be to allow NCRCD to expand its service programs and hold public meetings within the affected territory; activities that are currently prohibited within the area. In February 2020, the Commission approved a request for a waiver of LAFCO’s proposal processing fees. It is anticipated a proposal for annexation will be submitted in the future, but there is no current timetable.



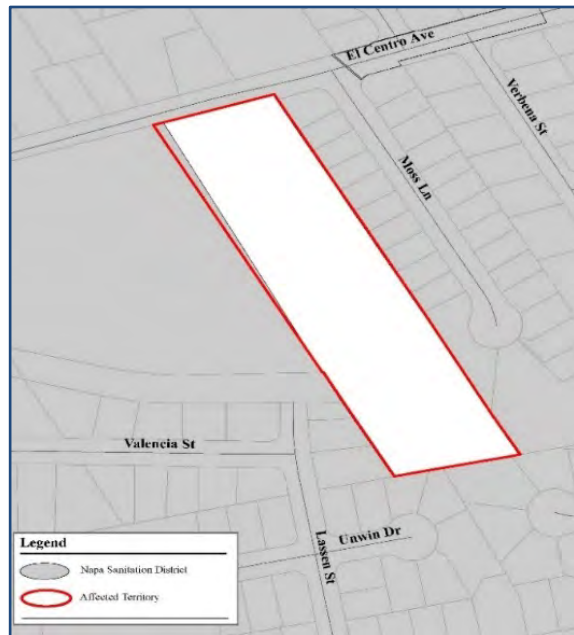
Vintage High School Farm Sphere of Influence Amendment and Annexation to NSD

The Napa Valley Unified School District (NVUSD) has inquired about an SOI amendment and annexation of approximately 12.8 acres of unincorporated territory involving NSD. The territory is contiguous to the City of Napa near the eastern terminus of Trower Avenue and identified as Assessor Parcel Number 038-240-020. The parcel is currently undeveloped and designated for residential land use under the County of Napa General Plan. The purpose of the SOI amendment and annexation is to facilitate the planned relocation of NVUSD’s educational farm near Vintage High School. In February 2020, without taking formal action, the Commission signaled to NVUSD a willingness to waive its local policy requiring concurrent annexation to the City of Napa. It is anticipated a proposal for annexation will be submitted in the future, but there is no current timetable.



El Centro Avenue Annexation to NSD

On September 6, 2017, the landowner of 1583 El Centro Avenue in the City of Napa submitted a Notice of Intent to annex the parcel to NSD. The parcel is approximately 4.5 acres in size and is identified as Assessor Parcel Number 038-361-010. Current land uses within the subject parcel include a single-family residence and a planted vineyard. The purpose of annexation would be to facilitate a residential development project under the City's land use authority. Based on parcel size and the City's land use designation, annexation to NSD could potentially facilitate the future development of the subject parcel to include up to 36 total single-family residential units. The City has indicated an environmental impact report will be prepared for the residential development project. It is anticipated a proposal for annexation will be submitted in the future, but there is no current timetable.



ATTACHMENTS

None



Local Agency Formation Commission of Napa County
 Subdivision of the State of California

1754 Second Street, Suite C
 Napa, California 94559
 Phone: (707) 259-8645
 www.napa.lafco.ca.gov

We Manage Local Government Boundaries, Evaluate Municipal Services, and Protect Agriculture

Agenda Item 7h (Consent/Information)

TO: Local Agency Formation Commission
PREPARED BY: Brendon Freeman, Executive Officer *BF*
MEETING DATE: December 6, 2021
SUBJECT: Expiring Commissioner Terms in 2022

SUMMARY

This is a consent item for information purposes only. Accordingly, if interested, the Commission is invited to pull this item for additional discussion with the concurrence of the Chair. No formal action will be taken as part of this item.

All Commissioner terms are four years pursuant to California Government Code (G.C.) Section 56334. The Commission has two members with terms scheduled to expire on May 2, 2022: Diane Dillon (County Member) and Kenneth Leary (Public Member).

Appointments of county members to the Commission are the sole jurisdiction of the Board of Supervisors. Staff will notify the Board of Supervisors and request they make a new four-year appointment or reappointment for the County Member seat before May 2, 2022.

Appointments to the Commission involving public members are the sole discretion of the Commission. A discussion of procedures concerning the expiring Public Member term is provided in item 10d on today’s agenda.

A full listing of all Commissioners and term expiration dates is provided below:

Member	Appointing Authority	Term Expires
Diane Dillon, County	Board of Supervisors	May 2, 2022
Kenneth Leary, Public	Commission	May 2, 2022
Mariam Aboudamous, City	City Selection Committee	May 1, 2023
Beth Painter, Alternate City	City Selection Committee	May 1, 2023
Brad Wagenknecht, County	Board of Supervisors	May 6, 2024
Eve Kahn, Alternate Public	Commission	May 6, 2024
Margie Mohler, City	City Selection Committee	May 5, 2025
Ryan Gregory, Alternate County	Board of Supervisors	May 5, 2025

ATTACHMENTS

None

Margie Mohler, Vice Chair
 Councilmember, Town of Yountville

Diane Dillon, Chair
 County of Napa Supervisor, 3rd District

Kenneth Leary, Commissioner
 Representative of the General Public

Mariam Aboudamous, Commissioner
 Councilmember, City of American Canyon

Brad Wagenknecht, Commissioner
 County of Napa Supervisor, 1st District

Eve Kahn, Alternate Commissioner
 Representative of the General Public

Beth Painter, Alternate Commissioner
 Councilmember, City of Napa

Ryan Gregory, Alternate Commissioner
 County of Napa Supervisor, 2nd District

Brendon Freeman
 Executive Officer



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We Manage Local Government Boundaries, Evaluate Municipal Services, and Protect Agriculture

Agenda Item 8a (Public Hearing)

TO: Local Agency Formation Commission

PREPARED BY: Brendon Freeman, Executive Officer *BF*

MEETING DATE: December 6, 2021

SUBJECT: Sphere of Influence Amendment Request Involving the City of American Canyon, American Canyon Fire Protection District, and 1661 Green Island Road

RECOMMENDATION

It is recommended the Commission take the following actions:

- 1) Open the public hearing and take testimony;
- 2) Close the public hearing;
- 3) Take action on the requested sphere of influence (SOI) amendments.

SUMMARY

The landowners of 1661 Green Island Road have requested amendments to the SOIs for the City of American Canyon (“the City”) and the American Canyon Fire Protection District (ACFPD). The application materials are included as Attachment One and were submitted consistent with the Commission’s adopted *Policy on Spheres of Influence*, included as Attachment Two, as well as California Government Code (G.C.) Section 56428, included as Attachment Three.

The application includes a vineyard report, soils analysis, an economic viability report, and the opinions of soils and viticulture experts Paul Anamosa, Hal Huffsmith, and Robert Steinhauer. The application also includes letters of support from former City of Napa Mayor Ed Henderson and former City of American Canyon Mayor and LAFCO Commissioner Lori Luporini.

Margie Mohler, Vice Chair
Councilmember, Town of Yountville

Mariam Aboudamous, Commissioner
Councilmember, City of American Canyon

Beth Painter, Alternate Commissioner
Councilmember, City of Napa

Diane Dillon, Chair
County of Napa Supervisor, 3rd District

Brad Wagenknecht, Commissioner
County of Napa Supervisor, 1st District

Ryan Gregory, Alternate Commissioner
County of Napa Supervisor, 2nd District

Kenneth Leary, Commissioner
Representative of the General Public

Eve Kahn, Alternate Commissioner
Representative of the General Public

Brendon Freeman
Executive Officer

The affected territory is located on one unincorporated parcel totaling 157.15 acres in size and identified as Assessor Parcel Number 058-030-041. The affected territory is currently used as a commercial vineyard. The application materials include a vineyard report and soils analysis indicating the vineyard is no longer viable due to saltwater intrusion.

Surrounding lands to the west and south comprise wetlands owned by the State of California and are unincorporated. Lands to the north and east are predominantly within the City's jurisdictional boundary and comprise industrial and warehouse uses.

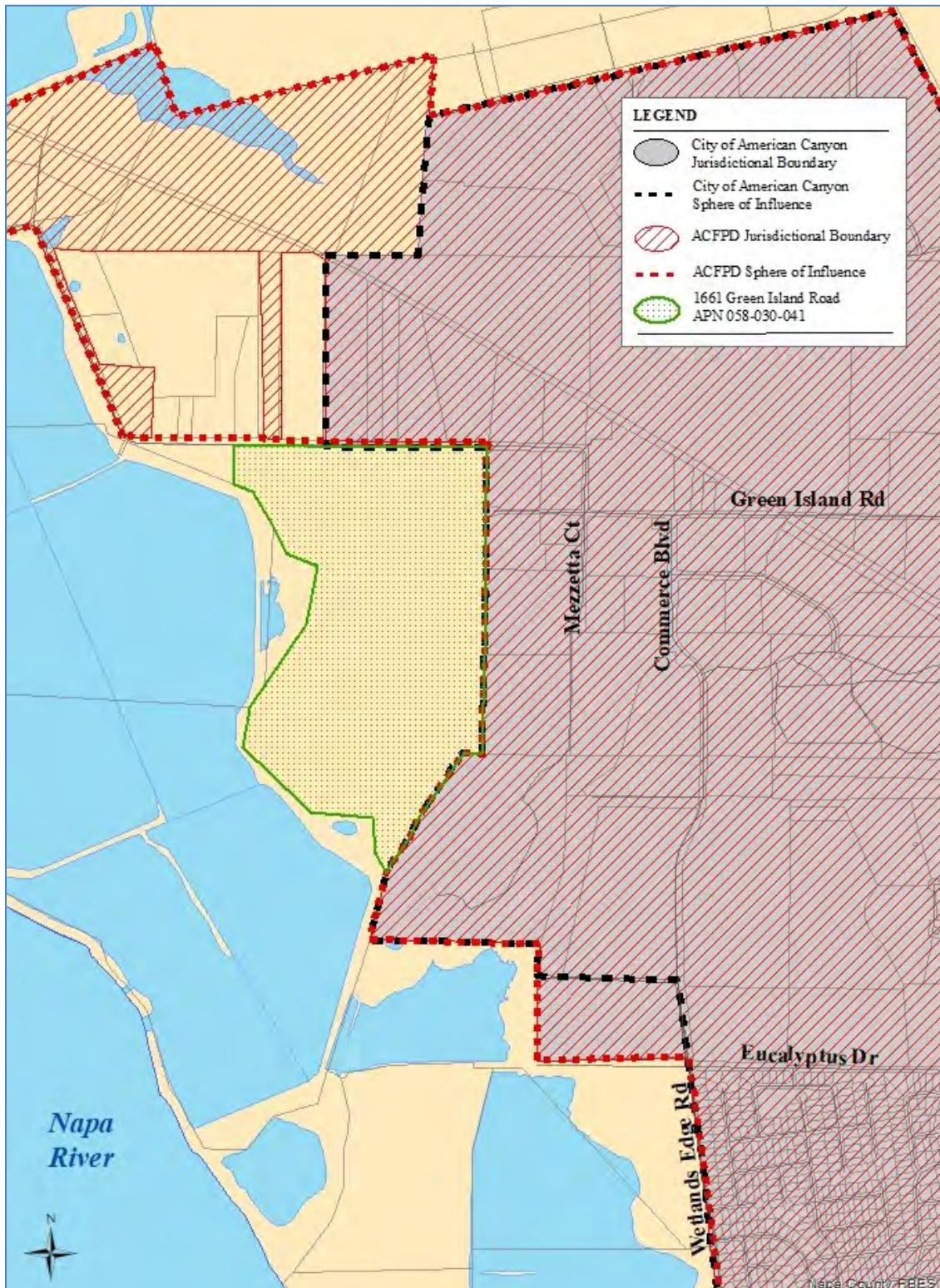
The application suggests the SOI amendments would be appropriate because they will promote the orderly expansion of the City in a manner that ensures the protection of the environment and agricultural and open space lands while also ensuring the effective efficient and economic provision of essential public services.

The application states it is not plausible for Napa County to provide public services to the affected territory given it is situated in the midst of American Canyon, and that inclusion within the City would ensure the affected territory pays its fair share of the costs of planned infrastructure upgrades for Green Island Road as part of a community facilities district.

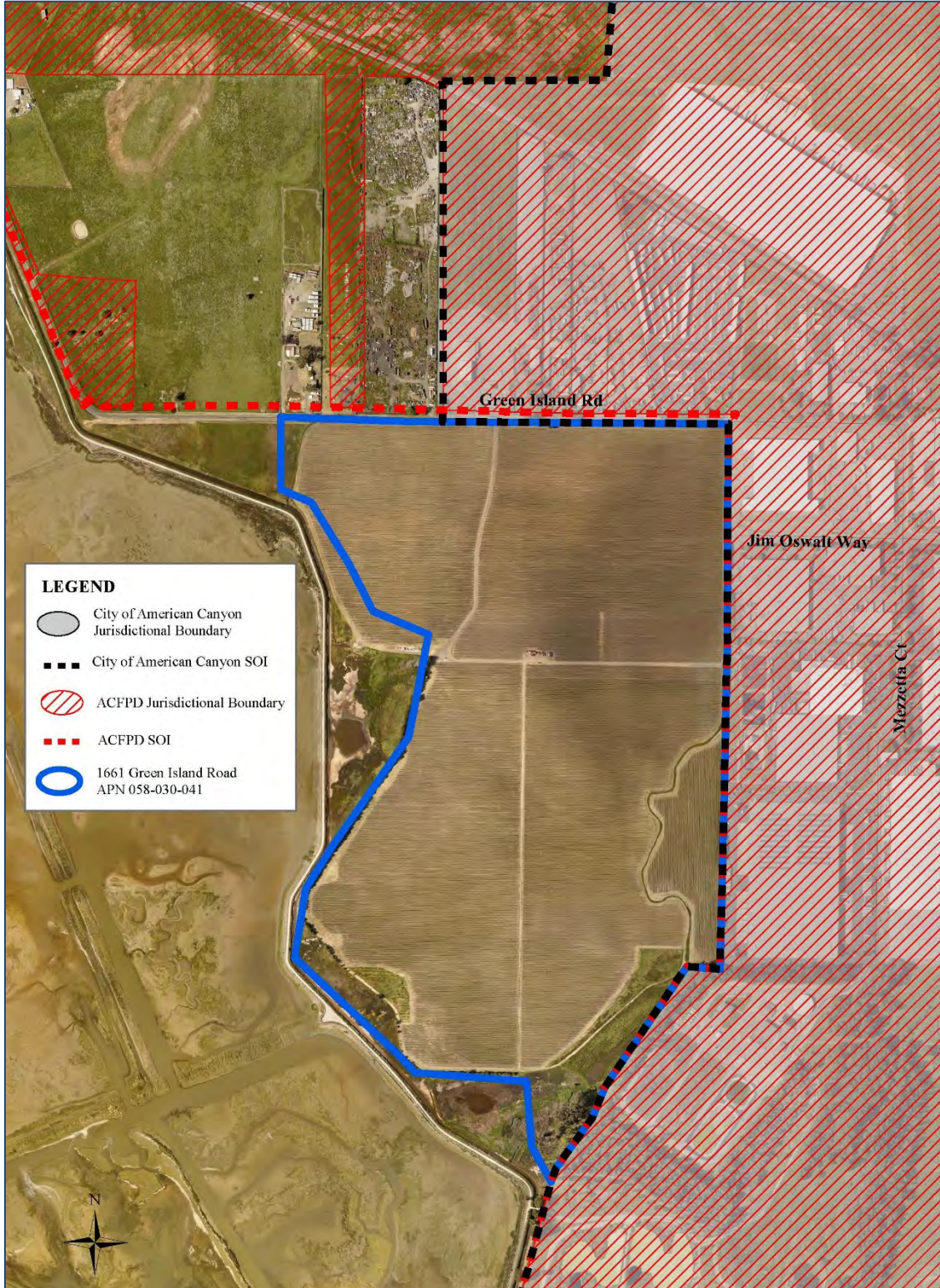
Staff recommends the Commission deny the SOI request based on the factors described under the "Discussion" section of this report. This includes an evaluation of the mandatory factors under G.C. Section 56425, included as Attachment Four, as well as several other relevant considerations related to the affected territory. However, it may be appropriate for the Commission to approve the SOI request based on the additional key considerations that are summarized on pages 13 and 14 of this report. With this in mind, the Commission may consider any of the alternative actions identified on page 15 of this report.

Maps of the affected territory and further discussion of the SOI request follow.

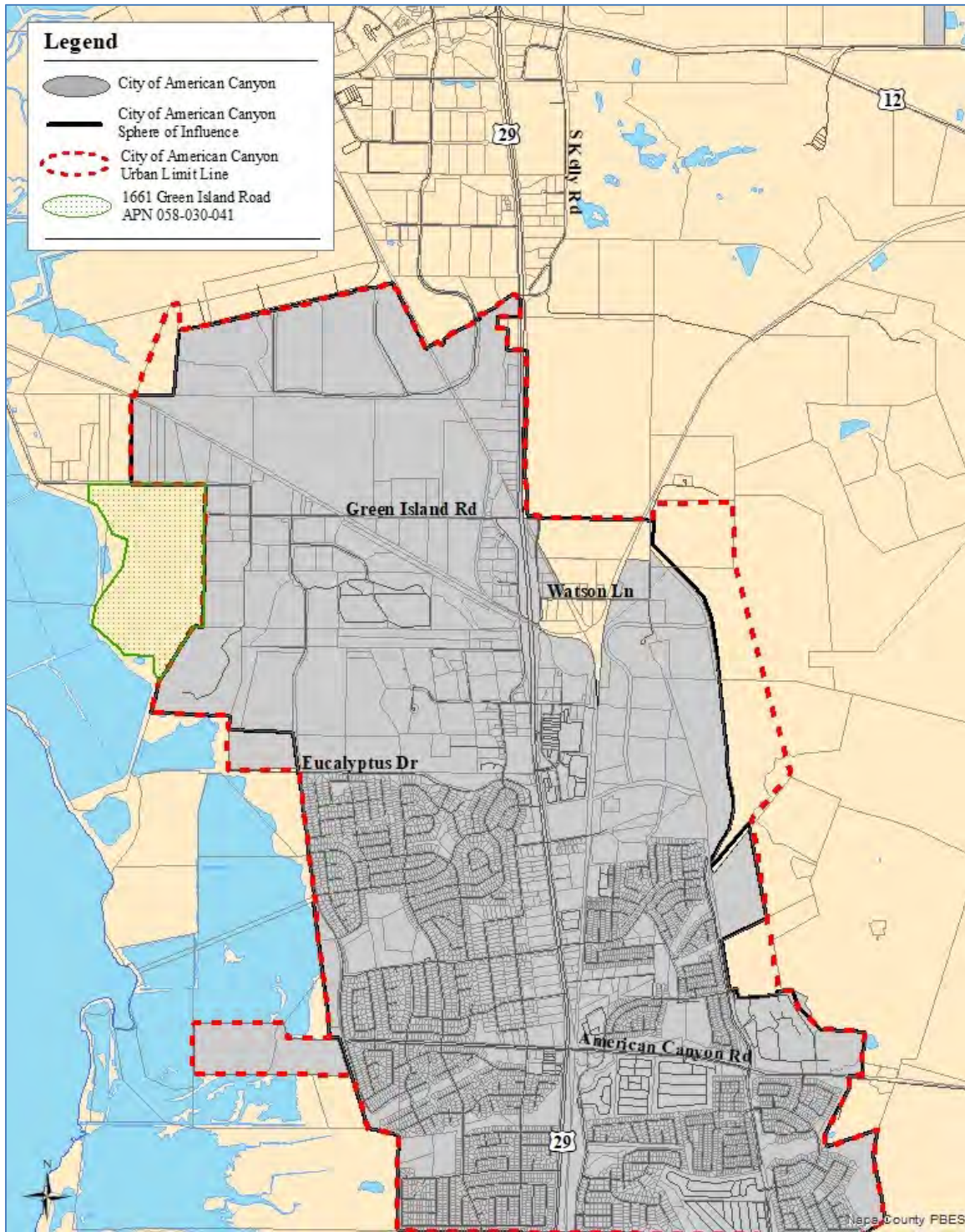
The following vicinity map shows the affected territory along with the jurisdictional boundaries and SOIs of the City and ACFPD.



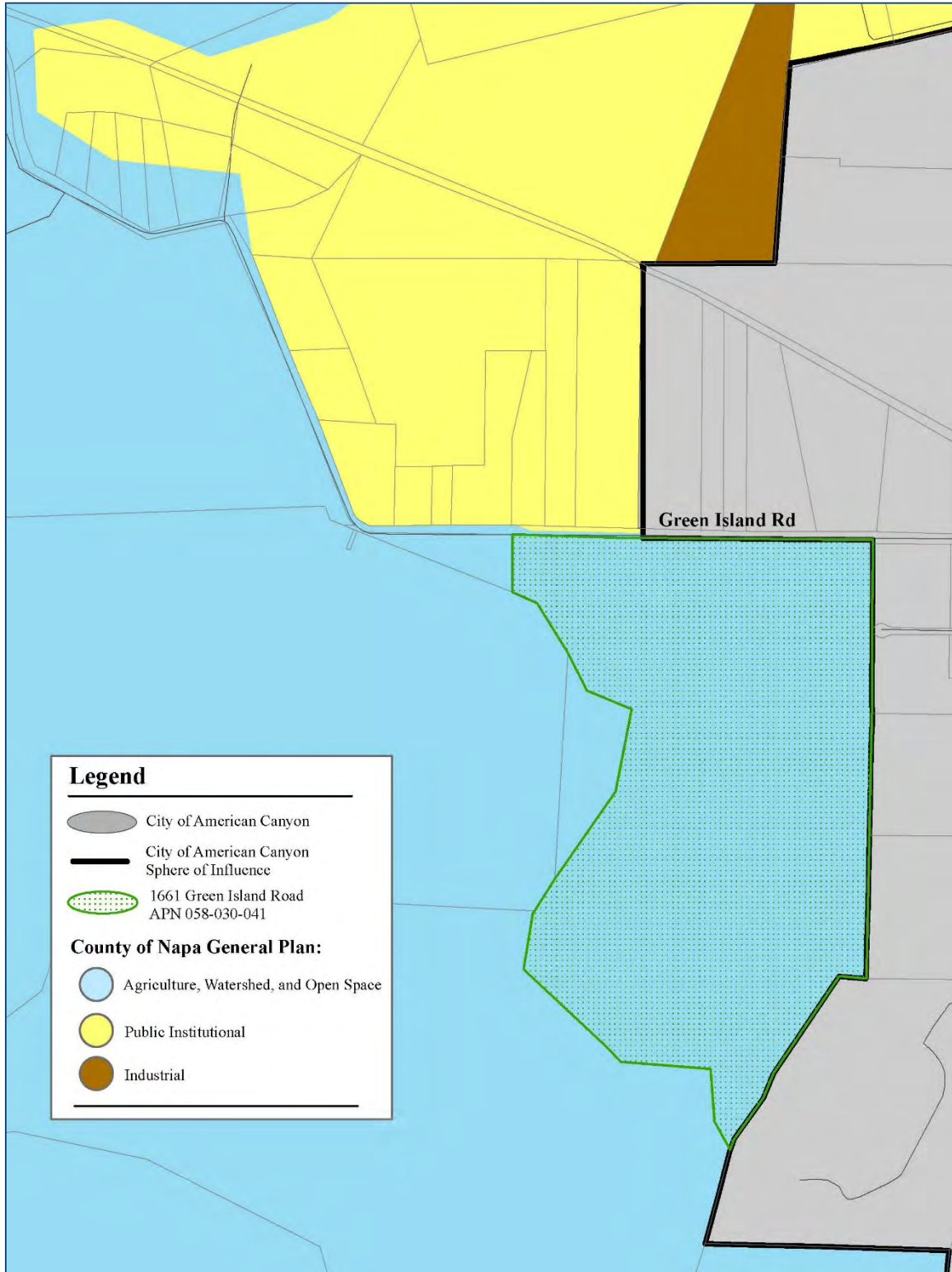
The following map shows an aerial view of the affected territory along with the jurisdictional boundaries and SOIs of the City and ACFPD.



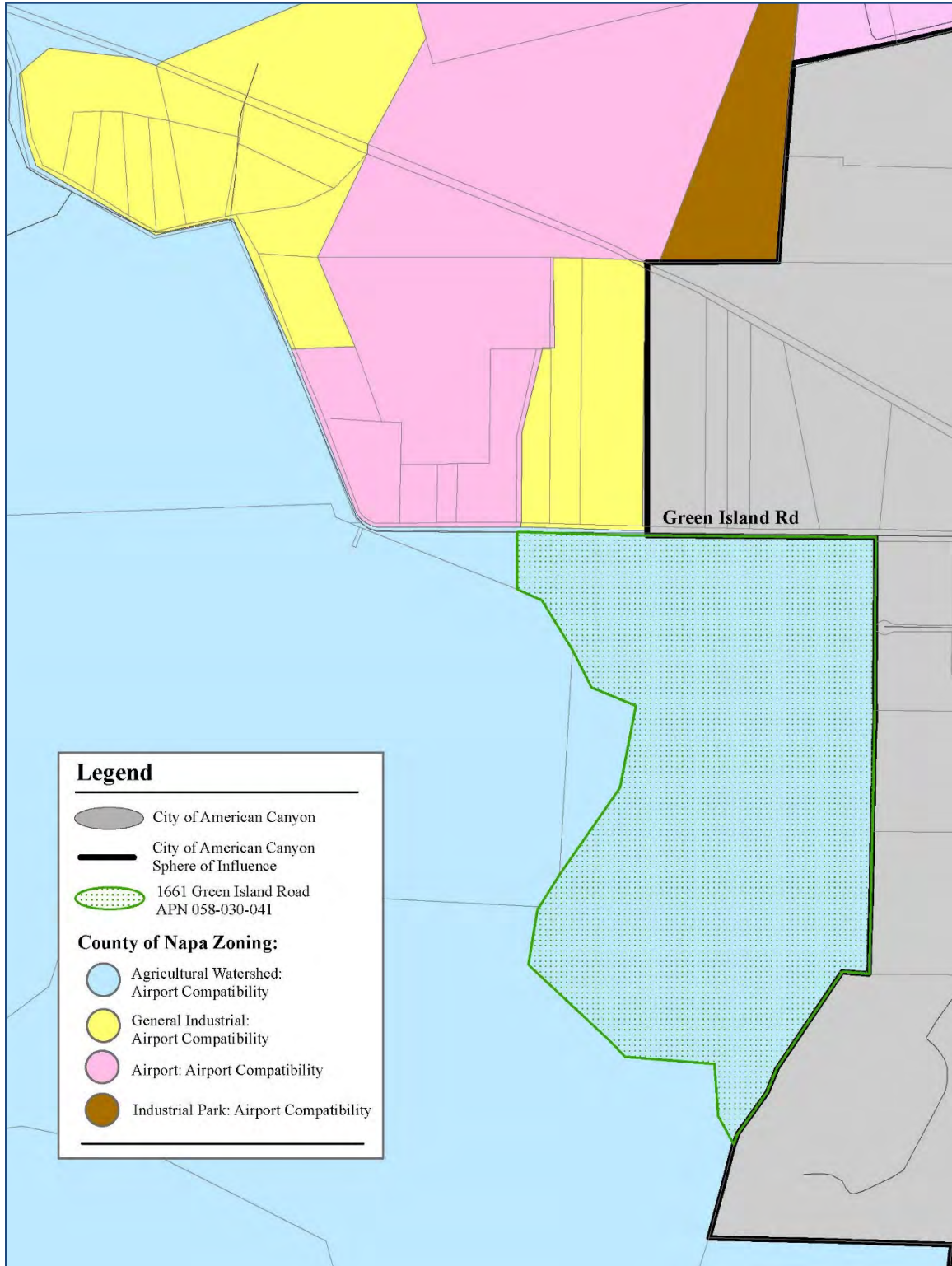
The following map shows the affected territory and the City's urban limit line (ULL).



The following map shows the County of Napa's General Plan land use designations for the affected territory and surrounding areas.



The following map shows the County of Napa's zoning assignments for the affected territory and surrounding areas.



DISCUSSION

Agreement Between the City and County

In 2008, the City entered into an agreement with the County of Napa related to the City's SOI and ULL, included as Attachment Five. The agreement is intended to recognize the importance of preserving agricultural and open space lands in the County to maintain a viable agriculture-based economy, preserve open space, prevent urban sprawl, and direct growth and development into already urbanized areas. The agreement designates a mutually agreed upon ULL to serve as the City's ultimate growth boundary until at least 2030. The parties agree the City's jurisdictional boundary and SOI shall not expand beyond the ULL prior to 2030 unless the citizens of the City first approve an expansion of the line.

LAFCO and the applicant are not parties to the agreement and therefore aren't bound to the terms of the agreement. The Commission retains discretion to approve or disapprove SOI requests irrespective of their consistency with the agreement. However, staff recommends the Commission give considerable weight to the agreement given that it designates a mutually agreed upon urban growth boundary for the City through 2030.

Previous SOI Request

In 2018, as part of the Commission's *South County Region Municipal Service Review and Sphere of Influence Updates* ("2018 MSR/SOI"), the City and ACFPD jointly requested amendments to their SOIs to include the affected territory. The 2018 MSR/SOI is available online at: https://www.napa.lafco.ca.gov/uploads/documents/SouthCountyRegion_MSR-SOI_FinalReport_12-3-18.pdf. The 2018 MSR/SOI includes the following relevant text:

The City and ACFPD have jointly submitted a formal request to the Commission for an SOI expansion involving a vineyard property located at 1661 Green Island Road (APN 058-030-041) that is located to the immediate west of the City's jurisdictional boundary, SOI, and ULL. The request is included as Appendix D. A map of the requested SOI amendment is provided as Exhibit 6-2. This property is currently planted with a vineyard and designated as Agriculture, Watershed, and Open Space in the County General Plan. In order to annex APN 058-030-041, the City would first have to amend the ULL with agreement from the County and voter approval. Further, Napa LAFCO policies direct the Commission to designate SOIs to guide orderly urban development in a manner that prevents the premature conversion of agricultural lands. Finally, correspondence from the Napa County Farm Bureau is included as part of Appendix B, which communicates opposition to the potential annexation of the subject parcel to the City. With all of this in mind, it would be appropriate to defer consideration of an expansion to the City's SOI to include APN 058- 030-041 until after the parcel has been included within the ULL. This process would also involve the City or the County serving as lead agency to address the requirements of CEQA for the potential SOI expansion and annexation.

Statutory Factors

In determining the SOI of each agency, the Commission is required to consider five specific factors consistent with G.C. Section 56425. A summary of the statutory factors as they relate to the SOI request follows.

- 1) Present and planned land uses in the area, including agricultural and open-space lands

The County General Plan assigns the affected territory a land use designation of *Agriculture, Watershed, and Open Space* and zoning standard of *Agricultural Watershed: Airport Compatibility*. These land use characteristics prescribe a minimum lot size of 160 acres. Actual land uses within the affected territory are currently limited to a commercial vineyard. There are no other planned land uses for the affected territory at this time. However, the discontinuation of existing vineyard operations is planned.

- 2) Present and probable need for public facilities and services in the area

The affected territory currently receives outside water service from the City through a grandfathered agreement consistent with G.C. Section 56133. This includes potable water during the summer months for the vineyard's frontage road located on Jim Oswalt Way. In addition, the City provides potable and reclaimed water for irrigation of the vineyard, with City meters historically showing very little potable use for this purpose. The affected territory also receives fire protection and law enforcement services from the County. Based on current and planned land uses, there is no need for additional public facilities or services within the affected territory at this time.

- 3) Present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide

Based on the 2018 MSR/SOI, the City and ACFPD have established adequate capacity to provide a full range of municipal services to the affected territory based on the current land use as a commercial vineyard.

- 4) Existence of any social or economic communities of interest in the area if the commission determines that they are relevant to the agency

There are no social or economic communities of interest that are relevant to any potential SOI amendments involving the affected territory.

- 5) Present and probable need for public facilities and services of any disadvantaged unincorporated communities within the existing sphere of influence

There are no disadvantaged unincorporated communities within the City's SOI or ACFPD's SOI.

Policy Considerations

Staff reviewed the SOI request as it relates to the Commission's *Policy on Spheres of Influence*. A summary of relevant policy considerations follows.

- Section III states: It is the intent of the Commission to determine appropriate SOIs that promote the orderly expansion of cities, towns, and special districts in a manner that ensures the protection of the environment and agricultural and open space lands while also ensuring the effective, efficient, and economic provision of essential public services, including public water, wastewater, fire protection and emergency response, and law enforcement.

Staff response: The SOI request would not ensure the protection of agricultural lands given it would allow for annexation to the City, thereby facilitating the future conversion of existing agricultural lands to an urban use. However, it should be noted the long-term viability of the existing agricultural land use is in question as described in the vineyard report and soils analysis included with the application materials. Notably, it appears the vineyard is decaying due to saltwater intrusion. The soils analysis suggests there are few viable agricultural products that could potentially replace the vineyard for long-term use. In the future, it may be appropriate for the affected territory to be converted to a use that is compatible with agricultural uses (e.g., wine warehousing) in a manner that protects the environment and agricultural lands elsewhere in Napa County. With this in mind, the SOI request could be consistent with Section III if appropriate planning activities occur. This would likely involve the City and the County amending their respective General Plans along with an expansion of the City's ULL.

- Section V(A)(1) states: Land defined or designated in the County of Napa General Plan land use map as agricultural or open space shall not be approved for inclusion within any local agency's SOI for purposes of new urban development unless the action is consistent with the objectives listed in Section III of this policy.

Staff response: The County General Plan land use map designates the affected territory as *Agriculture, Watershed, and Open Space*. As noted above, the SOI request could be consistent with Section III in the future if appropriate planning activities occur. However, based on current conditions and circumstances, staff believes the SOI request is inconsistent with Section III of this policy.

- Section V(A)(3) states: The Commission will consider the Agricultural Preserve and intent of voters in passing Measure J and Measure P in its decision making processes to the extent they apply, prior to taking formal actions relating to SOIs.

Staff response: The affected territory is subject to Measure P. Changing the land use designation in the County General Plan to non-agriculture requires approval by Napa County voters. It is important to note SOI amendments and annexations do not require Measure P votes.

- Section V(A)(6) states: A local agency's SOI shall generally be used to guide annexations within a five-year planning period. Inclusion of land within an SOI shall not be construed to indicate automatic approval of an annexation proposal.

Staff response: The City must prezone the affected territory prior to its annexation. There is currently no indication of whether the affected territory will be planned for annexation by the City, which would include rezoning. It appears unlikely these planning efforts will occur in the next five years.

- Section V(A)(8) states: A local agency's SOI should reflect existing and planned service capacities based on information collected by, or submitted to, the Commission. This includes information contained in current MSRs. The Commission shall consider the following municipal service criteria in determining SOIs:

- a) The present capacity of public facilities and adequacy of public services provided by affected local agencies within the current jurisdiction, and the adopted plans of these local agencies to address any municipal service deficiency, including adopted capital improvement plans.

Staff response: Based on the 2018 MSR/SOI and planned capital improvements, the City and ACFPD have established adequate capacities to serve their current jurisdictions and accommodate growth.

- b) The present and probable need for public facilities and services within the area proposed or recommended for inclusion within the SOI, and the plans for the delivery of services to the area.

Staff response: The affected territory presently receives outside water service from the City. However, the current land use appears to be unsustainable due to saltwater intrusion coupled with the use of recycled water from the City that is high in salinity. There are currently no plans for delivery of additional services to the affected territory.

- Section V(A)(9) states: The Commission shall consider, at a minimum, the following land use criteria in determining SOIs:

- a) The present and planned land uses in the area, including lands designated for agriculture and open-space.

Staff response: The present and planned land use in the affected territory is agriculture.

- b) Consistency with the County General Plan and the general plan of any affected city or town.

Staff response: The County General Plan designates the affected territory as *Agriculture, Watershed, and Open Space*. The City General Plan does not assign any land use designations for the affected territory.

- c) Adopted general plan policies of the County and of any affected city or town that guide future development away from lands designated for agriculture or open-space.

Staff response: The County General Plan includes the following relevant land use policies:

- Policy AG/LU-126: "...the County will work collaboratively with LAFCO in its reviews of spheres to encourage orderly, city-centered growth and development in Napa County and the preservation of agricultural land."
- Policy AG/LU-126.5: "The County seeks to engage incorporated jurisdictions and other agencies in collaborative planning efforts, particularly efforts aimed at ensuring adequate infrastructure capacity, vibrant city-centers, sufficient housing and agricultural lands and natural resource protection."
- Policy AG/LU-127: "The County will coordinate with the cities and town to establish land use policies for unincorporated lands located within their respective spheres of influence and will do likewise for unincorporated lands within any locally-adopted urban growth boundaries."
- Policy AG/LU-130: "The County recognizes the growth boundary for the City of American Canyon shown in Figure LU-5 and will support the City's annexation of unincorporated land located within the boundary..."

- d) Adopted policies of affected local agencies that promote infill development of existing vacant or underdeveloped land.

Staff response: The affected territory is currently developed with a vineyard and therefore not considered vacant or underdeveloped.

- e) Amount of existing vacant or underdeveloped land located within any affected local agency's jurisdiction and current SOI.

Staff response: The City does not maintain an inventory of vacant land within its jurisdiction. However, the 2018 MSR/SOI states most of the City's SOI is already built out, suggesting there is minimal vacant or underdeveloped land available for infill purposes.

- f) Adopted urban growth boundaries by the affected land use authorities.

Staff response: The City's ULL is its urban growth boundary, which is consistent with the City's agreement with the County adopted in 2008. The agreement states the City and County agree there will be no expansions to the City's ULL or SOI prior to 2030.

Additional Key Considerations

Staff recommends the Commission consider the following additional facts that are described further in the application materials and other attachments to this report:

- The affected territory is presently in agricultural land use as a grape vineyard. However, the application materials include soils analysis that shows the subject property soil is experiencing increased salinity that is toxic to agricultural use. The salinity of the soil jeopardizes the continued agricultural use of the property. Consequently, the landowners have already removed approximately 65 acres of vineyard from production, has no plans to replant that acreage, and expects to remove the remaining vineyards from production in the foreseeable future.
- Scientific analysis and the marketplace render the affected territory unsuitable for agricultural use. There has been minimal interest in a purchase of the property.
- There is no current project or plan for the future use of the affected territory. Surrounding lands are increasingly used for industrial and warehouse purposes. A similar use for the affected territory under the City's land use authority and with entitlements to services provided by the City may be appropriate in the future.

- If the struggling vineyard continues to be irrigated with a mix of potable and recycled water from the City, it would represent an inefficient use of water resources at a time when all water customers throughout Napa County are subject to varying levels of water conservation restrictions.
- Approval of the SOI request could potentially contribute to Napa County's industrial and warehouse land use inventory, thereby reducing the pressure to develop near prime agricultural land elsewhere throughout the County. Toward this end, the affected territory's agricultural use is arguably incompatible with surrounding industrial and warehouse uses to the north and east. Further, the affected territory may eventually be needed to improve traffic circulation given its proximity to Devlin Road and Green Island Road.
- G.C. Section 56016 defines "agriculture" for purposes of LAFCO law to mean "land currently used for the purpose of producing an agricultural commodity for commercial purposes, land left fallow under a crop rotational program, or land enrolled in an agricultural subsidy or set-aside program." The affected territory currently meets this definition of "agriculture" but will cease to meet the definition upon the anticipated discontinuation of vineyard production.
- G.C. Section 56064 defines "prime agriculture" for purposes of LAFCO law based on Storie index ratings and United States Department of Agriculture's Natural Resources Conservation Service land use capability classifications. The affected territory does not qualify as "prime agriculture" under this definition primarily due to poor soil quality ratings.
- The California Farm Bureau Federation and the Napa County Farm Bureau collectively submitted a letter opposing the SOI request, included as Attachment Six. The letter suggests the property can be used for other agricultural purposes or open space, and the SOI request would set a bad precedent in Napa County.
- The County of Napa submitted a letter opposing the SOI request, included as Attachment Seven. The letter states the SOI request is in direct conflict with the City General Plan, County General Plan, adopted agreement on growth boundaries between the City and County, and LAFCO's *Policy on SOIs*.
- Neither the City nor ACFPD has taken a formal position on the SOI request. If the Commission is considering approving the SOI request, staff recommends the Commission first require official positions from the City and ACFPD.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

If the Commission chooses to amend the City's SOI and ACFPD's SOI to include the affected territory, the action would be exempt from further review under CEQA pursuant to California Code of Regulations Section 15061(b)(3). This finding would be based on the Commission determining with certainty that these SOI actions would have no possibility of significantly effecting the environment given no new land use or municipal service authority is granted. Any future rezoning by the City or annexation of the affected territory would require environmental analysis to be performed by the appropriate lead agency.

ALTERNATIVES FOR COMMISSION ACTION

The Commission may take any of the following actions as part of this item:

- 1) Deny the SOI request as recommended by staff.
- 2) Approve the SOI request by adopting the draft resolution included as Attachment Eight. This alternative would require the Commission to file a Notice of Exemption upon the receipt of the appropriate Commission fee in compliance with CEQA.
- 3) Continue the public hearing to the Commission's February 7, 2022 regular meeting and direct staff to issue a notice of continuance. The Commission may direct staff to return with additional information as requested by Commissioners.

PROCEDURES FOR CONSIDERATION

This item has been agendized as a noticed public hearing. The applicant has requested an opportunity to make a presentation to the Commission as part of this item. The following procedures are recommended with respect to the Commission's consideration of this item:

- 1) Receive verbal report from staff;
- 2) Commission initial questions to staff;
- 3) Open the public hearing and receive presentation from applicant;
- 4) Receive public comments;
- 5) Close the public hearing; and
- 6) Discuss item and consider action on the SOI request.

ATTACHMENTS

- 1) Application Materials
- 2) LAFCO Policy on SOIs
- 3) Government Code Section 56428
- 4) Government Code Section 56425
- 5) Agreement Between the County of Napa and the City of American Canyon
- 6) Opposition Letter from the California Farm Bureau Federation and Napa County Farm Bureau
- 7) Opposition Letter from the County of Napa
- 8) Draft Resolution Approving the SOI Request

Local Agency Formation Commission of Napa County
1754 Second Street, Suite C
Napa, California 94559
(707) 259-8645 Telephone
<http://www.napa.lafco.ca.gov>

Questionnaire for Amending a Sphere of Influence

1. Applicant information:

Name: GIV, LLC (Will Nord, Ed Farver and David B. Gilbreth, Managers)

Address: 1661 Green Island Road, American Canyon, CA APN: 058-030-041

Telephone Number: Douglas Straus, Attorney 415 227-3553 (Primary) David B. Gilbreth, Manager 707 337-6412 (Secondary)

E-Mail Address: dstraus@buchalter.com; davidgnapa@icloud.com

2. What is the purpose for the proposed sphere of influence amendment?

See Attachment #2

3. Describe the affected territory in terms of location, size, topography, and any other pertinent characteristics.

See Attachment #3.

4. Describe the affected territory's present and planned land uses.

See Attachment #4.

5. Identify the current land use designation and zoning standard for the affected territory.

The land is designated as Agriculture, Watershed and Open Space.

6. Is the affected territory subject to a Williamson Act contract? If yes, please provide a copy of the contract along with any amendments.

NO

7. If applicable, identify the governmental agencies currently providing the listed municipal services to the affected territory.

Water: City of American Canyon


Sewer: City of American Canyon

Fire: City of American Canyon Fire Protection District

Police: City of American Canyon

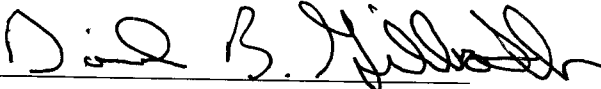
Print Name: Will Nord, Manager

Date: September 30 2021

Signature: 

Print Name: David B. Gilbreth, Manager

Date: September 30 2021

Signature: 

Print Name: Ed Farver, Manager

Date: September 30 2021

Signature: 
Application Materials for 1661 Green Island Road SOT Request

**ATTACHMENTS TO QUESTIONNAIRE FOR AMENDING A SPHERE OF
INFLUENCE
GIV, LLC
LOCAL AGENCY FORMATION COMMISSION OF NAPA COUNTY**

Attachment #2

The applicant property owner seeks this proposed sphere of influence amendment to bring the subject property within the City of American Canyon and American Canyon Fire Protection District spheres of influence pursuant to Local Consideration V(A)(2) in Napa County LAFCO's 6-7-21 policy on spheres of influence. Such an amendment is appropriate because it will promote the orderly expansion of the City of American Canyon in a manner that ensures the protection of the environment and agricultural and open space lands while also ensuring the effective efficient and economic provision of essential public services.

The subject property receives almost all essential public services (fire, water, sewer and police from the City of American Canyon or the American Canyon Fire Protection District. The subject property is bordered on three sides by the City of American Canyon. The fourth property boundary is the Napa River. It is not plausible for Napa County to provide public services to this "island" of County land situated in the midst of American Canyon.

The properties adjoining and near the subject property are being used for industrial and warehouse purposes. The City of American Canyon has plans to upgrade Green Island Road and Devlin Road, other roads in the vicinity of the subject property. Moving the subject property into the City of American Canyon's sphere of influence would give the City of American Canyon the ability to address land use planning for the property and ensure that the subject property pays its fair share of the costs of these infrastructure upgrades by including the property in the appropriate Community Facilities District.

This request for an amendment to the sphere of influence is *not* being brought by either the City of American Canyon or the American Canyon Fire Protection District—although property owner Green Island Vineyards, LLC ("GIV") anticipates that both government agencies may support this request. Thus, if there are any potential restrictions on the right of either of these government entities to seek sphere of influence amendments or changes to the Urban Limit Line, those restrictions do not prevent GIV from making this application. Nor do they prevent LAFCO from approving the request.

Attachment #3

The subject property is located at 1661 Green Island Road, American Canyon, California, 94503, APN 058-030-041. It is roughly 157 acres total. The subject property soil is experiencing increased salinity that is toxic to agricultural use.

Historically, the subject property has been used for vineyard purposes. However, the salinity of the soil precludes the possibility of continued agricultural use of the subject property. Consequently, the owner has removed 65 acres of vineyard from production, has no plans to

replant that acreage and expects to remove the remaining vineyards from production in the near future. The intolerably high level of salinity in subject property soil precluding future agricultural use is also confirmed by the reports of Vineyard Soil Technologies dated September 29, 2021 attached hereto as Exhibit A.

Vineyard Soil Technologies confirms that the vineyards on the property have entered a “death spiral” from which they will not recover. Vines are both stunted and blighted. These conditions are only going to get worse. As Vineyard Soil Technologies concludes, “the soils are unsustainable for wine grapes as a result of excessive accumulation of salts in the rootzones of the vines.” This report explains that this problem impacts all vineyard lands on the property.

Scientific analysis has confirmed that the subject property is no longer suitable for agricultural use. So has the marketplace. GIV has been marketing the property as agricultural land since 2012. *See* the letter from GIV Managers Will Nord and Ed Farver attached here as Exhibit B. GIV has used multiple brokers in its efforts to market the property, including some of the most experienced and successful vineyard brokers in Napa County. Only once has anyone expressed interest in acquiring this property.

And that prospective purchaser decided not to purchase the property due to concerns about excessive soil salinity. *See* the September 30, 2021 letter from Erik Roget at UBS Farmland Investors LLC attached hereto as Exhibit C. As Mr. Roget explains, UBS Farmland LLC declined to purchase the property after spending thousands of dollars on due diligence because of concerns including “that the vineyard was not likely to be viable in the future due to saline toxicity...”

The subject property is no longer suitable for agricultural use as vineyard land or otherwise. The current characteristics of this property make it suitable for including in the City of American Canyon and American Canyon Fire Protection District spheres of influence.

Attachment #4

The subject property is presently partially fallow land and partially failing vineyard land. As already noted, the portion of the property used for vineyard purposes is decreasing in size. In a very few years the property will be entirely unsuitable for agricultural uses.

There is no current specific project or plan for the future use of the subject property. The properties adjoining the subject property are increasingly used for industrial and warehouse purposes. It seems likely that a similar use for the subject property might be appropriate at some point, which should be determined by the City of American Canyon at the appropriate time given the property’s address within the City of American Canyon and the City’s current provision of services to the site.

Placing this property into the sphere of influence is entirely consistent with Objective III and Local Consideration V(A)(1) in Napa County LAFCO’s 6-7-21 policy on spheres of influence because the subject property is no longer suitable for agricultural use and inclusion in the sphere of influence helps promote effective, efficient and economic provision of essential public

services by harmonizing the subject property with surrounding lands and increasing the revenue base for relevant Community Facilities Districts.

Local Consideration V(A)(5) in Napa County LAFCO's 6-7-21 policy on spheres of influence supports this request because the City of American Canyon has very little vacant or underutilized land available for infill purposes. See Final Report, Napa County LAFCO, South County Region Municipal Service Review and Sphere of Influence Updates, December 3, 2018, Section 6-3 ["Most of the area within the City [of American Canyon]'s SOI is built out."]. Realistically, the only way for this relatively new city to grow is through appropriate expansion of its borders via annexation.

Local Consideration V(A)(5) in Napa County LAFCO's 6-7-21 policy on spheres of influence further supports this request as does Local Consideration V(A)(8) because no extension of urban facilities, utilities and services are required for the subject property. The subject property is already serviced by the City of American Canyon and the Fire District.

Of course, as noted in Local Consideration V(A)(6) in Napa County LAFCO's 6-7-21 policy on spheres of influence, granting the request to amend the sphere of influence to include the subject property is no guarantee of approval of annexation.

BN 47126236v1

EXHIBIT A



David Gilbreth, Manager
Ed Farver, Manager
Will Nord, Manager
Green Island Vineyard LLC

September 29, 2021

Site Visit Report
Green Island Vineyard
Project 21-178

The objective of the site visit was to qualify the current condition of the Green Island vineyard in light of the passage of time since the submission of the report regarding the irrigation water chemistry and soil chemistry of the vineyard: Anamosa-Gilbreth-Ghisletta-GIV-Geoff-Monk-CCA-15-179-Soil-Water-Chemistry-Review-June- 2018-Proj-18-136.

In summary, it is my professional opinion as a result of my analysis of the irrigation water chemistry, soil chemistry and condition of the vineyard, that the vineyard is continuing in death spiral and the soils are unsustainable for wine grapes as a result of excessive accumulation of salts in the rootzones of the vines. Consequently, as generally anticipated based on the data presented in my 2018 report, in 2021 the vineyard owners removed one-half of the most severely affected vineyard blocks. An additional one-quarter of the blocks will be removed at the termination of this season, and the remaining blocks will be removed in the very near future. The review of the ACRW indicates it is unsuitable for winegrapes. It is probably the repeated use of the ACRW on this vineyard that has caused the salinity, sodium, and chloride problems in the vineyard.

Introduction

Soil salinity issues with grapevines is not common in the North Coast California viticultural areas, but are becoming more common as continued pumping of ground water in the periphery of San Pablo Bay has caused saltwater intrusion into the ground water system, and vineyards have continued to use the ever increasingly salty water on vineyard. Much of scientific research and development of scientifically based "best practices" for management of vineyards with salinity, sodium, and chloride problems has been done in Australia. Shown below are photos provided in several Australian extension education bulletins for growers to identify and manage salt issues in vineyards. I am showing these photos to provide a baseline of the symptoms of winegrapes grown on soils with high salt accumulations.

Generally, the symptoms of excessive soil salinity are the development of necrotic (brown) tissue along the margin and/or quarter or half-sections of the leaves. The most severe symptom may envelop the entire leaf and all leaves on the vine. Severe necrotic leaf tissue damage will frequently weaken the vine for the following year due to the lack of carbohydrate storage into the roots and trunk for the next season's growth. Some vine may die and will not push buds the following season.



Figure 1. Highly salinity water damage to winegrapes (Best Management Practices for Irrigation Water Salinity and Salt Build-up in Vineyard Soils, Limestone Coast Grape and Wine Council, Government of South Australia, 2017.)



Figure 2. Highly salinity water damage to winegrapes (Best Management Practices for Irrigation Water Salinity and Salt Build-up in Vineyard Soils, Limestone Coast Grape and Wine Council, Government of South Australia, 2017.)



Figure 3. Managing Salinity in the Vineyard Factsheet; Rob Walker; CSIRO Plant Industry, Adelaide, Australia.

The general symptoms of salinity, will usually occur prior to the toxicity symptoms of either sodium or chloride, because in order to get to the toxic levels for sodium and/or chloride, the salinity is already above the minimally problematic value of 1.5 dS/m. The moderate to severe salinity toxicity symptoms occur around 2.0 to 2.5 dS/m and vine death is typical at 3.5 to 4.0 dS/m. Since the soil salinity impact on the vine is osmotic, only a few roots must be in soil with toxic salinity levels for the vine to become dehydrated and show symptoms. Osmosis is the movement of water from an area of low solute concentrations to an area of high solute concentration through a semi-permeable membrane. In the vineyard setting the semi-permeable membrane is the cell membrane in the root. So as the soil salinity increases water flows from the roots to the soil, instead of the preferred flow from the soil into the root. Even if the soils are quite wet, the water will not flow into the roots. This causes the vines leaves to dehydrate and leaf cell death starting around the periphery of the leaf even in the presence of moist soil.

Site Visit Protocols

A Site Visit to the Green Island Vineyard (GIV) was conducted on September 10, 2021.

Vineyard Layout: The vineyard is planted on 7-foot rows with 6 feet between vines. The vines are trained on bilateral cordon on a vertical trellis. The trellis has a drip hose wire, a fruiting wire, and two sets of two fruiting wires that vary by block in distance above the fruiting (cordon) wire 12-14 inches and 24-30 inches. Although the end-post and stakes are sufficiently tall, there is not a set of fruiting wires that would typically be found around 36" above the cordon. Many vineyard managers construct the trellis as needed, meaning that they add the drip, fruiting (cordon) and first set of foliage catch wires when the vines are planted, and then add additional wires if needed as the vineyard matures. The fact that this vineyard did not install the typical foliage catch wires at 36" above the cordon, indicates that the vines did not grow sufficiently to warrant the wires, and their consequent expense. Vines with shoots only to the 2nd wire are considered stunted

The qualitative evaluation of each block will be provided in the following parameters:

PV2W Percentage of vine shoots not reaching the second fruiting wire (24 to 30"). The lower the value, the more shoot growth there has been.

PLN Percentage of leaf area with necrosis. The higher the value, the more necrotic leaves there are.

Blocks A1, B5, B4-south, C1, C2, D3 and D4 have been pulled out and are fallow. These blocks were most affected, and vine growth and yields were well below economic profitability.

We have attached a block map and a 2017 EVI (Enhanced Vegetative Index) image of the vineyard, as well as our Electromagnetic scanner evaluation to a depth of 5-feet. The EVI image show the relative photosynthetic capacity of the vines. Those area represented by Blocks A3, B2, B3, and the eastern portion of D2 and D3, show the highest vigor. The areas represented by A1, A2 (young vines in 2016), B4-south, B-5, D3, D4 showed the lowest vigor and a but A2 have been pulled.

The map of the Electromagnetic Scanner (EM) shows patterns across the vineyard very similar to the EVI. Soil sampling has confirmed that those areas where the EM data showed the highest Electrical Conductivity values also have the highest electrical conductivity and salinity. Therefore, the patterns shown across the landscape of the EVI and EM data set have been confirmed by soil analysis.

Findings and Discussion

The photos take of vines in each block are attached in the following pages, along with the percentage of vines shoots not reaching the 2nd wire, and the percentage of leaf area with necrosis.

1. It should be expected that continued use of the high salt content ACRW will continue to accumulate in these soils and render the vineyard area unsuitable for continued vineyard operations in the upcoming years. It is just a matter of time, that the land is sufficiently toxified to kill the remaining vines if they are not pulled out first.
2. We have had two years (2020, and 2021) of lower than average rainfall that has reduced the leaching of salts, and an additional two years of application of water that is unsuitable for the irrigation of winegrapes. Even with near-normal rainfall, there will be inadequate leaching of salts to overcome the current salt load in the soil and the anticipated addition of more salts in the irrigation water that will be required to continue farming this vineyard.
3. These vineyard blocks are 20+ years old and cordon trained. They are also exhibiting fungal disease indicative of Eutypa (and similar canker wood rot diseases) . The symptoms of this disease appear as dead spur positions, dead cordons and eventually vine death. Vine death typically starts to occur once the vines are 20 to 40 years old. Although, some vine death may be occurring due to Eutypa, the cluster of dead vines along the western boundaries of Blocks C3, D1 and D2 are neighboring vines with severe toxic salinity symptoms. Therefore, even though Eutypa is present in this vineyard, it is most certainly not the cause of the majority of vine death in the most salt affected areas.
4. Only Block A3 (young vines) and the western portions of Blocks B2 and B3 showed minor damage.
5. All other blocks showed moderate to severe damage especially the western sides of Blocks C3, D1 and D2. These blocks showed upwards of 60% to 80% necrotic leaf area, and many dead vines.
6. The vines growing in the Green Island Vineyard are showing minor to severe toxicity symptoms from high salinity soils. Only a small portion of the south-central regions of the vineyard (west side of Blocks B2 and B3) are showing minor impact from the salinity. The rest of the blocks including the eastern sides of Blocks B2 and B3 are showing moderate to severe toxic symptoms from high salinity soil. The vines are showing the symptoms of high salts in the soil indicated by short shoot growth and necrotic tissue starting on the leave margins and may affect much of the leaf area. Vines showing 60% to 80% salinity damage are in a death spiral due to the inability to manufacture and store late season carbohydrates for the next season's bud-break. Therefore, increased rate of vine death should be expected, especially in those areas that are currently most severely affected by the high salt damage.
7. The American Canyon Recycled Water (AMCR) that is used to irrigate the vineyard is unsuitable for the irrigation of vineyards, and the salts in that water have been accumulating in the soils for many years. This salt accumulation has degraded the condition of the vineyard and will continue to do so into the future. Due to the proximity of the vineyard to San Pablo Bay it is unlikely that on-site well water would be an improvement over the ACRW.

Conclusion

In conclusion, it is my professional opinion as a result of my analysis of the irrigation water chemistry, soil chemistry and condition of the vineyard that the vineyard is continuing in death spiral and the soils are unsustainable for wine grapes as a result of excessive accumulation of salts in the rootzones of the vines.

Paul R. Anamosa

Paul R. Anamosa, Ph.D.
Soil Scientist & Viticulturist

Block A2

PV2W: 80%
PLN: 40%



Upper Left: Vines with most shoots below 2nd wire.
Upper Right: Readily visible 2nd wire with few shoots touching
Lower Left: Vines with 20% shoots above wire, and 30% to 40% leaf area necrosis.
Lower Right: Outline of white salts evaporation ring around beneath the emitter.

Block A3

PV2W: 60%
PLN: 20%



Left: Notice tape measure draped over netting showing second wire at about 20" above cordon. 60% of shoots below this wire.

Minor leaf damage.



Block A3 had many short shoots, but showed only minor leaf necrosis salinity symptoms.

Block B1

PV2W: 20%
PLN: 30%



Upper Left: This block shows the wire installed at 36" above the cordon. Only 20% of shoots were below the 2nd wire and most were between the second and the third wires.

Upper Right: Showing the impact of the necrosis equally on all of the vines down the rows.

Lower Left: Close up of leaf necrosis (40%) on leaf at 3rd wire.

Lower Right: Vine with nearly 90% necrotic tissue next to vines with 30% necrotic tissue.

Block B2

PV2W: 40%
PLN: 50%



Upper Left: Vines showing marginal leaf necrosis across rows.

Upper Right: Vine with about 60% of shoots above 2nd wire, 30% leaf necrosis.

Lower Left: Down the row showing consistent green leaves and moderate leaf necrosis.

Block B3-1 Pinot Noir

PV2W: 20%

PLN: 20%



Left: Vines with only 20% of shoots less than 24” and about 20% greater than 24”. Leaf necrosis was only about 20%.

Strongest part of vineyard.



Left: More vines with only 20% shoots less than 24” length and many over 24, but all less than 36”

Leaf area necrosis is between 10% and 20%.

Block B3-2 Malbec

PV2W: 60%

PLN: 80%



Left: Vines with short shoots and nearly all leaves necrotic. Some vines in neighboring rows with less necrosis.

Among the worst salinity damage on the vineyard.



Left: Vines far down the rows with 60 to 100% necrotic leaves.

Some of these vines may not make it to next season due to lack of leaves to power carbohydrate storage for next season's bud-break.

Block B3-3 Merlot

PV2W: 20%
PLN: 30%



Left: This block has the 3rd wire at 36".
*0% of wires at or above 26" wire, and 20% at or above 36" wire.

Longer shoot growth, but still 30% of leaf surface area has necrosis.



Left: This portion of B-3-3 Merlot has shorter shoots and 40% to 60% leaf area necrosis.

Block B-4

PV2W: 40%
PLN: 20%



**Left: 40% of short shoot
not above 2nd wire.**

**About 20% to 30% leaf
area necrotic.**



Block C3

PV2W: 40% to 100
PLN: 10% to 100



Left: 40% short shoot not up to 2nd wire at 26", but only about 10% to 20% leave area necrosis. This is from the east side of the blocks

One of the least affected areas.



Upper Left: Vines along the western block boundary at low elevations. Most vines with 80% to 100% necrosis.

Many dead vines from previous season with no leaves (no-budbreak).



Upper Right: Mid-way between east and west block boundary. About 40% to 50% leaf necrosis. Many short shoots.

Block D1

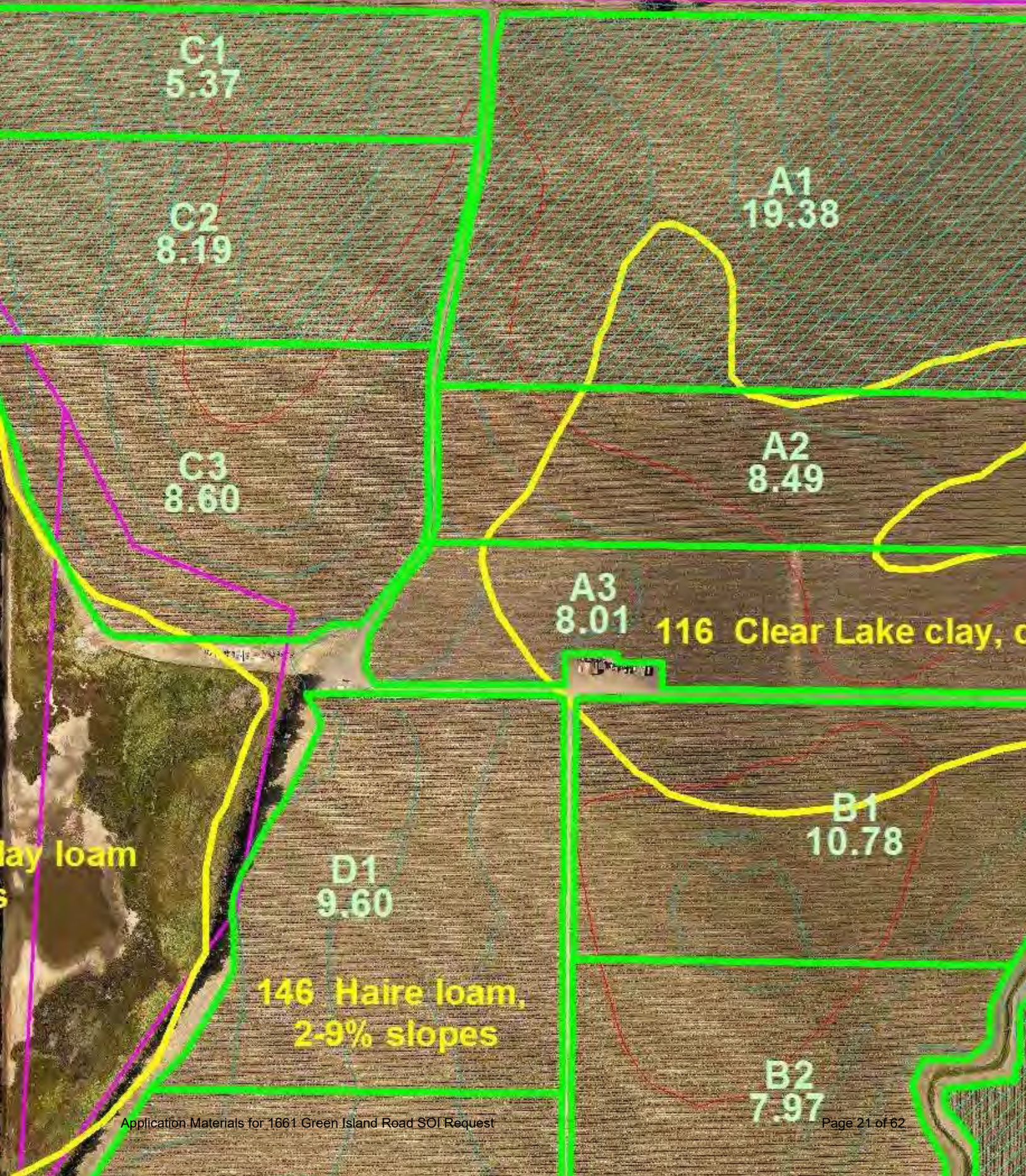
PV2W: 60%
PLN: 20%

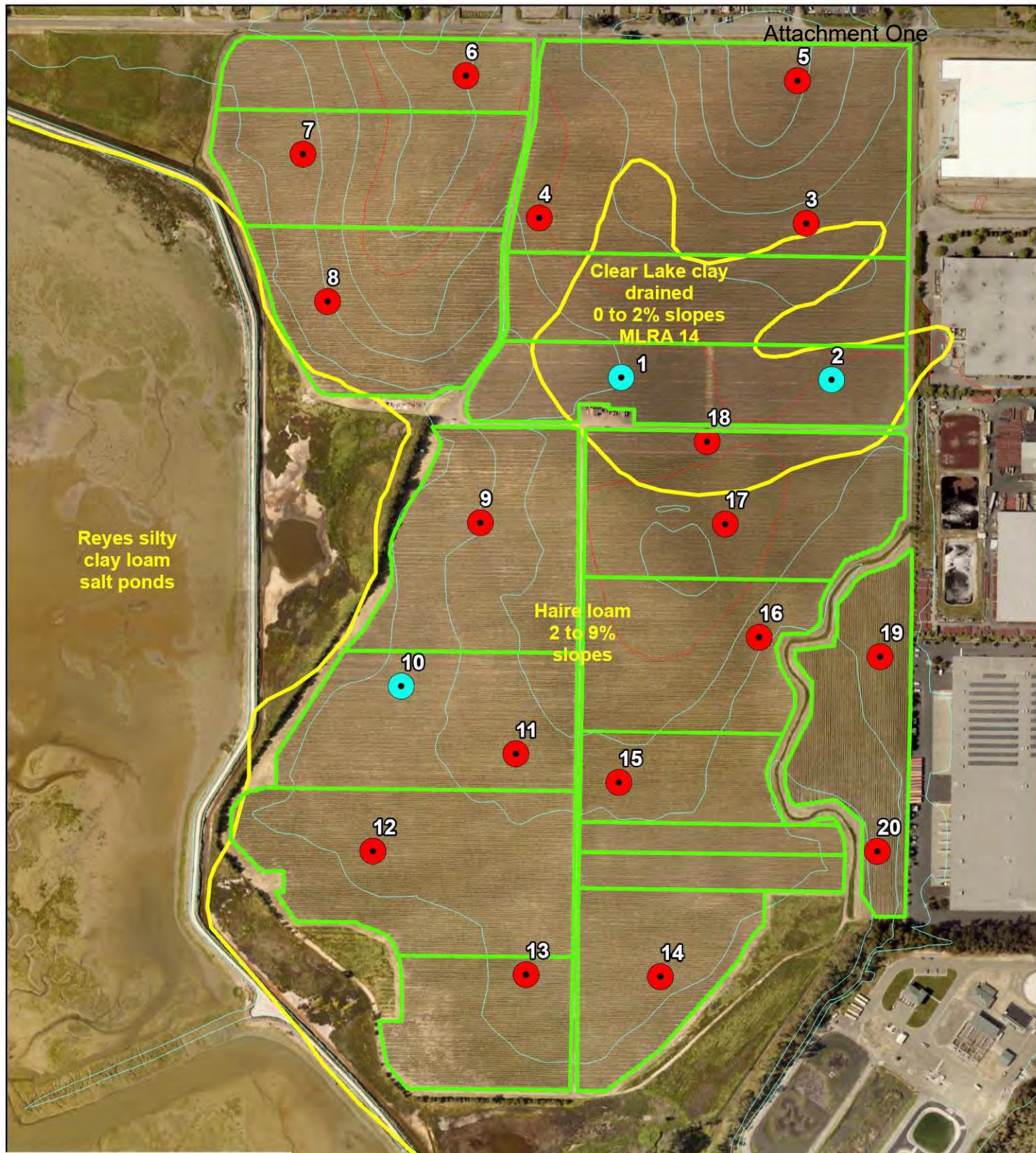


Left: Close up of leaf necrosis with some shoots above 2nd wire.



Left: Most vines with less than 60% of shoots up to 2nd wire. 20% to 30% leaf area necrosis.





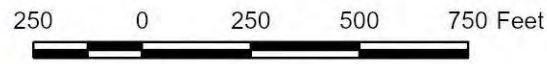
Soil Series by Morphology

- Haire loam
- Clear Lake clay

- Study Area
- Napa County Soil Series

Elevation Contours
 — 5 ft.

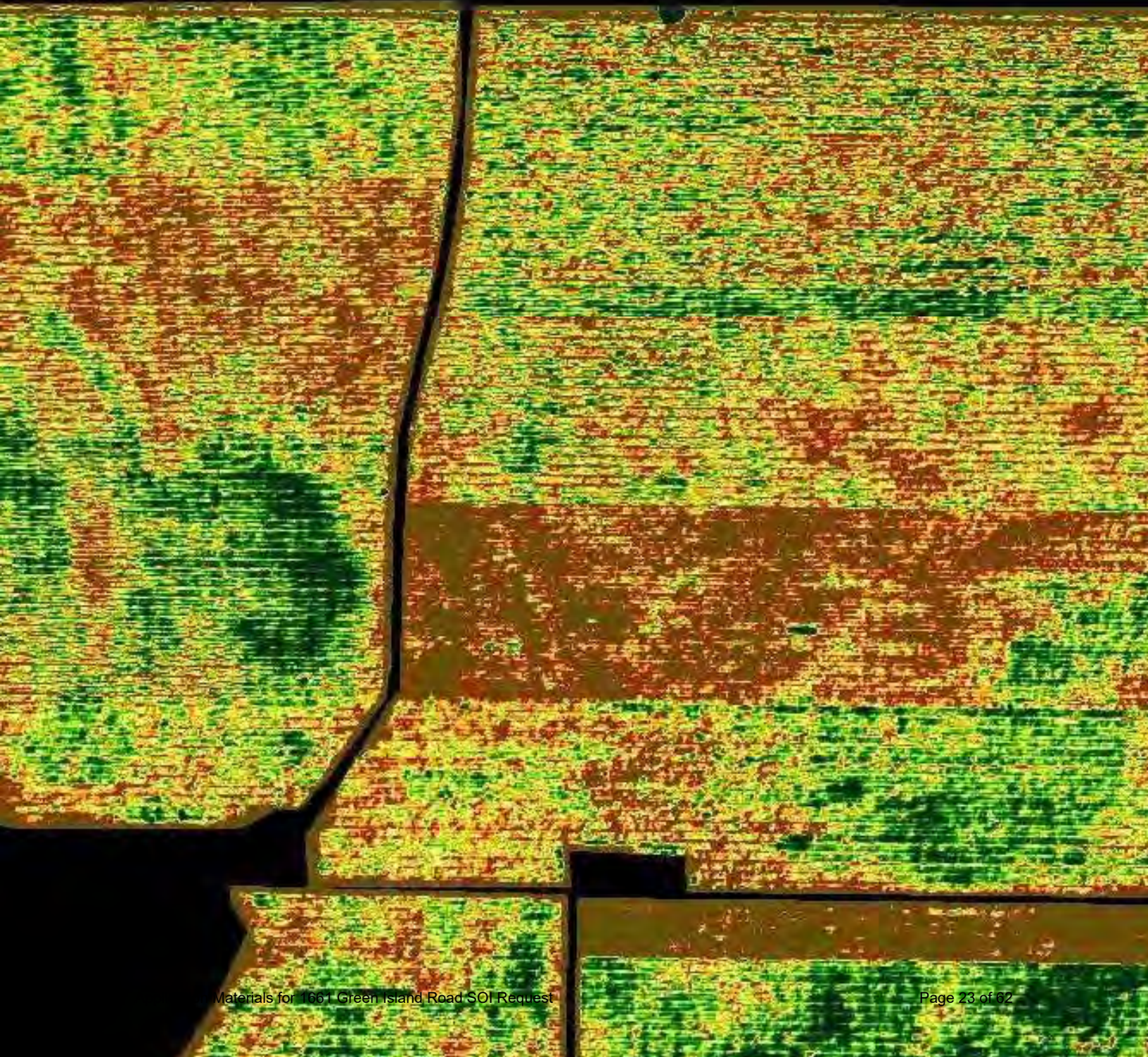
Ed Farver
 Green Island Vineyard
 American Canyon, CA.

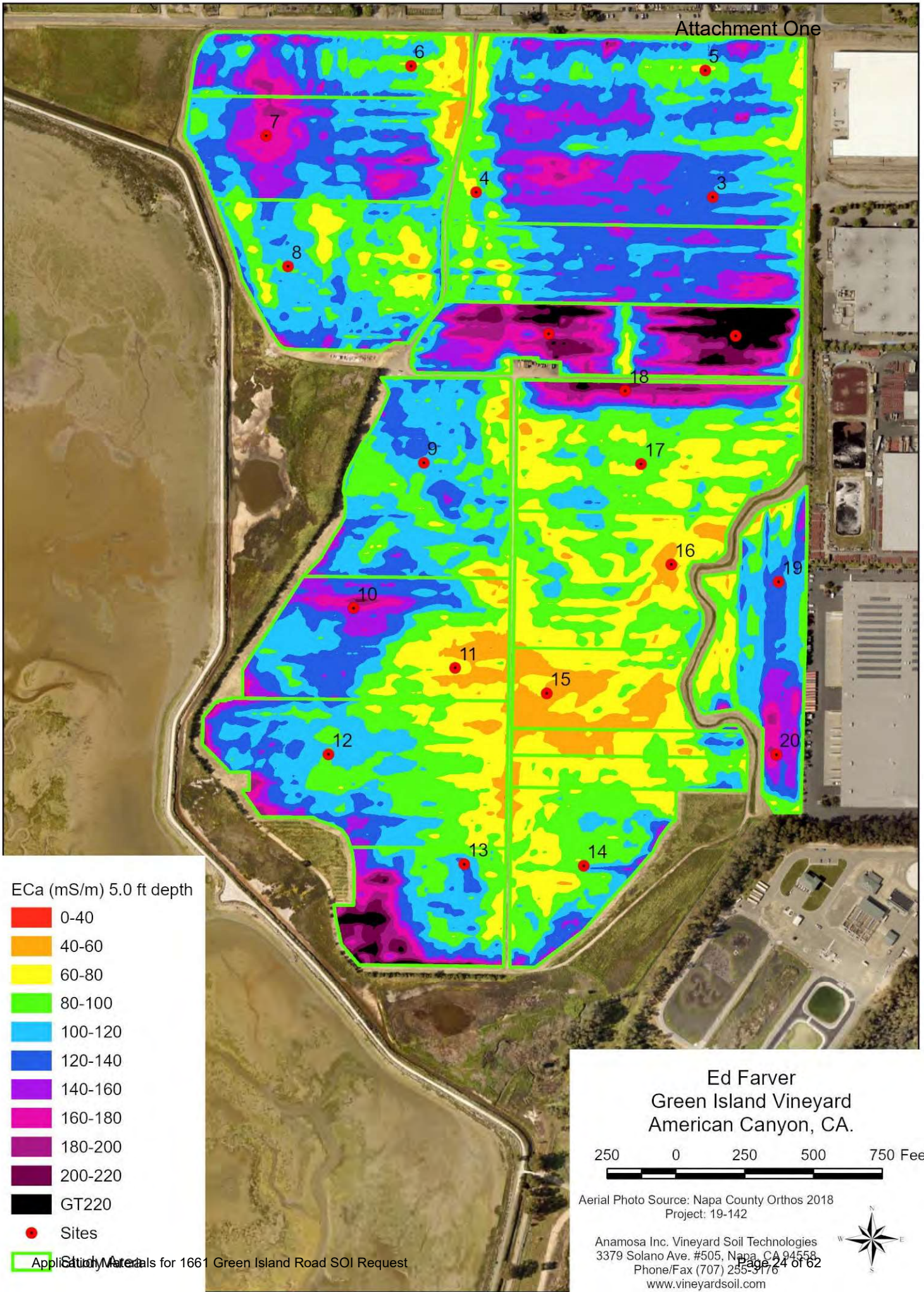


Aerial Photo Source: Napa County Orthos 2018
 Project: 19-142

Anamosa Inc. Vineyard Soil Technologies
 3379 Solano Ave. #505, Napa, CA 94558
 Phone/Fax (707) 255-3176
 www.vineyardsoil.com







ECa (mS/m) 5.0 ft depth

- 0-40
- 40-60
- 60-80
- 80-100
- 100-120
- 120-140
- 140-160
- 160-180
- 180-200
- 200-220
- GT220
- Sites

Application Materials for 1661 Green Island Road SOI Request

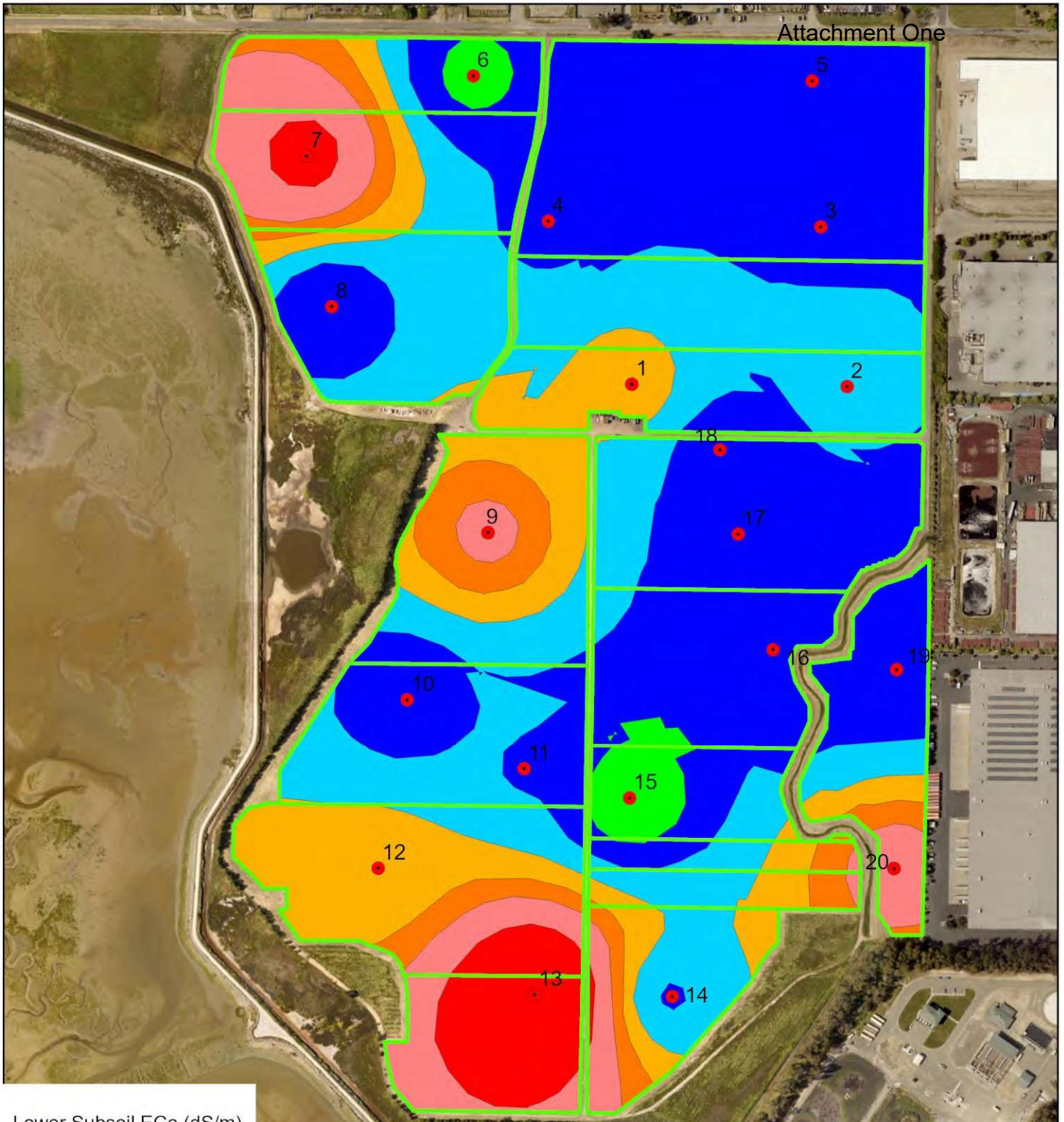
Ed Farver
 Green Island Vineyard
 American Canyon, CA.

250 0 250 500 750 Feet

Aerial Photo Source: Napa County Orthos 2018
 Project: 19-142

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Lower Subsoil ECe (dS/m)

- 0.0 - 0.2
- 0.2 - 1.0
- 1.0 - 1.5
- 1.5 - 2.0
- 2.0 - 2.5
- 2.5 - 3.0
- 3.0 - 4.0
- 4.0 - 8.0

● Sites

□ Study Area

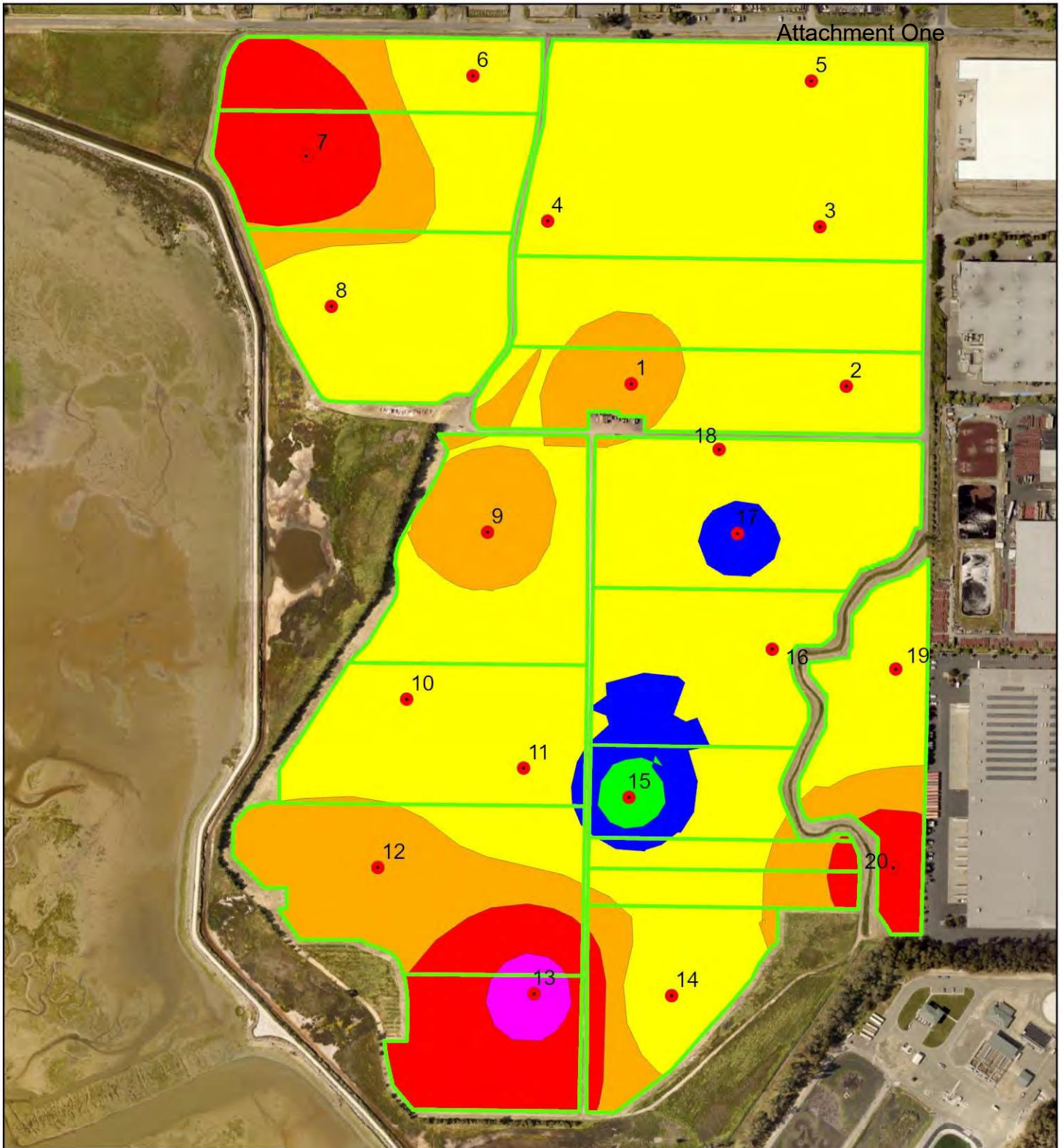
Ed Farver
 Green Island Vineyard
 American Canyon, CA.

250 0 250 500 750 Feet

Aerial Photo Source: Napa County Orthos 2018
 Project: 19-142

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Lower Subsoil Sodium (meq/l)

- 0 - 3
- 3 - 5
- 5 - 10
- 10 - 15
- 15 - 25
- GT 25
- Sites

Study Area Application Materials for 1661 Green Island Road SOI Request

Ed Farver
Green Island Vineyard
American Canyon, CA.

250 0 250 500 750 Feet

Aerial Photo Source: Napa County Orthos 2018
Project: 19-142

Anamosa Inc. Vineyard Soil Technologies
3379 Solano Ave. #505, Napa, CA 94558
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Appendix Table A4



Date: 23-Aug-2019

For: Vineyard Soil Technologies
 Client: ED FARVER
 Property: GREEN ISLAND VINEYARD
 Project Number: 19-142

Log In #: 398610
 Date Sampled: 9-Aug-2019
 Date Submitted: 14-Aug-2019
 Date Reported: 23-Aug-2019

Report of Soil Analysis

Profile	Layer*	Method > Sample Depth (in)	Saturation Extract											Free Lime	Extractable Nutrients							Extractable Cations					
			S-1.00	S-1.10	S-2.30	S-1.60	S-1.60	S-1.60	Calc.	S-1.50	S-1.70	S-1.40	S-3.10		S-4.10	S-4.20	S-5.10	S-6.10	S-15.10	S-6.10	S-10.10	S-5.10	S-5.10	S-5.10	estm.		
			Sat%	pH	dS/m	meq/l	meq/l	meq/l	meq/l	mg/l	meq/l	meq/l	mg/kg		mg/kg	mg/kg	mg/kg	mg/kg	mg/kg	mg/kg	meq/100g	Ca	Mg	K	Na	H+Al	
1	1E	0	15	64	7.2	0.9	3.7	2.0	3.8	2.2	0.23	3.5	18.2	Med	8.6	55		348	2.7		1.3	36.2	68	27	2.5	3.0	0
1	1M	0	15	67	6.1	0.5	1.7	1.6	1.6	1.3	0.07	2.8		0	5.4	6		169	0.6		2.8	38.6	49	42	1.1	1.7	6
1	2M	15	30	68	6.1	1.0	2.7	3.3	4.6	2.7	0.05	7.7		0	2.3	3		152	0.5		2.5	38.3	42	48	1.0	4.2	5
1	3M	30	44	78	6.3	2.3	5.0	7.2	12.9	5.2	0.02	16.7	6.0	0	4.0	2		153	0.3		2.0	40.0	37	49	1.0	8.7	4
2	1E	0	15	66	7.1	1.1	4.8	3.0	4.2	2.1	0.26	5.7	2.2	Low	5.3	27		207	2.0		1.4	35.9	64	32	1.5	3.1	0
2	1M	0	15	61	6.1	0.6	2.4	2.1	1.9	1.3	0.05	4.4		0	3.2	4		154	0.4		2.3	37.2	53	39	1.1	1.6	5
2	2M	15	30	64	6.4	0.8	2.4	2.2	3.7	2.4	0.03	5.4		0	3.6	2		154	0.3		2.2	37.1	49	42	1.1	3.5	4
2	3M	30	43	68	6.5	1.7	4.3	4.4	8.7	4.1	0.02	11.1	4.3	0	3.4	2		150	0.3		1.8	35.9	48	44	1.1	6.6	0
3	1E	0	17	41	7.0	1.1	7.4	1.6	3.3	1.6	0.26	7.4	1.5	Low	4.6	12		200	1.2		0.6	13.5	82	12	3.8	2.6	0
3	1M	0	17	39	6.8	0.6	4.2	0.9	0.9	0.5	0.12	3.5		0	3.0	9		154	1.0		0.7	12.9	85	11	3.1	0.9	0
3	2M	17	29	72	5.7	0.9	3.6	2.4	3.3	1.9	0.03	7.7		0	1.6	2	3	163	0.3		0.5	29.1	56	32	1.4	2.9	8
3	3M	29	40	66	5.2	1.5	5.2	4.4	6.5	3.0	0.02	12.2	2.4	0	1.5	1	2	155	0.2		0.7	29.4	50	36	1.3	4.6	7
4	1E	0	15	42	6.8	1.2	4.2	2.1	6.6	3.7	0.41	7.5	2.5	Low	1.9	25		171	1.9		0.8	13.8	68	22	3.2	6.2	0
4	1M	0	15	38	6.1	0.6	2.7	1.5	2.1	1.4	0.18	3.5		0	4.2	8		120	1.1		1.2	12.2	59	22	2.5	2.2	14
4	2M	15	29	43	5.3	0.6	1.8	1.5	2.5	2.0	0.11	3.9		0	1.3	3	3	70	0.2		0.8	12.0	45	31	1.5	3.4	18
4	3M	29	40	85	4.2	1.3	2.4	3.0	7.5	4.6	0.03	7.4	4.5	0	1.0	2	2	140	0.4	283	4.0	35.1	30	43	1.0	7.5	19
5	1E	0	25	38	7.3	0.6	3.6	1.1	2.0	1.3	0.18	2.7		Low	2.3	37		245	3.1		1.2	14.1	80	13	4.5	1.8	0
5	1M	0	25	36	6.7	0.5	2.8	1.2	1.4	1.0	0.08	2.7		0	2.3	6		70	0.6		1.7	12.9	78	19	1.4	1.6	0
5	2M	25	35	69	5.7	0.8	2.2	1.9	4.2	3.0	0.02	6.4		0	1.4	2	4	148	0.3		2.4	30.6	49	37	1.2	4.5	8
5	3M	35	43	49	5.5	1.0	2.4	2.2	5.5	3.6	0.02	7.0	1.9	0	1.6	2	2	106	0.2		1.7	29.9	48	38	0.9	5.3	7
6	1E	0	20	38	7.4	1.2	5.2	1.8	5.0	2.6	0.31	5.9	2.2	Med	5.3	65		338	7.9		1.0	14.3	75	15	6.0	3.7	0
6	1M	0	20	35	6.2	0.6	2.6	1.4	2.3	1.6	0.18	3.5		0	3.7	7		72	1.5		2.3	12.2	63	21	1.5	2.5	13
6	2M	20	36	62	5.8	1.0	1.7	1.7	6.0	4.7	0.08	6.1		0	1.4	2	3	142	0.3		1.7	31.9	45	40	1.1	6.4	8
6	3M	36	52	38	5.7	0.8	1.4	1.4	5.1	4.4	0.04	4.3		0	1.7	1	1	69	0.2		1.1	27.3	47	41	0.6	5.6	6
7	1E	0	19	38	7.4	1.2	6.5	1.6	4.7	2.3	0.35	6.2	2.6	High	2.1	33		142	3.5		0.5	13.2	81	13	2.8	3.5	0
7	1M	0	19	40	6.4	1.5	10.5	3.2	5.0	1.9	0.28	13.4	1.8	0	2.3	10		81	1.8		1.0	13.6	73	14	1.5	3.2	8
7	2M	19	29	78	5.1	2.4	6.3	6.9	12.5	4.9	0.05	15.6	8.4	0	1.6	1	2	150	0.5		0.5	35.7	40	41	1.1	8.6	9
7	3M	29	42	84	4.9	4.3	12.6	16.9	22.8	5.9	0.02	30.5		0	1.2	1	1	153	0.4	30	0.4	43.5	38	43	0.9	11.1	8

Appendix Table A4

DATA PROCESSED BY WINE^{SOIL}.COM - VITICULTURAL SOIL AND WATER TECHNOLOGIES

VineyardSoil
Technologies



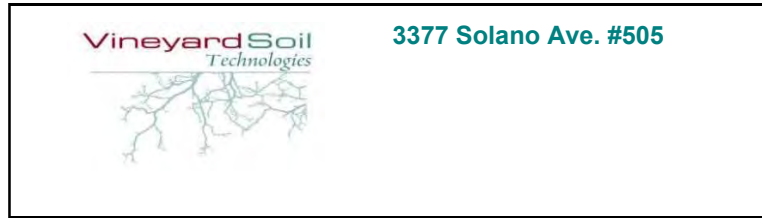
**3377 Solano Ave. #505
Napa, CA 94558**

ph/fax: (707)255-3176

www.VineyardSoil.com

Appendix Table A4 - 1

Appendix Table A4



Date: 23-Aug-2019

For: Vineyard Soil Technologies
 Client: ED FARVER
 Property: GREEN ISLAND VINEYARD
 Project Number: 19-142

Log In #: 398610
 Date Sampled: 9-Aug-2019
 Date Submitted: 14-Aug-2019
 Date Reported: 23-Aug-2019

Report of Soil Analysis

Profile	Layer*	Method > Sample Depth (in)	Saturation Extract											Free Lime	Extractable Nutrients							Extractable Cations				
			S-1.00	S-1.10	S-2.30	S-1.60	S-1.60	S-1.60	Calc.	S-1.50	S-1.70	S-1.40	S-3.10		S-4.10	S-4.20	S-5.10	S-6.10	S-15.10	S-6.10	S-10.10	S-5.10	S-5.10	S-5.10	estm.	
			Sat%	pH	dS/m	meq/l	meq/l	meq/l	meq/l	mg/l	meq/l	meq/l	meq/l		mg/kg	mg/kg	mg/kg	mg/kg	mg/kg	mg/kg	mg/kg	meq/100g	Ca	Percentage of Mg	K	CEC
1	1E	0 15	64	7.2	0.9	3.7	2.0	3.8	2.2	0.23	3.5	18.2	Med	8.6	55		348	2.7	1.3	36.2	68	27	2.5	3.0	0	
1	1M	0 15	67	6.1	0.5	1.7	1.6	1.6	1.3	0.07	2.8		0	5.4	6		169	0.6	2.8	38.6	49	42	1.1	1.7	6	
1	2M	15 30	68	6.1	1.0	2.7	3.3	4.6	2.7	0.05	7.7		0	2.3	3		152	0.5	2.5	38.3	42	48	1.0	4.2	5	
1	3M	30 44	78	6.3	2.3	5.0	7.2	12.9	5.2	0.02	16.7	6.0	0	4.0	2		153	0.3	2.0	40.0	37	49	1.0	8.7	4	
2	1E	0 15	66	7.1	1.1	4.8	3.0	4.2	2.1	0.26	5.7	2.2	Low	5.3	27		207	2.0	1.4	35.9	64	32	1.5	3.1	0	
2	1M	0 15	61	6.1	0.6	2.4	2.1	1.9	1.3	0.05	4.4		0	3.2	4		154	0.4	2.3	37.2	53	39	1.1	1.6	5	
2	2M	15 30	64	6.4	0.8	2.4	2.2	3.7	2.4	0.03	5.4		0	3.6	2		154	0.3	2.2	37.1	49	42	1.1	3.5	4	
2	3M	30 43	68	6.5	1.7	4.3	4.4	8.7	4.1	0.02	11.1	4.3	0	3.4	2		150	0.3	1.8	35.0	48	44	1.1	6.6	0	
3	1E	0 17	41	7.0	1.1	7.4	1.6	3.3	1.6	0.26	7.4	1.5	Low	4.6	12		200	1.2	0.6	13.5	82	12	3.8	2.6	0	
3	1M	0 17	39	6.8	0.6	4.2	0.9	0.9	0.5	0.12	3.5		0	3.0	9		154	1.0	0.7	12.9	85	11	3.1	0.9	0	
3	2M	17 29	72	5.7	0.9	3.6	2.4	3.3	1.9	0.03	7.7		0	1.6	2	3	163	0.3	0.5	29.1	56	32	1.4	2.9	8	
3	3M	29 40	66	5.2	1.5	5.2	4.4	6.5	3.0	0.02	12.2	2.4	0	1.5	1	2	155	0.2	0.7	29.4	50	36	1.3	4.6	7	
4	1E	0 15	42	6.8	1.2	4.2	2.1	6.6	3.7	0.41	7.5	2.5	Low	1.9	25		171	1.9	0.8	13.8	68	22	3.2	6.2	0	
4	1M	0 15	38	6.1	0.6	2.7	1.5	2.1	1.4	0.18	3.5		0	4.2	8		120	1.1	1.2	12.2	59	22	2.5	2.2	14	
4	2M	15 29	43	5.3	0.6	1.8	1.5	2.5	2.0	0.11	3.9		0	1.3	3	3	70	0.2	0.8	12.0	45	31	1.5	3.4	18	
4	3M	29 40	85	4.2	1.3	2.4	3.0	7.5	4.6	0.03	7.4	4.5	0	1.0	2	2	140	0.4	283	4.0	35.1	30	43	1.0	7.5	19
5	1E	0 25	38	7.3	0.6	3.6	1.1	2.0	1.3	0.18	2.7		Low	2.3	37		245	3.1	1.2	14.1	80	13	4.5	1.8	0	
5	1M	0 25	36	6.7	0.5	2.8	1.2	1.4	1.0	0.08	2.7		0	2.3	6		70	0.6	1.7	12.9	78	19	1.4	1.6	0	
5	2M	25 35	69	5.7	0.8	2.2	1.9	4.2	3.0	0.02	6.4		0	1.4	2	4	148	0.3	2.4	30.6	49	37	1.2	4.5	8	
5	3M	35 43	49	5.5	1.0	2.4	2.2	5.5	3.6	0.02	7.0	1.9	0	1.6	2	2	106	0.2	1.7	29.9	48	38	0.9	5.3	7	
6	1E	0 20	38	7.4	1.2	5.2	1.8	5.0	2.6	0.31	5.9	2.2	Med	5.3	65		338	7.9	1.0	14.3	75	15	6.0	3.7	0	
6	1M	0 20	35	6.2	0.6	2.6	1.4	2.3	1.6	0.18	3.5		0	3.7	7		72	1.5	2.3	12.2	63	21	1.5	2.5	13	
6	2M	20 36	62	5.8	1.0	1.7	1.7	6.0	4.7	0.08	6.1		0	1.4	2	3	142	0.3	1.7	31.9	45	40	1.1	6.4	8	
6	3M	36 52	38	5.7	0.8	1.4	1.4	5.1	4.4	0.04	4.3		0	1.7	1	1	69	0.2	1.1	27.3	47	41	0.6	5.6	6	
7	1E	0 19	38	7.4	1.2	6.5	1.6	4.7	2.3	0.35	6.2	2.6	High	2.1	33		142	3.5	0.5	13.2	81	13	2.8	3.5	0	
7	1M	0 19	40	6.4	1.5	10.5	3.2	5.0	1.9	0.28	13.4	1.8	0	2.3	10		81	1.8	1.0	13.6	73	14	1.5	3.2	8	
7	2M	19 29	78	5.1	2.4	6.3	6.9	12.5	4.9	0.05	15.6	8.4	0	1.6	1	2	150	0.5	0.5	35.7	40	41	1.1	8.6	9	
7	3M	29 42	84	4.9	4.3	12.6	16.9	22.8	5.9	0.02	30.5		0	1.2	1	1	153	0.4	30	0.4	43.5	38	43	0.9	11.1	8

Appendix Table A4

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VineyardSoil
Technologies



**3377 Solano Ave. #505
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Appendix Table A4 - 1

Appendix Table A4

Date 23-Aug-2019



3377 Solano Ave. #505
Napa, CA 94558
ph/fax: (707)255-3176
www.VineyardSoil.com

Log In # 398610
Date Sampled 9-Aug-2019
Date Submitted 14-Aug-2019
Date Reported 23-Aug-2019

For Vineyard Soil Technologies
Client ED FARVER
Property GREEN ISLAND VINEYARD
Project Number 19-142

Report of Soil Analysis

Profile	Layer*	Method > Sample Depth (in)	Saturation Extract											Extractable Nutrients								Extractable Cations					estm.
			S-1.00	S-1.10	S-2.30	S-1.60	S-1.60	S-1.60	Calc.	S-1.50	S-1.70	S-1.40	Free Lime	S-3.10	S-4.10	S-4.20	S-5.10	S-6.10	S-15.10	S-6.10	S-10.10	S-5.10	S-5.10	S-5.10	CEC		
			Sat%	pH	dS/m	meq/l	meq/l	meq/l		mg/l	meq/l	meq/l		mg/kg	mg/kg	mg/kg	mg/kg	mg/kg	mg/kg	mg/kg	meq/100g	Ca	Percentage of Mg	K	Na	H+Al	
8	1E	0 17	37	7.2	0.7	4.0	1.5	2.4	1.5	0.24	2.8		Low	2.9	21		166	1.6	0.8	14.2	77	17	3.0	2.5	0		
8	1M	0 17	45	7.0	0.9	5.7	2.1	2.0	1.0	0.19	5.0		Low	4.8	16		141	1.8	1.1	16.0	77	19	2.2	1.7	0		
8	2M	17 28	69	5.3	1.2	3.5	3.7	5.1	2.7	0.04	8.9	2.2	0	1.2	3	5	128	0.2	1.0	25.7	42	40	1.3	4.4	12		
8	3M	28 39	37	5.1	1.0	2.5	2.4	5.4	3.5	0.04	6.6	2.5	0	1.4	1	2	74	0.2	0.5	18.3	41	41	1.0	6.1	11		
9	1E	0 17	41	7.3	1.0	6.0	1.7	2.5	1.3	0.19	5.7		Med	4.7	53		272	5.2	0.7	15.1	79	14	4.6	2.0	0		
9	1M	0 17	40	6.8	0.6	4.5	0.9	1.3	0.8	0.18	3.9		0	2.3	8		160	1.1	1.0	12.6	85	10	3.3	1.4	0		
9	2M	17 28	65	5.4	1.4	5.5	4.1	5.4	2.5	0.08	11.2	2.4	0	1.5	2	3	206	0.2	1.5	29.8	52	33	1.8	3.8	10		
9	3M	28 40	77	4.9	3.2	12.9	14.2	12.3	3.3	0.04	25.5	10.6	0	1.4	2	1	201	0.4	37	2.6	42.7	44	40	1.2	5.4	9	
10	1E	0 18	54	7.2	1.1	6.5	2.2	3.5	1.7	0.20	7.3	0.8	High	5.7	49		443	2.4	0.7	27.0	73	20	4.2	2.6	0		
10	1M	0 18	58	7.0	0.8	5.7	2.1	1.2	0.6	0.10	4.9		Low	4.2	36		293	2.4	1.1	28.1	75	22	2.7	0.9	0		
10	2M	18 28	60	5.8	1.2	4.2	3.5	4.5	2.3	0.06	8.9	2.0	0	2.1	3	4	136	0.5	2.1	29.5	50	38	1.2	3.4	7		
10	3M	28 44	65	6.1	1.1	2.8	2.6	5.1	3.1	0.03	7.7	1.8	0	1.5	2		144	0.3	2.1	30.9	47	41	1.2	5.0	6		
11	1E	0 16	41	7.0	2.0	21.1	2.7	1.0	0.3	0.24	17.6	0.6	High	18.0	79		258	9.1	0.8	12.1	88	6	5.5	0.6	0		
11	1M	0 16	39	7.3	0.6	5.0	0.8	0.4	0.3	0.12	2.7		Low	3.4	14		106	1.5	0.6	10.1	89	8	2.7	0.5	0		
11	2M	16 27	36	6.7	0.4	1.9	0.7	1.3	1.2	0.09	2.5		0	1.5	4		40	0.1	0.5	6.8	79	17	1.5	2.5	0		
11	3M	27 41	61	5.5	1.5	6.1	4.7	5.4	2.3	0.02	12.9	1.9	0	1.2	1	2	133	0.2	1.0	24.7	51	34	1.4	4.0	9		
12	1E	0 17	36	7.6	1.0	4.3	1.2	2.3	1.4	0.17	5.9		Med	2.2	58		468	6.2	0.2	10.0	75	11	12.0	1.9	0		
12	1M	0 17	31	6.0	0.6	3.7	1.2	0.7	0.4	0.20	3.9		0	2.1	7	11	75	0.7	0.3	7.3	66	13	2.6	1.0	18		
12	2M	17 27	64	5.0	1.1	5.2	3.1	4.0	1.9	0.10	9.5	1.3	0	1.5	1	2	133	0.6	23	1.1	23.7	53	28	1.4	3.8	13	
12	3M	27 36	64	5.3	2.2	6.0	5.4	12.2	5.1	0.06	17.2	5.1	0	1.4	1	1	93	0.4	0.3	21.9	43	35	1.1	10.0	11		
13	1E	0 17	34	7.3	1.0	5.9	1.3	2.5	1.3	0.22	6.1		Med	1.7	45		213	3.9	0.3	8.4	81	11	6.5	2.3	0		
13	1M	0 17	34	6.9	0.7	5.0	1.6	0.9	0.5	0.18	4.3		0	3.5	11		51	1.1	0.4	8.2	81	16	1.6	1.2	0		
13	2M	17 28	33	5.8	2.6	8.8	4.4	13.4	5.2	0.03	13.0	11.6	0	1.3	3	4	37	0.1	0.5	8.3	53	21	1.1	11.4	13		
13	3M	28 43	69	5.6	6.3	25.0	23.5	29.7	6.0	0.02	39.2	32.8	0	2.4	2	3	108	0.3	0.2	28.8	45	35	1.0	12.7	7		
14	1E	0 14	30	7.6	1.4	4.7	1.2	6.1	3.5	0.30	8.0	2.2	High	2.8	58		399	5.0	0.3	7.9	72	9	12.9	5.2	0		
14	1M	0 14	33	6.8	1.4	14.0	2.8	0.7	0.2	0.14	13.9	0.3	0	3.9	7		74	0.7	0.2	6.8	85	11	2.8	1.0	0		
14	2M	14 25	28	7.0	0.4	2.5	0.5	1.0	0.8	0.06	2.3		0	1.5	5		46	0.1	0.2	5.3	88	8	2.2	1.8	0		
14	3M	25 40	55	5.5	1.5	5.9	5.0	5.1	2.2	0.02	11.4	2.7	0	4.1	1	2	86	0.3	0.4	16.3	49	36	1.3	4.3	9		

DATA PROCESSED BY WINE SOIL™ .COM - VITICULTURAL SOIL AND WATER TECHNOLOGIES

Appendix Table A4 - 3

Appendix Table A4

Date: 23-Aug-2019
 For: Vineyard Soil Technologies
 Client: ED FARVER
 Property: GREEN ISLAND VINEYARD
 Project Number: 19-142



**3377 Solano Ave. #505
 Napa, CA 94558**
ph/fax: (707)255-3176
www.VineyardSoil.com

Log In #: 398610
 Date Sampled: 9-Aug-19
 Date Submitted: 14-Aug-19
 Date Reported: 23-Aug-19

Report of Soil Analysis

Profile	Layer*	Sample Depth (in)		Extractable Cations									%		tons/acre-ft			PARTICLE SIZE ANALYSIS				tons/acre per layer depth		
				S-5.10	S-5.10	S-5.10	S-5.10	estm.	S-6.10	S-6.10	S-6.10	S-9.10	Organic Matter	Active Lime	S2.50 Lime Req.		Gypsum Req. Ca to 60% of CEC	% Sand	% Silt	% Clay	Classification	Lime (pH6)	Gypsum (60%)	
				mg/kg	mg/kg	mg/kg	mg/kg	mg/kg	mg/kg	mg/kg	mg/kg	mg/kg			(pH 5.5)	(pH 6.0)								
8	1E	0	17	2203	294	166	83	0	5.2	19	0.8	1.6	1											
8	1M	0	17	2473	374	141	61	0	8.2	34	1.2	2.5	2											
8	2M	17	28	2173	1255	128	262	31	1.2	47	0.7	1.0			1.0	7.7							0.9	7.0
8	3M	28	39	1509	909	74	255	20	0.5	24	0.7	0.3			0.0	5.7	47	33	20	Loam			0.0	5.3
9	1E	0	17	2401	256	272	68	0	5.1	35	1.3	1.8	3											
9	1M	0	17	2142	158	160	41	0	6.3	40	1.4	1.9					35	45	20	Loam				
9	2M	17	28	3096	1192	206	262	29	6.6	39	1.5	0.9			0.8	4.0							0.7	3.7
9	3M	28	40	3799	2086	201	528	37	13.0	64	2.3	0.6			0.9	11.1							0.9	11.1
10	1E	0	18	3938	665	443	162	0	5.1	29	2.1	1.9	1											
10	1M	0	18	4189	749	293	56	0	4.4	35	2.0	3.1	0				23	37	40	Clay				
10	2M	18	28	2954	1363	136	232	22	4.7	37	2.2	1.1			0.0	4.9							0.0	4.1
10	3M	28	44	2894	1557	144	355	18	3.4	25	1.9	0.7				6.9								9.1
11	1E	0	16	2123	94	258	18	0	17.9	23	1.4	2.4	1											
11	1M	0	16	1806	98	106	12	0	6.8	28	1.3	2.0	0											
11	2M	16	27	1064	143	40	39	0	2.3	16	1.0	0.7					45	43	12	Loam				
11	3M	27	41	2547	1033	133	230	22	4.9	24	0.6	0.5			0.5	3.6							0.6	4.2
12	1E	0	17	1503	133	468	44	0	5.2	41	1.3	1.4	2											
12	1M	0	17	954	112	75	16	13	7.8	40	1.6	1.2			0.0		49	37	14	Loam			0.0	
12	2M	17	27	2531	821	133	205	31	8.8	43	1.2	1.0			1.0	2.6							0.8	2.2
12	3M	27	36	1899	919	93	502	24	0.9	44	1.2	0.7			0.4	6.1							0.3	4.6
13	1E	0	17	1366	108	213	44	0	4.0	38	1.2	2.0	1											
13	1M	0	17	1338	161	51	22	0	6.8	38	1.5	1.5												
13	2M	17	28	879	212	37	216	11	3.9	22	1.2	0.7			0.0	1.0	47	37	16	Loam			0.0	0.9
13	3M	28	43	2595	1213	108	843	20	0.2	30	1.0	0.7			0.0	7.3							0.0	9.1
14	1E	0	14	1148	91	399	94	0	5.6	19	1.4	1.1	1											
14	1M	0	14	1162	91	74	15	0	4.2	22	1.4	1.3												
14	2M	14	25	928	51	46	22	0	2.3	10	1.1	0.7												
14	3M	25	40	1596	714	86	162	15	0.4	25	0.4	0.6			0.0	3.0	45	23	32	Clay Loam			0.0	3.8

Appendix Table A4

Date 23-Aug-2019

For Vineyard Soil Technologies

Client ED FARVER

Property GREEN ISLAND VINEYARD

Project Number 19-142



3377 Solano Ave. #505
Napa, CA 94558

ph/fax: (707)255-3176

www.VineyardSoil.com

Log In # 398610

Date Sampled 9-Aug-2019

Date Submitted 14-Aug-2019

Date Reported 23-Aug-2019

Report of Soil Analysis



Profile	Layer*	Method > Sample Depth (in)		Saturation Extract										Free Lime	Extractable Nutrients								Extractable Cations					
				S-1.00	S-1.10	S-2.30	S-1.60	S-1.60	S-1.60	S-1.50	S-1.70	S-1.40	S-3.10		S-4.10	S-4.20	S-5.10	S-6.10	S-15.10	S-6.10	S-10.10	S-5.10	S-5.10	S-5.10	S-5.10	estm.		
				dS/m			meq/l	meq/l	meq/l	Calc.	mg/l	meq/l	meq/l		mg/kg	mg/kg	mg/kg	mg/kg	mg/kg	mg/kg	mg/kg	meq/100g	Percentage of CEC					
				Sat%	pH	ECe	Ca	Mg	Na	SAR	B	SO ₄	Cl		NO ₃ -N	P _{Olsen}	P _{Bray}	K	Zn	Al	Ni	CEC	Ca	Mg	K	Na	H+Al	
15	1E	0	16	39	7.5	0.6	2.9	1.0	1.8	1.3	0.21	2.8		Med	2.5	52		317	3.9		0.4	8.7	75	14	9.3	2.0	0	
15	1M	0	16	38	7.2	0.7	6.0	1.3	1.0	0.5	0.15	4.1		Med	3.4	24		123	1.9	0.6	8.9	86	9	3.5	1.1	0		
15	2M	16	24	31	6.9	0.5	2.8	0.7	1.3	0.9	0.11	3.0		0	3.3	7		58	0.3	0.5	7.3	83	13	2.0	1.9	0		
15	3M	24	32	29	6.5	0.5	1.8	0.8	1.7	1.5	0.06	2.9		0	1.2	4		36	0.1	0.4	5.9	71	24	1.6	3.2	0		
16	1E	0	14	37	7.6	1.3	4.0	1.2	6.1	3.8	0.26	5.2	2.9	High	4.8	55		489	7.5	0.8	12.9	73	13	9.7	5.0	0		
16	1M	0	14	43	7.0	0.9	6.3	1.7	1.5	0.7	0.10	5.5		Low	4.9	17		248	2.0	1.3	12.9	81	13	4.9	1.4	0		
16	2M	14	26	34	6.6	0.5	2.4	1.0	1.5	1.2	0.07	3.1		0	6.2	7		122	0.7	1.2	9.5	75	19	3.3	2.2	0		
16	3M	26	38	28	6.1	1.2	3.6	2.5	5.7	3.2	0.04	8.1	2.3	0	1.0	2		41	0.1	0.4	7.1	56	29	1.5	6.5	6		
17	1E	0	18	40	7.5	0.9	4.3	1.7	3.0	1.7	0.26	3.4		Med	2.8	44		198	3.6	1.0	14.4	75	19	3.5	2.5	0		
17	1M	0	18	41	6.7	0.8	4.0	1.9	2.1	1.2	0.14	4.4		0	3.9	13		100	1.6	1.8	12.5	74	21	2.0	2.1	0		
17	2M	18	31	37	6.3	0.7	2.2	1.3	2.7	2.1	0.07	4.3		0	1.8	6		76	0.3	0.9	20.5	61	29	0.9	3.0	6		
17	3M	31	52	44	5.9	1.1	3.9	3.1	4.1	2.2	0.02	7.0	3.1	0	1.0	4	5	81	0.3	1.2	25.6	55	34	0.8	3.4	6		
18	1E	0	17	46	7.0	1.6	7.6	2.8	6.6	2.9	0.37	8.8	2.5	High	14.6	249		614	6.0	1.6	16.0	70	16	9.8	4.3	0		
18	1M	0	17	43	6.8	0.7	5.0	1.6	1.0	0.6	0.23	2.8		0	12.1	15		141	2.0	1.4	14.5	80	17	2.5	1.0	0		
18	2M	17	30	59	5.4	0.6	2.2	1.7	2.2	1.6	0.06	4.7		0	1.1	2	2	150	0.3	2.0	23.4	48	35	1.6	2.5	12		
18	3M	30	52	61	4.7	1.2	3.1	3.0	5.7	3.2	0.05	7.9	3.0	0	1.0	2	4	157	0.4	0.7	27.5	41	38	1.5	5.2	14		
19	1E	0	18	36	7.6	1.3	5.3	1.4	5.8	3.1	0.32	5.9	2.2	High	4.0	32		349	3.8	0.3	8.8	74	11	10.2	4.7	0		
19	1M	0	18	33	7.4	0.5	4.1	0.7	0.4	0.3	0.13	2.5		Med	3.0	16		171	1.3	0.3	8.3	86	8	5.2	0.6	0		
19	2M	18	29	27	6.5	0.7	1.8	0.7	4.2	3.8	0.08	4.9		0	1.7	3		43	0.1	0.2	5.0	70	19	2.2	8.6	0		
19	3M	29	48	59	5.0	1.1	2.7	2.1	5.8	3.7	0.02	7.8	2.1	0	1.5	1	8	108	0.2	2.2	0.7	21.1	47	34	1.3	6.1	11	
20	1E	0	17	41	7.1	2.2	22.4	3.2	2.8	0.8	0.34	21.0	1.7	High	4.7	52		215	3.9	0.5	12.9	86	8	4.3	1.6	0		
20	1M	0	17	34	7.1	0.5	3.4	0.9	0.7	0.5	0.16	2.6		Low	2.1	6		76	0.4	0.3	11.0	85	13	1.8	0.9	0		
20	2M	17	35	72	7.0	0.8	2.3	1.9	4.2	2.9	0.02	4.2		Low	1.1	1		149	0.5	0.8	32.6	54	40	1.2	4.9	0		
20	3M	35	52	80	7.8	3.4	8.7	9.0	19.0	6.4	0.03	17.1	15.3	High	1.1	1		211	0.3	0.1	37.9	47	40	1.4	11.3	8		
Desired level for grapes				20-60	5.5-7.0	0.2-2.0	<5.0	<3.0	<5.0	<4	<1.5	<5.0	<5.0			2-10	15-30	15-30	125-300	>1.0	<100	<15	5-40	>60	20-40	2-4	<4	<20

*Layer 1 is Topsoil; Layer 2 is Upper Subsoil; Layer 3 is Lower Subsoil; Layer 4 is Deep Subsoil; E represents a sample from under the emitter; M from the midrow

In accompanying diagrams, critical criteria are shown as horizontal lines on the charts. These criteria are color coded according to "traffic light" logic: It is desirable for data to pass through green critical criteria lines, while it is undesirable for data to pass through red or amber critical criteria lines.

Appendix Table A4

Date 23-Aug-2019

For Vineyard Soil Technologies

Client ED FARVER

Property GREEN ISLAND VINEYARD

Project Number 19-142



3377 Solano Ave. #505
Napa, CA 94558

ph/fax: (707)255-3176

www.VineyardSoil.com

Log In # 398610

Date Sampled 9-Aug-19

Date Submitted 14-Aug-19

Date Reported 23-Aug-19

Report of Soil Analysis

Profile	Layer*	Sample Depth (in)		Extractable Cations									%		tons/acre-ft			PARTICLE SIZE ANALYSIS				tons/acre per layer depth		
				S-5.10	S-5.10	S-5.10	S-5.10	estm.	S-6.10	S-6.10	S-6.10	S-9.10	Organic Matter	Active Lime	S2.50 Lime Req.		Gypsum Req. Ca to 60% of CEC	% Sand	% Silt	% Clay	Classification	Lime (pH6)	Gypsum (60%)	
				mg/kg	mg/kg	mg/kg	mg/kg	mg/kg	mg/kg	mg/kg	mg/kg	mg/kg			(pH 5.5)	(pH 6.0)								
15	1E	0	16	1305	147	317	41	0	5.7	21	1.1	1.2	2											
15	1M	0	16	1537	98	123	23	0	7.1	22	1.2	1.7	2											
15	2M	16	24	1215	112	58	32	0	4.9	13	1.1	1.0												
15	3M	24	32	847	173	38	44	0	3.5	14	0.7	0.6					47	39	14	Loam				
16	1E	0	14	1876	198	489	147	0	7.5	24	1.2	2.0	4											
16	1M	0	14	2091	205	248	43	0	9.3	51	1.5	2.7	1											
16	2M	14	26	1432	219	122	48	0	6.2	27	1.3	1.5												
16	3M	26	38	805	255	41	107	4	3.8	12	0.6	0.6				0.4	45	39	16	Loam		0.4		
17	1E	0	18	2170	326	198	83	0	4.7	20	1.0	2.2	0											
17	1M	0	18	1870	327	100	60	0	8.3	34	1.2	2.2												
17	2M	18	31	2499	716	76	142	13	4.2	21	0.4	0.7												
17	3M	31	52	2830	1072	81	201	15	3.8	15	0.3	0.5			0.0	2.0	47	33	20	Loam	0.0	3.5		
18	1E	0	17	2240	309	614	157	0	16.4	39	1.8	2.3	1											
18	1M	0	17	2324	293	141	33	0	6.8	42	1.8	2.5					35	43	22	Loam				
18	2M	17	30	2271	1006	150	132	29	11.7	46	2.4	0.8			0.7	4.5						0.8	4.9	
18	3M	30	52	2255	1269	157	327	40	23.8	75	2.8	0.7			1.8	8.7						3.3	16.0	
19	1E	0	18	1305	114	349	95	0	6.5	19	0.9	1.6	2											
19	1M	0	18	1443	80	171	11	0	5.8	24	1.1	1.3	2											
19	2M	18	29	707	114	43	99	0	3.0	12	0.6	0.6					47	41	12	Loam				
19	3M	29	48	1987	879	108	294	24	1.3	46	0.9	0.6			0.5	4.6						0.8	7.3	
20	1E	0	17	2227	129	215	49	0	6.3	29	1.2	2.0	3											
20	1M	0	17	1856	171	76	22	0	2.4	18	1.2	0.9	2											
20	2M	17	35	3494	1599	149	368	0	1.9	23	2.1	0.7	0			3.5		47	33	20	Loam		5.3	
20	3M	35	52	3596	1843	211	984	0	0.5	20	0.8	0.5	11			8.0							11.4	

*Layer 1 is Topsoil; Layer 2 is Upper Subsoil; Layer 3 is Lower Subsoil; Layer 4 is Deep Subsoil; E represents a sample from under the emitter; M from the midrow
 In accompanying diagrams, critical criteria are shown as horizontal lines on the charts. These criteria are color coded according to "traffic light" logic
 It is desirable for data to pass through green critical criteria lines, while it is undesirable for data to pass through red or amber critical criteria lines.

EXHIBIT B

GREEN ISLAND VINEYARDS

1075 Ross Circle
Napa, CA 94558

September 30, 2021

Napa County LAFCO
Attn: Diane Dillon, Chair
1754 2nd Street, Suite C
Napa, CA 94559

Re: Green Island Vineyards, LLC Sphere of Influence Application

Dear Chair and Commissioners:

We are writing to provide you with important information regarding the Green Island Vineyards, LLC (GIV) Sphere of Influence Application.

Green Island Vineyards, LLC is the owner of property, located at 1661 Green Island Road, City of American Canyon. The property is essentially an "in-fill island" and surrounded on three sides by the City of American Canyon. GIV purchased the property in 1996, with the intention of farming the portion of the property that could support agriculture.

In 1997, GIV entered into an agreement with the City of American Canyon (City) to receive recycled water from the City as there was and still is no other option for water.

Over the next 20 years GIV planted up to 130 acres of vineyards. Unfortunately, GIV soon realized that some of the planted area could not support grapevines due to soil salinity and portions of the vineyard were removed.

In 2012, GIV listed the property for sale with Ghisletta Land & Investment/Wine Country Realty, an experienced Napa vineyard real estate broker. No offers were received. In 2014 GIV signed an Engagement Letter with Zepponi & CO, a leading wine/vineyard merger, acquisition and advisory firm, to assist GIV in the sale of the GIV property. With lead advisor Joe Ciatti, Zepponi & Co marketed the property from 2014 until 2018. During that time one offer was received which, after conducting due diligence, was withdrawn because the prospective purchaser, with their independent experts concluded that the soil, due to high levels of salt, would not and does not sustain winegrapes. Later the property was again listed with Ghisletta Land & Investment for portions of 2020 up to February 2021 and no offers were received.

After over 20 years of attempting to farm this property, GIV recognizes the futility of farming grape vines in soils that have seen increasing salinity not only from nearby salt water intrusion, but also from poor quality recycled irrigation water. Today GIV is farming only 67 vine acres and will be removing approximately 30 more vine acres in 2021. The

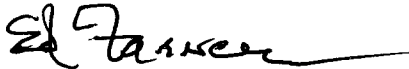
Napa County LAFCO
September 30, 2021

remaining vine acres will be removed in the next few years. GIV will not replant any of the property due to the toxicity of the soils.

Since the property is and can only be served by the City of American Canyon we believe that it should be included in the Sphere of Influence of the City of American Canyon.

Thank you for considering this information and our request.

Sincerely yours,



Ed Farver
Manager
Green Island Vineyards, LLC



Will Nord
Manager
Green Island Vineyards, LLC

cc: Brendon Freeman, Executive Officer

EXHIBIT C



UBS Farmland Investors LLC
1920 Tienda Drive, Suite 204
Lodi, CA 95242
Tel. +1-209-368 8874

Erik C. Roget, ARA, RPRA, AFM
Erik.Roget@ubs.com

www.ubs.com

Green Island Vineyard, LLC
Mr. Will Nord, Manager
Mr. Ed Farver, Manager
Mr. David B. Gilbreth, Manager
1152 Hardman Avenue
Napa, CA 94558

September 30, 2021

Re: Green Island Vineyard, TLH #1

Gentlemen:

This letter is intended to summarize our company's efforts in 2016 to acquire the above referenced vineyard in the City of American Canyon in Napa County on behalf of one of our clients. Part of our efforts included spending material client funds to undertake appropriate due-diligence activities of the property including but not limited to soil and vine testing by Crop Care Associates, a highly regarded local agricultural consulting firm. In addition, we spent time analyzing the water supply and conditions of the vineyard.

Importantly, under the UBS Farmland Investors business model, we do not directly operate any of the farms we manage but lease them out. The proposed tenant for this acquisition was the Mumm Napa winery which had been purchasing grapes from the vineyard for a number of years. The Crop Care report was, of course, provided to Mumm Napa for their review and comment along with other due-diligence materials. That combined with their noted concerns regarding the condition of the vineyard following the 2016 crop and extended drought conditions at that time resulted in Mumm Napa declining to enter into a long-term lease with our client.

With no other prospective tenants and because of the noted concerns, we concluded that the vineyard was not likely to be viable in the future due to saline toxicity and terminated our escrow. Looking back with the benefit of hindsight, I am relieved that the purchase was not completed and believe we avoided a potentially disastrous investment.

We appreciated your professional cooperation at the time and know like us that you are disappointed with the condition of the vineyard and soil.

Please feel free to contact me with any other questions you may have.



Attachment One

UBS Farmland Investors LLC

1920 Tienda Drive, Suite 204

Lodi, CA 95242

Tel. +1-209-368 8874

Erik C. Roget, ARA, RPRA, AFM

Erik.Roget@ubs.com

www.ubs.com

Sincerely,

UBS Farmland Investors LLC

A handwritten signature in black ink, appearing to read "Erik C. Roget". The signature is fluid and cursive, with a long, sweeping underline.

Erik C. Roget
Director



David B. Gilbreth, Manager
Ed Farver, Manager
Will Nord, Manager
Green Island Vineyard LLC

October 12, 2021

ADDENDUM ASSESSING FRUIT AND NUT TREES
Soils and Vineyard Report
Green Island Vineyard Project 21-178

The objective of this Addendum is to assess the feasibility of fruit trees and nut trees subject to the current condition of the Green Island Vineyard irrigation water chemistry, soil chemistry and condition of the vineyard and update the Site Visit Report Green Island Vineyard Project 21-178 dated September 29, 2021.

In summary, it is my professional opinion as a result of my analysis of the irrigation water chemistry, soil chemistry and condition of the vineyard, that the vineyard is continuing in death spiral and the soils are unsustainable for not only wine grapes but also for fruit trees and nut trees as a result of excessive accumulation of salts in the rootzones of the vines and most certainly an expected accumulation of salts in the rootzones if the fruit trees and nut trees would be planted. Consequently, as generally anticipated based on the data presented in my 2018 report, in 2021 the vineyard owners removed one-half of the most severely affected vineyard blocks. An additional one-quarter of the blocks will be removed at the termination of this season (2021), and the remaining blocks will be removed in the very near future. The review of the American Canyon Recycled Water (ACRW) indicates it is unsuitable for not only winegrapes but also for fruit trees and nut trees. It is probably the repeated use of the ACRW on this vineyard that has caused the salinity, sodium, and chloride problems in the vineyard.

Introduction

I am incorporating the Vineyard Site Visit Report Green Island Vineyard Project 21-178 dated September 29, 2021 and rather than reiterating it, I am attaching it because all of the data, soils analysis and conclusions are relevant to assessing the feasibility of fruit and nut trees. For reference I have attached the *University Of California Crop Salinity Tolerance And Yield Function - Salinity Management* table. The table presents the Threshold EC value at which yields will start to decline, and the slope of the decline. The document then presents a qualitative assessment of the sensitivity of each fruit and nut tree to salinity damage. This data indicates that most fruit and nut trees are moderately sensitive with EC-Thresholds 1.5 to 1.8 dS/m.

The Threshold EC value for fruit tree and nut trees clearly indicates that the salt tolerance, which is the level at which plant damage is initiated, is unsustainable for grape vineyards is also unsustainable for fruit trees and nut trees because the Threshold EC values are quite similar. Any replanting of grapevines, or fruit and/or nut trees, would start with soil already above these thresholds, and then compound the salinity issue by the necessary continued irrigation with high-salt water.

Crop		EC of saturated soil extract		Rating ²
Common name	Botanical name ²	Threshold ¹ dS/m	Slope (%)/ dS/m	
Almond	<i>Prunus dulcis</i>	1.5	19.0	S
Apple	<i>Malus sylvestris</i>			S
Apricot	<i>Prunus armeniaca</i>	1.6	24.0	S
Avocado	<i>Persea americana</i>			S
Blackberry	<i>Rubus sp.</i>	1.5	22.0	S
Boysenberry	<i>Rubus ursinus</i>	1.5	22.0	S
Castorbean	<i>Ricinus communis</i>			MS*
Cherimoya	<i>Annona cherimola</i>			S*
Cherry, sweet	<i>Prunus avium</i>			S*
Cherry, sand	<i>P. besseyi</i>			S*
Currant	<i>Ribes sp.</i>			S*
Date palm	<i>Phoenix dactylifera</i>	4.0	3.6	T
Fig	<i>Ficus carica</i>			MT*
Gooseberry	<i>Ribes sp.</i>			S*
Grape	<i>Vitis sp.</i>	1.5	9.6	MS
Grapefruit	<i>Citrus paradisi</i>	1.8	16.0	S
Guayule	<i>Parthenium argentatum</i>	15	13.0	T
Jobba	<i>Simmondsia chinensis</i>			T
Jujube	<i>Zizyphus jujuba</i>			MT*
Lemon	<i>Citrus A77011</i>			S
Lime	<i>C. aurantiifolia</i>			S*
Loquat	<i>Eriobotrya japonica</i>			S*
Mango	<i>Mangifera indica</i>			S*
Olive	<i>Olea europaea</i>			MT
Orange	<i>Citrus sinensis</i>	1.7	16.0	S
Papaya	<i>Carica papaya</i>			MT
Passion fruit	<i>Passiflora edulis</i>			S*
Peach	<i>Prunus persica</i>	1.7	21.0	S
Pear	<i>Pyrus communis</i>			S*
Persimmon	<i>Diospyros virginiana</i>			S*
Pineapple	<i>Ananas comosus</i>			MT*
Plum; prune	<i>Prunus domestica</i>	1.5	18.0	S
Pomegranate	<i>Punica granatum</i>			MT*
Pummele	<i>Citrus maxima</i>			S*
Raspberry	<i>Rubus idaeus</i>			S
Rose apple	<i>Syzygium jambos</i>			S*
Sapote, white	<i>Casimiroa edulis</i>			S*
Tangerine	<i>Citrus reticulata</i>			S*

Conclusion

In conclusion, it is my professional opinion as a result of my analysis of the irrigation water chemistry, soil chemistry and condition of the vineyard that the vineyard is continuing in death spiral and the soils are unsustainable not only for wine grapes, but also for fruit trees and nut trees as a result of excessive accumulation of salts in the rootzones of the vines and most certainly an expected accumulation of salts in the rootzones of any future fruit trees and nut trees.

Paul R. Anamosa

Paul R. Anamosa, Ph.D.
Soil Scientist & Viticulturist

Hal Huffsmith

October 20, 2021

Mr. Will Nord
Mr. Ed Farver
Mr. David Gilbreth
1152 Hardman Avenue, Napa CA

Gentlemen,

Pursuant to a request from David Gilbreth to examine soil, irrigation water and related material associated with past and recent studies addressing vineyard productivity and longevity for the property located at 1661 Green Island Road, American Canyon, I offer the following opinion based on an examination of those studies and a recent walk-through evaluation of the property.

The referenced soil and irrigation water studies (Crop Care Associates Baseline Soil Analysis and Viticulture Assessment – September 30, 2015, Vineyard Soil Technologies Soil Water Chemistry Review – June 2018, Vineyard Soil Technologies Baseline Soil Analysis for Vineyard Problem Investigation – September 2019 and Vineyard Soil Technologies reexamination of previous studies and on site vineyard evaluation (Site Visit Reports) – September 15, 21 and 29, 2021) lead to the same conclusion that it is highly unlikely that this property will support a financially viable vineyard. The current “root zone” salinity levels and the continued use of the saline American Canyon Recycled Water (ACRW) for irrigation have rendered this property unsuitable for wine grape production.

Based on my experience as Senior Vice President of Vineyard Operations for Trinchero Family Estates (responsible for farming 9,500 acres of wine grapes across 10 California counties) I agree with Dr. Anamosa’s assessment and conclusion that, due to excessive salt accumulation with the continued use of ACRW for vineyard irrigation, the Green Island Vineyard is engaged in a “death spiral” leading to soil conditions that are toxic to grapevines.

Sincerely,



Hal Huffsmith, Retired - SVP Vineyard Operations, Trinchero Family Estates

ROBERT STEINHAUER
WINELAND CONSULTING, LLC

October 27, 2021

Napa County LAFCO
Attn: Diane Dillon, Chair
1754 2nd Street, Suite C
Napa, CA 94559

Re: Green Island Vineyards, LLC Sphere of Influence Application
Confirmation of Unsuitable Soils/Support for SOI Application Actually Protects Sustainable
Agriculture

Dear Chair and Commissioners:

I have been requested by the Green Island Vineyard LLC managers to independently provide my opinion of the soil, irrigation water and related material associated with various studies and opinions set forth below involving the agricultural viability of the property at 1661 Green Island Road, American Canyon. My opinion is a result of a site visit to the vineyard in the last week and a review of those studies.

I reviewed the following studies:

- Crop Care Associates Baseline Soil Analysis and Viticulture Assessment, dated September 30, 2015;
- Vineyard Soil Technologies Soil Water Chemistry Review, dated June 2018;
- Vineyard Soil Technologies Baseline Soil Analysis for Vineyard Problem Investigation - September 2019 and Vineyard Soil Technologies reexamination of previous studies and on site vineyard evaluation (Site Visit Reports) dated September 15, 21 and 29, 2021 respectively in which Dr. Anamosa reached the conclusion that it is highly unlikely that this property will support a financially viable vineyard. The current "root zone" salinity levels and the continued use of the saline American Canyon Recycled Water (ACRW) for irrigation have rendered this property unsuitable for wine grape production; and,
- Hal Huffsmith's confirming opinion dated October 20, 2021.
- Published reports and my technical files for reference for my comprehensive review.

As a result of my review of those studies, I clearly agree with the opinions and conclusions of Dr. Anamosa and Hal Huffsmith that there is toxic salt accumulation and that the Green Island Vineyard will not sustain a grape vine vineyard. Additionally, I note that there is no reasonable water source for any viable agricultural activity.

Respectfully, I urge you to accept and approve the application to include this property into the Sphere of Influence in the City of American Canyon for the following reasons:

The SOI Application actually protects sustainable agriculture and is a benefit to the Napa community.

The Napa Cities, Napa County and the State of California over a period of more than ten years have invested tens of millions of dollars of road infrastructure extending Devlin Road and connecting it to

Green Island Road with a goal of having a western traffic connector for truck traffic west of 29, keeping trucks off of 29 so they can go in and out of Jameson Canyon.

Importantly the goal includes providing warehousing in the City of American Canyon served by this infrastructure in order to protect viable agricultural lands. The GIV LLC property is clearly not viable agricultural land.

The infrastructure is essentially complete except for the improvements on Green Island Road. This property is served by this western traffic connector and if not included part of the overall goal and investment by local and state governments would certainly not be realized.

Respectfully submitted,

A handwritten signature in black ink that reads "Robert E. Steinhauer". The signature is fluid and cursive, with a long horizontal stroke at the end.

Robert Steinhauer
Wineland Consulting, LLC

Ed Henderson
269 Monte Vista Drive
Napa, CA 94558

November 9, 2021

Napa County LAFCO
Attn: Diane Dillon, Chair
1754 2nd Street, Suite C
Napa, CA 94559

Re: Support for Sphere of Influence Application by GIV, LLC

Dear Chair Diane Dillon & Members of the Commission:

I strongly, most respectfully, urge you to approve the GIV, LLC SOI Application because I think it is in the absolute best interest of the Napa community, is in compliance with applicable law, and is consistent with excellent planning which clearly preserves and supports the preservation of viable agriculture, logical boundaries, the delivery of services, and is needed to complete the road infrastructure regarding the extension of Devlin Road and the connection to Green Island Road.

If this land was out in the middle of nowhere of course I wouldn't support the application. But that's not the case here and this just makes overall classical good planning sense with logical boundaries.

Incidentally, I am troubled and dismayed that the authority of the City of American Canyon and the authority of Napa County LAFCO seems to be undermined by an agreement in 2008 that purports to limit the rights of the City to modify its Urban Limit Line for a period of about 22 years, i.e., to 2030. Fundamentally, among other items, in my view, there should be no such purported limitations and as a matter of reality it is impossible to tell the future. Proper planning should not restrain Cities or try to compel the City to foresee the future, especially over a 22 year period. Obviously it has been 13 years and there have been enormous changes including the construction of the Amazon Hub , IKEA warehouse and massive infrastructure improvements.

The land, as confirmed by the leading viticultural experts in Napa County, has no agricultural viability. All of the services come from the City of American Canyon and none come from the County of Napa. It appears to be a quarter of a mile or more south of the developed northern boundary of the City of American Canyon and a cut out piece surrounded on three sides by the City of American Canyon.

As some might know, it was my honor and pleasure to be the Mayor of the City of

Napa for eight years from 1997 to 2005.

I appointed council member JoAnn Busenbark to LAFCO so that she would independently and thoughtfully consider and make her decisions regarding the incorporation of the City of American Canyon and applications for SOI's and ultimate annexations.

I was proud of her thoughtful decisions in March 1998 to include non-viable agricultural lands and annex them into the City of American Canyon. She looked at the totality of the facts, including the non-viable agricultural aspect, the location adjacent to the City of American Canyon and the provision of services, the need to put housing there so that the housing didn't take up viable agricultural lands to the north and made her decision. She understood that the AW designation on the 157 acre parcel and the other parcel of 25 acres, under the circumstances, should and was considered but common sense and logical planning supported her decision to include non-viable agricultural lands (confirmed by soil samples and lack of a water source) which did in fact thoughtfully preserve viable agriculture. I believe that that's the case now and actually even stronger. Our Napa community has invested tens of millions of dollars to create an industrial area and put in the road extensions on Devlin Road to keep warehousing from the northern viable agricultural lands and truck traffic off of Highway 29. This land will contribute to those goals and pay for a portion of the last upgrades required on Green Island Road and preserve viable agriculture.

I believe GIV's proposal is logical and should be approved.

Thank you for your consideration.

A handwritten signature in cursive script that reads "Ed Henderson". The signature is fluid and extends across the width of the page.

Ed Henderson

Report on the Economic Viability of Agricultural Production on

1611 Green Island Road, American Canyon, CA

Prepared for GIV, LLC.

By Wenbiao Cai, Ph.D., Vega Economics

November 12, 2021

CONTENTS

I. Qualifications and Assignment..... 2

II. Agricultural Production Is Not Economically Viable on the Subject Property..... 3

A. The Subject Property Soil Is Not Sustainable for Growing Vegetables. 3

B. Growing Barley on the Subject Property Is Not Economically Viable..... 4

C. A Sheep and Lamb Operation on the Subject Property Is Not Economically Viable. 7

D. A Beef Cattle Operation on the Subject Property Is Not Economically Viable..... 8

III. Conclusion..... 10

I. QUALIFICATIONS AND ASSIGNMENT

1. My name is Wenbiao Cai. I am a Director at Vega Economics, a full-service economic consulting firm located in Berkeley, California. I hold a Ph.D. in Economics from the University of Iowa and a bachelor's degree in Finance from the University of Alberta. Prior to joining Vega, I was an associate professor of economics at the University of Winnipeg.
2. I am a specialist in agricultural economics. My doctoral dissertation was on agriculture and income differences across countries. My research on agricultural economics has been published in leading economics journals including *Economic Inquiry*, *Journal of Economic Dynamics and Control*, and *International Economic Review* and has received research funding from government agencies including the Social Science and Humanities Research Council of Canada.
3. I have been asked to provide my independent professional opinion on the economic feasibility of agricultural production on the real property located on 1611 Green Island Road, City of American Canyon, California (the "Subject Property").
4. It is my understanding that the owner of the Subject Property commissioned a report by Dr. Paul R. Anamosa (the "Anamosa Report"), who opined that the soil on the Subject Property is "not suitable for wine grapes as a result of excessive accumulation of salts in the rootzones of the vines."¹ In an addendum to his report, Dr. Anamosa further opined that the property is "unsuitable for not only wine grapes but also for fruit trees and nut trees."²
5. I relied on the Anamosa Report for the scientific assessment of soil salinity on the Subject Property. Because Dr. Anamosa has provided his professional opinion that it is not sustainable to grow wine grapes, fruit trees, or nut trees on the Subject Property, I did not evaluate the economic feasibility of growing these agricultural commodities on the Subject Property.
6. Instead, I evaluated whether the Subject Property soil can support growing other crops commonly planted in the Napa County region and, if so, whether such an operation would be economically viable. I also evaluated whether the Subject Property could support an economically viable ranching operation with cows.

¹ Anamosa, Paul R. Site Visit Report, Green Island Vineyard Project 21-178 (September 21, 2021) at 1.

² Anamosa, Paul R. Addendum Assessing Fruit and Nut Trees, Soils and Vineyard Report, Green Island Vineyard Project 21-178 (October 12, 2021) at 3.

7. Based on my review of Dr. Anamosa’s soil report and my independent analysis of the costs and revenues of growing barley and running a beef cattle operation on the Subject Property, it is my professional opinion that agricultural production is not economically viable on the Subject Property.

II. AGRICULTURAL PRODUCTION IS NOT ECONOMICALLY VIABLE ON THE SUBJECT PROPERTY.

8. The Subject Property is comprised of 157 gross acres, although I understand from the property owner that excluding ditches and roads, only 135 net acres are suitable for agriculture. The Subject Property has been used as vineyard since it was purchased but has experienced unsustainable toxic salinity. As a result, the property owner removed 65 acres of vineyard from production with no plans to replant the acreage.³ I further understand from the property owner that another 35 acres are currently being taken out of production, with the remaining 35 acres to be taken out next year.
9. The Subject Property is within the boundaries of Napa County. Wine grapes are the dominant agricultural commodity in Napa County, accounting for more than 99 percent of the total value of agricultural commodities produced in 2019. Outside of wine grapes, agricultural commodities produced in the county include animal products (cattle and calves, sheep and lambs), nut and fruit trees, range pasture, vegetables, and hay.⁴

A. The Subject Property Soil Is Not Sustainable for Growing Vegetables.

10. Napa County produced a total \$171,500 in vegetables in 2019 and \$198,700 in 2020.⁵ Growing vegetables on the Subject Property, however, is not sustainable due to the high level of soil salinity. **Table 1: Salinity Tolerance of Vegetables Commonly Grown in California** below, which is based on information contained in a crop salinity tolerance and yield function table published by the University of California at Davis,⁶ summarizes the threshold salinity level for a variety of selected vegetables. For comparison, values for grapes, fruit trees, and nut trees are also included.

³ GIV, LLC. Sphere of Influence Amendment Attachment #3 (September 30, 2021).

⁴ “Napa County Agricultural Crop Report 2020.” *Napa County Department of Agriculture and Weights and Measures* (2020) at 5. <<https://www.countyofnapa.org/DocumentCenter/View/21404/2020-Agricultural-Crop-Report-English?bidId=>> (accessed Nov. 10, 2021).

⁵ *Id.*

⁶ “Crop Salinity Tolerance and Yield Function.” *Salinity Management, University of California at Davis.* <https://ucanr.edu/sites/Salinity/Salinity_Management/Effect_of_soil_salinity_on_crop_growth> (accessed Nov. 9, 2021).

11. Soil salinity is measured by the electrical conductivity of saturated soil extracts (EC_e in dS/m). The threshold indicates the level of salinity above which yield starts to decrease. The slope indicates the percentage yield decrease when the salinity level increases by one unit above the threshold.
12. Many vegetables commonly planted in California have salinity tolerance that is similar to that of grapes. The Anamosa Report has concluded that the Subject Property soil is not sustainable for growing wine grapes, fruit trees, or nut trees. Based on this conclusion from the report, and my analysis of the salinity tolerance of vegetables, I conclude that the Subject Property soil is not sustainable for growing vegetables commonly planted in California.

Table 1: Salinity Tolerance of Vegetables Commonly Grown in California

Vegetable	Threshold (dS/m)	Slope (% per dS/m)
Asparagus	4.1	2
Bean	1.0	19
Broccoli	2.8	9.2
Brussel sprouts	1.8	9.7
Cabbage	1.0	14
Cauliflower	1.8	6.2
Celery	2.5	13
Cucumber	1.1	6.9
Kohlrabi	1.3	13
Lettuce	1.7	12
Okra	1.2	16
Pea	1.5	14
Pepper	1.7	12
Pumpkin	1.2	13
Radish	2.0	7.6
Spinach	3.2	16
Squash, zucchini	1.0	33
Strawberry	1.5	11
Sweet potato	2.5	9.9
Tomato	0.9	9
Grape	1.5	9.6
Almond	1.5	19
Apricot	1.6	24
Orange	1.7	16

B. Growing Barley on the Subject Property Is Not Economically Viable.

13. Some agricultural commodities are more saline-tolerant than others. Barley is one of the most saline-tolerant crops with a threshold salinity level of $8 dS/m$. It is commonly grown in the Central Valley and surrounding foothills, but no significant production of barley has been reported for Napa County

during the 2019-2020 growing season.⁷ Nevertheless, because the prospect of growing barley on the Subject Property is supported by the plant's salinity tolerance, I fully evaluated this possibility.

14. I estimated the economic returns to an investor who purchases the Subject Property to grow barley. Two models of cultivation were considered—irrigated and non-irrigated. The expected yield from irrigated production is 65 bushels per acre, based on historical yields for the state of California.⁸ The expected yield from non-irrigated production is 32.5 bushels per acre, which was assumed to be half the expected yield from irrigated production. The total revenue from these yields was calculated, including both the sales of grains as the primary product as well as the sales of secondary products such as silage, straw, and grazing.
15. I relied on the October 2021 Costs and Returns report on barley production published by the United States Department of Agriculture (“USDA”) for the following information: (1) per-acre value of secondary product; (2) per-acre operating costs except for hired labor; and (3) per-acre allocated overhead costs except for the cost of land and the opportunity cost of unpaid labor.⁹
16. I made the following adjustments to the USDA cost estimates to reflect market conditions specific to California and Napa County. First, I estimated the cost of hired labor based on a labor requirement of two hours per acre (one hour for tilling and one hour for harvesting) and a cost of \$32 per acre. I estimated an opportunity cost of \$32 per acre for unpaid labor supplied by the owner (or family members). Second, for non-irrigated production, the cost of irrigation and straw baling was reduced by 80 percent and the costs of fuel, lube, electricity, repairs, and hired labor were reduced by 20 percent, relative to irrigated production. Third, capital recovery of machinery and equipment is scaled by the ratio of the assumed planted acres on the Subject Property (135 acres) to the benchmark acres used in the USDA estimates (289 acres).

⁷ “California Agricultural Statistics Review 2019-2020.” *California Department of Food and Agriculture* (2020). <https://www.cdfa.ca.gov/Statistics/PDFs/2020_Ag_Stats_Review.pdf> (accessed Nov. 10, 2021).

⁸ Lazicki, Patricia, Daniel Geissler, and William R. Horwath. “Barley Production in California.” *University of California at Davis* (June 2016) at 2. <https://apps1.cdfa.ca.gov/FertilizerResearch/docs/Barley_Production_CA.pdf> (accessed Nov. 10, 2021).

⁹ “Commodity Costs and Returns.” *United States Department of Agriculture*. <<https://www.ers.usda.gov/data-products/commodity-costs-and-returns/>> (accessed Nov. 9, 2021). Numbers cited in the table correspond to the “Fruitful Rim” region in the USDA report, which includes California.

17. Lastly, I calculated the cost of land by amortizing 80 percent of the purchase price over 30 years at an annual interest rate of 3.7 percent. The annual cost is \$81,384, which implies a per-acre cost of \$603 on a 135-acre production basis.¹⁰
18. **Table 2: Revenue and Cost Estimates of Hypothetical Barley Production** summarizes the estimated total revenue, operating costs, and overhead costs of the hypothetical barley production, for both the irrigated and non-irrigated scenarios.

Table 2: Revenue and Cost Estimates of Hypothetical Barley Production¹¹

	Irrigated	Non-Irrigated
Gross value of production		
Yield (bushels per planted acre)	65.0	32.5
Price (dollars per bushel at harvest)	\$4.8	\$4.8
Primary product, grain	\$313.3	\$156.7
Secondary product, silage/straw/grazing	\$20.1	\$20.1
Total, gross value of production	\$333.4	\$176.7
Operating costs		
Seed	\$29.4	\$29.4
Fertilizer	\$57.0	\$57.0
Chemicals	\$19.1	\$19.1
Custom services	\$28.3	\$28.3
Fuel, lube, and electricity	\$40.6	\$32.5
Repairs	\$45.0	\$36.0
Irrigation and straw baling	\$18.5	\$3.7
Interest on operating inputs	\$0.5	\$0.5
Hired labor	\$32.0	\$25.6
Total, operating costs	\$270.4	\$232.1
Allocated overhead		
Cost of land	\$603	\$603
Opportunity cost of unpaid labor	\$32.0	\$32.0
Capital recovery of machinery and equipment	\$63.4	\$63.4
Taxes and insurance	\$10.9	\$10.9
Total, allocated overhead	\$709.2	\$709.2
Costs listed		
Total, costs listed	\$979.6	\$941.3
Net value		
Value of production less total costs listed (per-acre)	-\$646.2	-\$764.6
Value of production less total costs listed (annual)	-\$87,241	-\$103,219

¹⁰ The 2021 assessed land value for the Subject Property is \$1,841,670, as reported by the Napa County Assessor. <<https://common1.mptsweb.com/mbap/napa/asr>> (accessed Nov. 12, 2021).

¹¹ Unless otherwise noted, dollar values are expressed in units of dollars per acre.

19. Based on my calculations, irrigated barley production on the Subject Property would generate a total revenue of \$333.4 per acre at a cost of \$979.6 per acre, resulting in a loss of \$646.2 per acre. On a 135-acre production basis, the annual total loss would be \$87,241.
20. Based on my calculations, non-irrigated barley production on the Subject Property would generate a total revenue of \$176.7 per acre at a cost of \$941.3 per acre, resulting in a loss of \$764.6 per acre. On a 135-acre production basis, the annual total loss would be \$103,219.
21. My estimate of the net revenue from the hypothetical barley production is conservative. First, the implied wage of \$16 per hour for hired labor is likely unattainable in the current market, given the severe labor shortage many sectors face at present. Higher labor cost reduces net revenue. Second, the Subject Property currently relies on salty recycled water supplied by the City of American Canyon for irrigation. Growing barley with salty recycled water reduces yield once soil salinity reaches the threshold. That would also reduce net revenue.
22. Based on these analyses, I conclude that barley production on the Subject Property is not economically viable.

C. A Sheep and Lamb Operation on the Subject Property Is Not Economically Viable.

23. To determine the economic prospect of a sheep and lamb operation on the Subject Property, I reviewed a cost of production analysis published by the American Sheep Industry Association. The report shows, based on most recent estimates, that a representative operation in the western U.S. would produce a loss of \$15.67 per ewe.¹²
24. The report also indicates that hired labor and pasture are the two largest operating costs for a sheep and lamb operation. Considering that the Subject Property currently has no irrigated pasture and higher labor costs in California than in other western states, I conclude that a sheep and lamb operation on the Subject Property would not be economically viable either.

¹² “U.S. Baseline Lamb Cost of Production Analysis, 2018 Update.” *American Sheep Industry Association* (November 27, 2019) at 15. <<https://www.sheepusa.org/wp-content/uploads/2019/12/2018-ASI-Budget-Project.pdf>> (accessed. Nov. 11, 2021).

D. A Beef Cattle Operation on the Subject Property Is Not Economically Viable.

25. In 2019, Napa County produced roughly \$3 million of animal products, among which beef represents the largest value of production. I estimated the economic returns to an investor who purchases the Subject Property to run a beef cattle operation.
26. The hypothetical operation I considered involves purchasing twenty yearling heifers in the spring and feeding them on grass from April to October until they reach 1,100 pounds in weight. The animals would then be harvested, processed, and packaged at a USDA-inspected processing plant. Revenue is generated through sales of packaged beef products to consumers.
27. I relied on a 2017 cost study of a 20-head beef cattle operation in the Northern Sacramento Valley, published by the University of California at Davis, for the following information: (1) average hanging carcass weight for 1,100-pound cattle; (2) operating costs; and (3) overhead costs except for land cost, opportunity cost of unpaid labor, interest on working capital, and fencing cost.¹³
28. I made the following adjustments to those costs. First, unit variable costs and cash overhead costs were adjusted for inflation at an annual rate of three percent. Second, the purchase cost of heifers and the unit wholesale price of beef were updated to reflect current market rates. The purchase price of heifers was based on a February 2021 report from Shasta Livestock Auction Yard.¹⁴ The wholesale price per pound is estimated using the average beef wholesale price reported by the USDA between 2015 and 2020.¹⁵ Third, working capital is calculated as the sum of operating cost and the purchase price of heifers, of which 40 percent is assumed to be borrowed at an annual interest rate of six percent. Fourth, it is assumed that the property owner provides unpaid labor on a part-time basis, with an opportunity cost of \$5,376.¹⁶ Fifth, I estimated a land cost of \$81,384, based on amortizing 80 percent of the purchase price over 30 years at an annual interest rate of 3.7 percent.
29. Lastly, an amortized fencing cost was added to the overhead cost. Fences provide protection for the cattle and are necessary for a ranching operation on the Subject Property that borders busy roads on three sides and the Napa River on the fourth. At present, the Subject Property is not fenced. I

¹³ “Current Cost and Return Studies.” *University of California at Davis* (June 11, 2020). <<https://coststudies.ucdavis.edu/en/current/>> (accessed Nov. 9, 2021).

¹⁴ “Current Market Report.” *Shasta Livestock Auction Yard* (February 12, 2021) <<https://shastalivestock.com/current-market-report/>> (accessed Nov. 9, 2021).

¹⁵ “Meat Price Spreads.” *Economic Research Service, United States Department of Agriculture* (November 10, 2021). <<https://www.ers.usda.gov/data-products/meat-price-spreads/>> (accessed Nov. 10, 2021).

¹⁶ Calculated based on forgone wage rate of \$32 per hour and 7 hours per week from April to October.

estimated the total cost of installing barbed wire fences around the Subject Property, based on an estimated cost of \$2.72 per linear foot and an estimated perimeter length of 12,196 feet. The total cost is amortized over an assumed working life of ten years.¹⁷

30. **Table 3: Revenue and Cost Estimates of Hypothetical Beef Cattle Operation** summarizes the returns to the hypothetical beef cattle operation on the Subject Property. The operation would generate a total revenue of \$22,031 at a cost of \$115,033, resulting in an annual total loss of -\$93,002.

Table 3: Revenue and Cost Estimates of Hypothetical Beef Cattle Operation

		Animals	Weight	Dollar Value	Gross Value
Gross Value of Production¹⁸					
Carcasses sold		20	627	\$3.4	\$42,511
Calves purchased		20	800	\$1.3	\$20,480
Total, gross value of production					\$22,031
Operating Cost	Units		Animals	\$/Unit	Total Costs
Pasture lease	AUM	6.00	20	\$33.8	\$4,052
Salt/mineral supplements	Tons	0.50	20	\$270.1	\$135
Hay	Tons	1.00	20	\$135.1	\$135
Veterinary/Medical	Each		20	\$4.4	\$89
Death loss (1% of purchased price)				\$204.8	\$205
Brand inspection	Each		20	\$1.4	\$28
Marketing order promotion	Each		20	\$1.1	\$23
Harvest costs	Carcass		20	\$112.6	\$2,251
Cut and wrap	Pounds	627	20	\$1.1	\$14,114
Marketing advertisement costs	Each		20	\$39.4	\$788
1-Ton pickup truck	Miles	1,000		\$0.6	\$608
Stock trailer	Miles	400		\$0.2	\$90
ATV-4WD	Miles	1,000		\$0.4	\$394
Horse (shoes, vet, & feed)	Each		1	\$225.1	\$225
Total, operating costs					\$23,136
Allocated Overhead					
Cost of land					\$81,384
Opportunity cost of unpaid labor					\$5,376
Amortized fencing cost					\$3,311
Interest on working capital					\$521
Insurance (Liability)					\$1,021
Office expenses					\$281
Total, allocated overhead					\$91,897
Total Cost					
Total, costs listed					\$115,033
Net Revenue					
Value of production less total costs listed (annual)					-\$93,002

¹⁷ “Estimated Costs for Livestock Fencing.” *Ag Decision Maker, File B1-75. Iowa State University Extension and Outreach* (February 2012). < <https://www.extension.iastate.edu/agdm/livestock/html/b1-75.html> > (accessed. Nov. 10, 2021). The reported estimates are adjusted for inflation at an annual rate of five percent and an average labor cost of \$32 per hour.

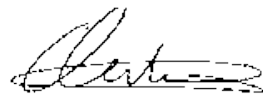
¹⁸ The purchased heifer’s weight is on the hoof whereas the carcass’s sold weight is the hanging weight.

31. My calculation of net revenue is conservative because a 20-head operation may exceed the maximum number of animals the Subject Property can support. A general rule of thumb is that 15 to 18 acres of non-irrigated rangeland is needed for each animal,¹⁹ which suggests that the 157-acre Subject Property can support, at most, 10 animals. Since a smaller number of animals reduces revenue proportionately—but not costs—the expected loss would be larger if the actual number of animals in the operation were lower.
32. Based on these calculations, I conclude that a beef cattle operation on the Subject Property is not economically viable.

III. CONCLUSION

33. Based on my independent review of Dr. Anamosa's soil report, I conclude that the Subject Property soil is not sustainable for growing vegetables. Based on my review of cost studies published by the American Sheep Industry Association, I conclude that a sheep and lamb operation on the Subject Property would not be economically viable. Based on my analysis of costs and revenues, I further conclude that growing barley or running a beef cattle operation on the Subject Property would not be economically viable.
34. It is therefore my professional opinion that agricultural production is not economically viable on the Subject Property. Given the lack of economic profits, it is against the economic interest of a rational investor to purchase the Subject Property for the purpose of agricultural production.

Dated: November 12, 2021



Wenbiao Cai, Ph.D.

¹⁹ Dan Macon and Hannah Meyer. "How Many Cows Can My Property Support? Basics of Carrying Capacity, Stocking Rate, and Pasture Irrigation." *University of California, Agriculture and Natural Resources, Cooperative Extension, publication number 31-1005* (June 2018). <<https://projects.sare.org/wp-content/uploads/Pub-31-1005-Carrying-Capacity-and-Stocking-Rate.pdf>> (accessed Nov. 10, 2021).

Lori Luporini
November 25th, 2021

Dear LAFCO Commissioners,

I have had the honor of being on the City of American Canyon Planning Commission from 1994 to 1996 and the City of American Canyon City Council from 1996 to 2006 as a Council Member and a two term mayor.

The voters of the community, City Council and myself identified the critical importance of the green island road, lighting and landscaping improvements and how to pay for them over 25 years ago and we are unfortunately still waiting. We need your help.

The GIF lands, which clearly have no viable agricultural use or really anything else except for growing weeds, should respectfully be included in the sphere of influence for the City of American Canyon.

The inclusion of these lands are extremely important to the historical Napa County plans, the voters of the City of American Canyon and the voters of Napa County.

If approved, the City of American Canyon, can responsibly plan and implement the appropriate assessment district to pay for these improvements, which necessarily fiscally needs to include these lands, to get the nightmare traffic off of Highway 29 which goes through the heart of the City. This is what the voters have always wanted.

The community and Napa County have struggled with each other regarding the issues involving incorporation and other issues.

I believe and hope that your approval will provide for a very harmonious cooperative future together.

Thank you,
Lori Luporini





LOCAL AGENCY FORMATION COMMISSION OF NAPA COUNTY

Policy on Spheres of Influence

(Adopted on June 7, 2021)

I. BACKGROUND

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, beginning with [California Government Code \(G.C.\) §56425](#), requires the Local Agency Formation Commission (LAFCO or “Commission”) to establish and maintain spheres of influence for all local agencies within its jurisdiction. A sphere of influence (SOI) is defined by statute as a “plan for the probable physical boundary and service area of a local government agency as determined by the commission” ([G.C. §56076](#)). Every determination made by LAFCO shall be consistent with the SOIs of the local agencies affected by that determination ([G.C. §56375.5](#)). The Commission encourages cities, towns, and the County of Napa (“County”) to meet and agree to SOI changes. The Commission shall give “great weight” to these agreements to the extent they are consistent with its policies ([G.C. §56425\(b\) and \(c\)](#)). Local agency SOIs are established and changed in part based on information in municipal service reviews, including adopted determinative statements and recommendations ([G.C. §56430](#)).

II. PURPOSE

The purpose of these policies is to guide the Commission in its consideration of SOI amendment requests as well as SOI reviews and updates initiated by LAFCO. This includes establishing consistency with respect to the Commission’s approach in the scheduling, preparation, and adoption of SOI reviews and updates. Requests to amend an SOI may be made by any person or local agency as described in Section VI of this policy. Requests to amend an SOI are encouraged to be filed with LAFCO’s Executive Officer as part of the Commission’s municipal service review (MSR) and SOI review process.

III. OBJECTIVE

It is the intent of the Commission to determine appropriate SOIs that promote the orderly expansion of cities, towns, and special districts in a manner that ensures the protection of the environment and agricultural and open space lands while also ensuring the effective, efficient, and economic provision of essential public services, including public water, wastewater, fire protection and emergency response, and law enforcement. The Commission recognizes the importance of considering local conditions and circumstances in implementing these policies. An SOI is primarily a planning tool that will:

- Serve as a master plan for the future organization of local government within the County by providing long range guidelines for the efficient provision of services to the public;
- Discourage duplication of services by two or more local governmental agencies;
- Guide the Commission when considering individual proposals for changes of organization;
- Identify the need for specific reorganization studies, and provide the basis for recommendations to particular agencies for government reorganizations.

IV. DEFINITIONS

Recognizing that an SOI is a plan for the probable physical boundary and service area of a local government agency as determined by LAFCO, the Commission incorporates the following definitions:

- A. “Agricultural lands” are defined as set forth in [G.C. §56016](#).
- B. “Open space” are defined as set forth in [G.C. §56059](#).
- C. “Prime agricultural land” is defined as set forth in [G.C. §56064](#).
- D. “Infill” is defined as set forth in [Public Resources Code §21061.3](#).
- E. “Underdeveloped land” is defined as land that lacks components of urban development such as utilities or structure(s).
- F. “Vacant land” is defined as land that has no structure(s) on it and is not being used. Agricultural and open space uses are considered a land use and therefore the underlying land is not considered vacant land.
- G. “SOI establishment” refers to the initial adoption of a city or special district SOI by the Commission.
- H. “SOI amendment” refers to a single change to an established SOI, typically involving one specific geographic area and initiated by a landowner, resident, or local agency.
- I. “SOI review” refers to a comprehensive review of an established SOI conducted as part of an MSR. Based on information collected in the SOI review component of an MSR, the Commission shall determine if an SOI update is needed.
- J. “SOI update” refers to a single change or multiple changes to an established SOI, typically initiated by the Commission and based on information collected in the SOI review.
- K. “Zero SOI” when determined by the Commission, indicates a local agency should be dissolved and its service area and service responsibilities assigned to one or more other local agencies.
- L. “Study area” refers to territory evaluated as part of an SOI update for possible addition to, or removal from, an established SOI. The study areas shall be identified by the Commission in consultation with all affected agencies.

V. LOCAL CONSIDERATIONS

A. General Guidelines for Determining Spheres of Influence

The following factors are intended to provide a framework for the Commission to balance competing interests in making determinations related to SOIs. No single factor is determinative. The Commission retains discretion to exercise its independent judgment as appropriate:

- 1) Land defined or designated in the County of Napa General Plan land use map as agricultural or open space shall not be approved for inclusion within any local agency's SOI for purposes of new urban development unless the action is consistent with the objectives listed in Section III of this policy.
- 2) The Commission encourages residents, landowners, and local agencies to submit requests for changes to SOIs to the LAFCO Executive Officer as part of the LAFCO-initiated MSR and SOI review process.
- 3) The first Agricultural Preserve in the United States was created in 1968 by the Napa County Board of Supervisors. The Agricultural Preserve protects lands in the fertile valley and foothill areas of Napa County in which agriculture is and should continue to be the predominant land use. Measure J was passed by voters in 1990 and Measure P was passed by voters in 2008 and requires voter approval for any changes that would re-designate unincorporated agricultural and open-space lands. The Commission will consider the Agricultural Preserve and intent of voters in passing Measure J and Measure P in its decision making processes to the extent they apply, prior to taking formal actions relating to SOIs.
- 4) In the course of an SOI review for any local agency as part of an MSR, the Commission shall identify all existing outside services provided by the affected agency. For any services provided outside the affected agency's jurisdictional boundary but within its SOI, the Commission shall request the affected agency submit an annexation plan or explanation for not annexing the territory that is receiving outside services. For any services provided outside an agency's jurisdictional boundary and SOI, the Commission encourages a dialogue between the County and the affected agency relating to mutually beneficial provisions.
- 5) In the course of reviewing a city or town's SOI, the Commission will consider the amount of vacant land within the affected city or town's SOI. The Commission discourages SOI amendment requests involving vacant or underdeveloped land that requires the extension of urban facilities, utilities, and services where infill development is more appropriate.

- 6) A local agency's SOI shall generally be used to guide annexations within a five-year planning period. Inclusion of land within an SOI shall not be construed to indicate automatic approval of an annexation proposal.
- 7) When an annexation is proposed outside a local agency's SOI, the Commission may consider both the proposed annexation and SOI amendment at the same meeting. The SOI amendment to include the affected territory, however, shall be considered and resolved prior to Commission action on the annexation.
- 8) A local agency's SOI should reflect existing and planned service capacities based on information collected by, or submitted to, the Commission. This includes information contained in current MSRs. The Commission shall consider the following municipal service criteria in determining SOIs:
 - a) The present capacity of public facilities and adequacy of public services provided by affected local agencies within the current jurisdiction, and the adopted plans of these local agencies to address any municipal service deficiency, including adopted capital improvement plans.
 - b) The present and probable need for public facilities and services within the area proposed or recommended for inclusion within the SOI, and the plans for the delivery of services to the area.
- 9) The Commission shall consider, at a minimum, the following land use criteria in determining SOIs:
 - a) The present and planned land uses in the area, including lands designated for agriculture and open-space.
 - b) Consistency with the County General Plan and the general plan of any affected city or town.
 - c) Adopted general plan policies of the County and of any affected city or town that guide future development away from lands designated for agriculture or open-space.
 - d) Adopted policies of affected local agencies that promote infill development of existing vacant or underdeveloped land.
 - e) Amount of existing vacant or underdeveloped land located within any affected local agency's jurisdiction and current SOI.
 - f) Adopted urban growth boundaries by the affected land use authorities.

B. Scheduling Sphere of Influence Reviews and Updates

[G.C. §56425\(g\)](#) directs the Commission to update each SOI every five years, as necessary. Each year, the Commission shall adopt a Work Program with a schedule for initiating and completing MSRs and SOI reviews based on communication with local agencies. This includes appropriate timing with consideration of city, town, and County general plan updates. The Commission shall schedule SOI updates, as necessary, based on determinations contained in MSRs.

C. Environmental Review

SOI establishments, amendments, and updates will be subject to the review procedures defined in the California Environmental Quality Act (CEQA) and the Napa LAFCO CEQA Guidelines. If an environmental assessment or analysis is prepared by an agency for a project associated with an SOI establishment, amendment, or update, and LAFCO is afforded the opportunity to evaluate and comment during the Lead Agency's environmental review process, then LAFCO can act as a Responsible Agency under CEQA for its environmental review process. All adopted environmental documents prepared for the project, a copy of the filed Notice of Determination/Notice of Exemption, and a copy of the Department of Fish and Wildlife fee receipt must be submitted as part of the application. Completion of the CEQA review process will be required prior to action by the Commission.

VI. REQUESTS FOR SPHERE OF INFLUENCE AMENDMENTS**A. Form of Request**

Any person or local agency may file a written request with the Executive Officer requesting amendments to an SOI pursuant to [G.C. §56428\(a\)](#). Requests shall be made using the form provided in Attachment A and be accompanied by a cover letter and a map of the proposed amendment. Requests shall include an initial deposit as prescribed under the Commission's adopted Schedule of Fees and Deposits. The Executive Officer may require additional data and information to be included with the request. Requests by cities, towns, and special districts shall be made by resolution of application.

B. Review of Request

The Executive Officer shall review and determine within 30 days of receipt whether the request to amend an agency's SOI is complete. If a request is deemed incomplete, the Executive Officer shall immediately notify the applicant and identify the information needed to accept the request for filing.

C. Consideration of Request

Once a request is deemed complete, the Executive Officer will prepare a written report with a recommendation. The Executive Officer will present his or her report and recommendation at a public hearing for Commission consideration. The public hearing will be scheduled for the next meeting of the Commission for which adequate notice can be given. The Commission may approve, approve with conditions, or deny the request for an SOI amendment. The Commission's determination and any required findings will be set out in a resolution that specifies the area added to, or removed from, the affected agency's SOI. While the Commission encourages the participation and cooperation of the subject agencies, the determination of an SOI is a LAFCO responsibility and the Commission is the sole authority as to the sufficiency of the documentation and consistency with law and LAFCO policy.

Local Agency Formation Commission of Napa County
1754 Second Street, Suite C
Napa, California 94559
(707) 259-8645 Telephone
www.napa.lafco.ca.gov

Questionnaire for Amending a Sphere of Influence

1. Applicant information:

Name: _____

Address: _____

Telephone Number: _____ (Primary) _____ (Secondary)

E-Mail Address: _____

2. What is the purpose for the proposed sphere of influence amendment?

3. Describe the affected territory in terms of location, size, topography, and any other pertinent characteristics.

4. Describe the affected territory's present and planned land uses.

5. Identify the current land use designation and zoning standard for the affected territory.

6. Is the affected territory subject to a Williamson Act contract? If yes, please provide a copy of the contract along with any amendments.

7. If applicable, identify the governmental agencies currently providing the listed municipal services to the affected territory.

Water: _____

Sewer: _____

Fire: _____

Police: _____

Print Name: _____

Date: _____

Signature: _____



State of California

GOVERNMENT CODE

Section 56428

56428. (a) Any person or local agency may file a written request with the executive officer requesting amendments to a sphere of influence or urban service area adopted by the commission. The request shall state the nature of the proposed amendment, state the reasons for the request, include a map of the proposed amendment, and contain any additional data and information as may be required by the executive officer.

(b) After complying with the California Environmental Quality Act, Division 13 (commencing with Section 21000) of the Public Resources Code, the executive officer shall place the request on the agenda of the next meeting of the commission for which notice can be given. The executive officer shall give notice in the manner provided by Section 56427. On the date and time provided in the notice, the commission may do either of the following:

- (1) Without further notice, consider the amendments to a sphere of influence.
- (2) Set a future date for the hearing on the request.

(c) The executive officer shall review each requested amendment and prepare a report and recommendation. The report shall be completed not less than five days before the date specified in the notice of hearing. The executive officer shall send copies of the report to the person or agency making the request, each affected local agency, and each person who has filed a request for a report.

(d) At its meeting, the commission shall consider the request and receive any oral or written testimony. The consideration may be continued from time to time, but not to exceed 70 days from the date specified in the original notice. The person or agency which filed the request may withdraw it at any time prior to the conclusion of the consideration by the commission.

(e) At the conclusion of its consideration, the commission may approve with or without amendment, wholly, partially, or conditionally, or disapprove the request. The commission shall follow the procedures in Section 56425.

(f) The commission may require the person or agency making a request pursuant to this section to pay a fee to cover the commission's costs. The fee shall not exceed the estimated reasonable cost of providing the service and shall be set pursuant to Section 56383. The commission may waive the fee if it finds that the request can be considered and studied as part of the periodic review of spheres of influence required by Section 56425. In addition, the commission may waive the fee if it finds that payment would be detrimental to the public interest.

(g) The commission and executive officer may review and act on any request to amend a sphere of influence or urban service area concurrently with their review and

determination on any related change of organization or reorganization. In case of a conflict between the provisions of this section and any other provisions of this part, the other provisions shall prevail.

(Amended by Stats. 2011, Ch. 300, Sec. 69. (AB 1430) Effective January 1, 2012.)



State of California

GOVERNMENT CODE

Section 56425

56425. (a) In order to carry out its purposes and responsibilities for planning and shaping the logical and orderly development and coordination of local governmental agencies subject to the jurisdiction of the commission to advantageously provide for the present and future needs of the county and its communities, the commission shall develop and determine the sphere of influence of each city and each special district, as defined by Section 56036, within the county and enact policies designed to promote the logical and orderly development of areas within the sphere.

(b) Prior to a city submitting an application to the commission to update its sphere of influence, representatives from the city and representatives from the county shall meet to discuss the proposed new boundaries of the sphere and explore methods to reach agreement on development standards and planning and zoning requirements within the sphere to ensure that development within the sphere occurs in a manner that reflects the concerns of the affected city and is accomplished in a manner that promotes the logical and orderly development of areas within the sphere. If an agreement is reached between the city and county, the city shall forward the agreement in writing to the commission, along with the application to update the sphere of influence. The commission shall consider and adopt a sphere of influence for the city consistent with the policies adopted by the commission pursuant to this section, and the commission shall give great weight to the agreement to the extent that it is consistent with commission policies in its final determination of the city sphere.

(c) If the commission's final determination is consistent with the agreement reached between the city and county pursuant to subdivision (b), the agreement shall be adopted by both the city and county after a noticed public hearing. Once the agreement has been adopted by the affected local agencies and their respective general plans reflect that agreement, then any development approved by the county within the sphere shall be consistent with the terms of that agreement.

(d) If no agreement is reached pursuant to subdivision (b), the application may be submitted to the commission and the commission shall consider a sphere of influence for the city consistent with the policies adopted by the commission pursuant to this section.

(e) In determining the sphere of influence of each local agency, the commission shall consider and prepare a written statement of its determinations with respect to each of the following:

- (1) The present and planned land uses in the area, including agricultural and open-space lands.
- (2) The present and probable need for public facilities and services in the area.

(3) The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide.

(4) The existence of any social or economic communities of interest in the area if the commission determines that they are relevant to the agency.

(5) For an update of a sphere of influence of a city or special district that provides public facilities or services related to sewers, municipal and industrial water, or structural fire protection, that occurs pursuant to subdivision (g) on or after July 1, 2012, the present and probable need for those public facilities and services of any disadvantaged unincorporated communities within the existing sphere of influence.

(f) Upon determination of a sphere of influence, the commission shall adopt that sphere.

(g) On or before January 1, 2008, and every five years thereafter, the commission shall, as necessary, review and update each sphere of influence.

(h) In determining a sphere of influence, the commission may assess the feasibility of governmental reorganization of particular agencies and recommend reorganization of those agencies when reorganization is found to be feasible and if reorganization will further the goals of orderly development and efficient and affordable service delivery. The commission shall make all reasonable efforts to ensure wide public dissemination of the recommendations.

(i) When adopting, amending, or updating a sphere of influence for a special district, the commission shall establish the nature, location, and extent of any functions or classes of services provided by existing districts.

(j) When adopting, amending, or updating a sphere of influence for a special district, the commission may require existing districts to file written statements with the commission specifying the functions or classes of services provided by those districts.

(Amended by Stats. 2012, Ch. 62, Sec. 2. (AB 2698) Effective January 1, 2013.)

Napa County Agreement No. 7070
American Canyon Agreement No. 2008-93

**AGREEMENT
BETWEEN THE COUNTY OF NAPA
AND
THE CITY OF AMERICAN CANYON**

This Agreement (hereafter "Agreement") is entered into and effective as of July 3, 2008 by and between the County of Napa, a political subdivision of the State of California (hereafter "County"), and the City of American Canyon, a municipal corporation (hereafter "City").

WHEREAS, the parties recognize the importance of agricultural preservation and open space in the County and desire to preserve agricultural and open space lands in the County so as to maintain a viable agriculture-based economy, preserve open space, prevent urban sprawl, and direct growth and development into already urbanized areas; and

WHEREAS, the parties desire to implement the planned development of the City and adjacent lands within the County; and

WHEREAS, the parties recognize the importance of the Napa County Airport ("Airport") to the economy of the County and have a longstanding interest in protecting the Airport from the encroachment of incompatible land uses; and

WHEREAS, the parties recognize that citizens, businesses and employees within both jurisdictions benefit when the parties collaborate successfully and solve disagreements amicably; and

WHEREAS, the parties seek to provide a solid footing for future planning and decision-making by recognizing a mutually agreed upon City urban growth boundary that will remain in place without change until 2030; and

WHEREAS, the parties are taking such steps as may be necessary to ensure that an adjusted urban growth boundary in the form of an amended City Urban Limit Line will not be changed until the year 2030; and

WHEREAS, in the County's view, industrial development within the County Airport Industrial Area Specific Plan ("Airport Specific Plan") boundaries supports agricultural uses in the County, benefits the local economy, and will contribute to the construction of necessary infrastructure improvements; and

WHEREAS, the parties recognize that upon incorporation in 1992, the City assumed the rights and responsibilities of the former American Canyon County Water District; and

WHEREAS, the parties recognize that the City provides water service to properties located within the City's Water Service Area, which includes the Airport Specific Plan area, and

that it is essential for the City to continue to provide water service to these properties in an environmentally sensitive, reasonable and fair manner.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

PART I. AGREEMENT DEFINITIONS

When used in this Agreement, the following words or phrases shall have the following meanings unless the context clearly indicates otherwise:

“Airport Industrial Area Specific Plan” or “Airport Specific Plan” shall mean the 1986 Napa County Airport Industrial Area Specific Plan, as amended through the effective date of this Agreement.

“CEQA” shall mean the California Environmental Quality Act, Public Resources Code section 21000 *et seq.*

“City” shall mean the City of American Canyon.

“City Customers” shall mean all persons and entities presently receiving water service from the City, and all persons and entities that are requesting or in the future request new or increased water service from the City, for parcels that are located within City’s incorporated limits.

“City’s Water Service Area” shall mean all lands within the area depicted in Exhibit H, attached hereto and incorporated herein by this reference.

“County” shall mean the County of Napa.

“LAFCO” shall mean the Napa County Local Agency Formation Commission.

“Outside Customers” shall mean all persons and entities presently receiving water service from the City, and all persons and entities that are requesting or in the future request new or increased water service from the City for parcels that are located outside the City’s limits but within the Airport Industrial Area Specific Plan boundaries.

“Panattoni Property” shall mean that real property described by Assessor Parcel Numbers 057-090-075 and 057-090-076, consisting of approximately 16.30 acres and 34.40 acres, respectively, as is more fully described in Exhibit A, attached hereto and incorporated herein by this reference.

“Subject Parcels” shall mean:

1. The parcel commonly known as the “Headwaters property,” Assessor Parcel Number 057-090-069 consisting of approximately 218.06 acres as is more fully described in Exhibit B, attached hereto and incorporated herein by this reference.
2. The parcel commonly known as the “Atkins property,” Assessor Parcel Number 057-040-007 consisting of approximately 25.44 acres as is more fully described in Exhibit C, attached hereto and incorporated herein by this reference.

“Sphere of Influence” shall mean the LAFCO-approved plan for the probable physical boundary and service area of the City of American Canyon, as defined in Government Code section 56076.

“Urban Limit Line” or “ULL” shall mean that line which describes the boundaries described in Exhibit D, attached hereto and incorporated herein by this reference, beyond which the City and the City’s Sphere of Influence shall not expand prior to 2030 unless the citizens of the City first approve an expansion of the line.

**PART II. PRE-CONDITIONS TO THE AGREEMENT TAKING EFFECT;
ANNEXATION OF PANATTONI PROPERTY**

A. Preconditions to Agreement Effectiveness

This Agreement, excluding Agreement Section II.B, shall become effective only if each and every one of the following events occurs within its respective time frame. Therefore, if any one of the preconditions fails to occur within the time frame set forth in this Agreement for that precondition, then this Agreement and the obligations of the parties as set forth in Agreement Section III shall automatically become null and void.

1. *Industrial Easements.*

The City shall ensure that the owners of the Subject Parcels and the Panattoni Property, prior to amendment of the City’s sphere of influence and completion of annexation of the Subject Parcels and the Panattoni Property to the City:

a. Grant and record industrial easements in favor of the County in perpetuity, in a form acceptable to the County Counsel and the City Attorney, ensuring that the Subject Parcels and the Panattoni Property may be developed in accordance with the uses permitted for those parcels by the Airport Specific Plan, and

b. Deed restrict, in a form acceptable to the County Counsel and the City Attorney, the Subject Parcels and Panattoni Property prior to development or use of the same, ensuring that the Subject Parcels and the Panattoni Property shall be developed in accordance with the uses permitted for those parcels in the Airport Specific Plan.

c. The City shall ensure that any development approvals sought by the owners of the Subject Parcels and the Panattoni Property in the City shall be conditioned by the City to be industrial uses as permitted for those parcels by the Airport Specific Plan and that the owners of these parcels grant and record avigation (flight) easements in favor of the County, in a form acceptable to the County Counsel and the City Attorney.

2. *Standards for Providing Water Service.* On or before September 1, 2008 the City shall take the following actions:

a. Revise its water policies to confirm that the City will provide water service to all Outside Customers upon request under all of the same terms and conditions under which the City provides water service to City Customers, and that the City will not impose any term or condition on any water service to any Outside Customer that is different from the terms and conditions that the City imposes on City Customers, except that the City may continue to

impose higher water rates on Outside Customers consistent with *Hansen v. City of San Buenaventura* (1986) 42 Cal.3d 1172; and

b. Amend City Municipal Code sections 13.10.010, 13.10.020, and 13.10.040, and all other related Municipal Code provisions, implementing resolutions and policies, so that they will be consistent with Agreement Sections II.A.2.a, III.E, and Exhibit E. The City shall schedule a public hearing for this purpose. The City shall make all of the revisions and amendments referenced in Agreement Section II.A.1 and II.A.2 before the City files any requests for any amendment of the City's Sphere of Influence or any annexations of the Subject Parcels and the Panattoni Property.

3. ***Preconditions Are Prerequisite to Sphere of Influence Amendment and Annexation.*** Satisfaction of the requirements set forth in Agreement Section II.A.1 (Industrial Easements) and II.A.2 (Standards for Providing Water Service) are preconditions to this Agreement. If these preconditions are not satisfied, this Agreement shall be null and void.

B. Immediate Annexation of Panattoni Property

Notwithstanding any other provision of this Agreement, as an indication of good faith of both parties, the County shall, upon execution of this Agreement and upon satisfaction of the requirements set forth in Agreement Sections II.A.1 (Industrial Easements), II.A.2 (Standards for Providing Water Service) and III.F.2 (Property Tax Revenue Sharing Agreement), provide written support of that portion of City's application before LAFCO involving a sphere amendment or annexation of the Panattoni Property to the City.

PART III. AGREEMENT OBLIGATIONS

A. City's Urban Limit Line

The parties agree that the City's growth boundary shall not expand beyond the ULL described and depicted in Exhibit D until at least 2030. To implement this ULL agreement, the parties will take one or more of the following actions which are intended to ensure that the ULL will not change prior to 2030.

1. If a citizen's initiative is circulated that establishes an ULL as a part of the City General Plan that is consistent with Exhibit D and that cannot be changed without a vote of the people until 2030, and if that initiative gathers a sufficient number of valid signatures to require the City to either adopt the initiative or place the matter on the ballot, then the City shall either: (a) adopt the initiative without alteration at the regular meeting at which the certification of the initiative petition is presented to the City Council or within 10 days after it is submitted; or (b) place the matter on the ballot. Otherwise, this Agreement shall become null and void, except that the parties may agree otherwise concerning the 60 foot strip in the unincorporated territory separating Area 1 from Area 2, as described and depicted in Exhibit D.

2. If a notice of intent to circulate a citizen's initiative to establish an ULL consistent with Agreement Section III.A.1 is not filed with the City elections official on or before June 30, 2008, then a ballot measure that will establish an ULL in the City General Plan that is consistent with Exhibit D and cannot be changed without a vote of the people until 2030 shall be placed on

the November 2008 municipal ballot by the City Council. The order of election shall be adopted by the City Council no later than August 8, 2008. Any such ballot measure shall expressly provide that any further changes to the ULL described and depicted in Exhibit D prior to 2030 shall take effect only following the approval by a majority of the voters of the City at a regularly scheduled municipal election. If the City fails to place such a measure on the ballot, this Agreement shall automatically become null and void, except that the parties may agree otherwise concerning the 60 foot strip in the unincorporated territory separating Area 1 from Area 2, as described and depicted in Exhibit D.

3. If a notice of intent to circulate a citizen's initiative to establish an ULL in the City's General Plan that is consistent with Exhibit D and cannot be changed without a vote of the people until 2030 is filed with the City election official on or before June 30, 2008, and the initiative is circulated but fails to achieve the necessary number of signatures to qualify for the November 2008 ballot, then a ballot measure that will establish an ULL as a part of the City's General Plan that is consistent with Exhibit D and cannot be changed without a vote of the people until 2030 shall be placed on the November 2008 municipal ballot by the City Council. The order of election shall be adopted by the City Council no later than August 8, 2008. Any such ballot measure shall expressly provide that changes to the ULL depicted in Exhibit D that cannot be changed without a vote of the people prior to 2030 shall take effect only following the approval by a majority of the voters of the City at a regularly scheduled municipal election. If the City fails to place such a measure on the ballot, or if a referendum successfully repeals action of the City, this Agreement shall automatically become null and void, except that the parties may agree otherwise concerning the 60 foot strip in the unincorporated territory separating Area 1 from Area 2, as described and depicted in Exhibit D.

4. If the City fails to satisfy the requirements of Section III.A of this Agreement, or if the City is successfully challenged in court on its action as authorized in Agreement Section III.A, this Agreement shall automatically become null and void, excepting the obligations of Agreement Section II.B.

5. If Agreement Section III.A.1 is applicable and the City Council places the matter on the November 2008 ballot rather than adopting the initiative measure without alteration and the initiative does not pass, then this Agreement shall automatically become null and void, excepting the obligations of Agreement Section II.B.

6. If Agreement Section III.A.2 or III.A.3 is applicable, and Agreement Section III.A.1 is not, and if a majority of the voters of the City do not approve the ULL depicted in Exhibit D with the condition that it cannot be changed without a vote of the people until 2030, then this Agreement shall automatically become null and void, excepting the obligations of Agreement Section II.B.

7. Area 4 as described and depicted in Exhibit D (commonly known as "Clark Ranch West") is currently in an Agriculture, Watershed and Open Space land use designation. As a condition of this Agreement, the City will keep this area in open space, recreation, and/or wildlife conservation when the area is annexed to the City and will take all actions necessary to ensure that this property remains in open space, recreation and/or wildlife conservation.

B. Sphere of Influence Amendments of the Subject Parcels

Within ten days of execution of this Agreement, City shall amend its pending application for an amendment of its Sphere of Influence, which was filed with LAFCO in 2007, so that the application is consistent with this Agreement. City shall not pursue any applications with LAFCO for a Sphere of Influence amendment and/or annexation of any properties, other than the Panattoni Property as set forth in Agreement Section II.B, until the preconditions in Agreement Section II.A have been satisfied.

The parties recognize that any expansion of City's Sphere of Influence must be heard and approved by LAFCO. County agrees to provide written support of City's application to expand its Sphere of Influence to include the Subject Parcels described in Exhibits B and C but only if the voters of the City, or the City, as the case may be, first approves adoption of the ULL described in Exhibit D, with the condition that the approval occurred in such a manner that the approved ULL cannot be changed prior to 2030 except by the voters of the City. Otherwise, the County reserves the right to oppose including such parcels within the City's Sphere of Influence. This County obligation to support the City's application to expand its Sphere of Influence for the Subject Parcels is in addition to, and separate from the County's obligation to support any Sphere of Influence amendment necessary to complete the annexation of the Panattoni Property, as required by Agreement Section II.B.

C. Annexation of the Subject Parcels

The parties recognize that expansion of the City by annexation is a matter to be heard and approved by LAFCO. County agrees to provide written support of the City's application to LAFCO for annexation of the Subject Parcels described in Exhibits B and C only if the voters of the City, or the City, as the case may be, have first approved adoption of the ULL described in Exhibit D and further providing that the approval occurred in such a manner that the approved ULL cannot be changed prior to 2030 unless first approved by the voters of the City. Otherwise, the County reserves the right to oppose the annexation of the Subject Parcels. This obligation in support of the City's applications to annex the Subject Parcels is in addition to, and separate from, the obligation to support the annexation of the Panattoni Property as required by Agreement Section II.B.

It is further understood and agreed that nothing contained in this Agreement shall be construed as requiring the County to support annexations of parcels located within the ULL to the City or the inclusion of those parcels in the City's Sphere of Influence, other than the Subject Parcels and the Panattoni Property.

D. Parties to Amend Their Respective General Plans

1. *County Requirements Following Voter Approval of the ULL Depicted in Exhibit D.* The County will amend the Goals, Policies and implementing measures of all applicable maps, tables and diagrams of its General Plan to reflect the City adjusted ULL in a manner that is consistent with Exhibit D, concurrent with the completion of City's obligations described in Agreement Section III.A.

2. ***City Requirements if an Initiative Adopting the ULL Depicted in Exhibit D is successful.*** The City will amend the Goals, Policies and implementing measures of all applicable maps, tables and diagrams of its General Plan to reflect the City adjusted ULL in a manner that is consistent with Exhibit D, concurrent with the completion of City's obligations described in Agreement Section III.A.

E. City Water Services to the Airport Industrial Specific Plan Area

The City shall continue to provide water service to existing Outside Customers and, upon request, the City shall provide new or increased water service to all Outside Customers under the same terms and conditions under which the City provides water service to City Customers, as provided in Agreement Section II.A.2.a. The City shall provide all new City Customers and all new Outside Customers with water service under the conditions in Exhibit E, attached hereto and incorporated herein by this reference. Nothing in this Agreement shall limit or affect the rights of City water customers for parcels that are located outside the City's limits and the Airport Specific Plan area but within the City's Water Service Area.

F. Property Tax Revenue Sharing Agreements

1. Within 120 days of execution of this Agreement and as a condition of County's support of annexation of the Subject Parcels to City, the parties will enter into an agreement setting forth the method of sharing those incremental real property taxes (the "Tax Revenue Sharing Agreement") generated by the Subject Parcels subsequent to annexation of those parcels to the City. This Tax Revenue Sharing Agreement will become effective only upon annexation of the Subject Parcels to the City. The Tax Revenue Sharing Agreement shall provide that the City and County will each receive forty-seven and one-half percent (47.5%) of the property tax increment, with the American Canyon Fire Protection District, a subsidiary special district of the City receiving five percent (5%). The Agreement shall expressly provide that the City's proposed annexation of parcels within the voter approved ULL, other than the Subject Parcels and the Panattoni Property, are not subject to the Tax Revenue Sharing Agreement.

2. Within 120 days of execution of this Agreement and as a condition of County's support of annexation of the Panattoni Property to City, the parties will enter into a separate Tax Revenue Sharing Agreement setting forth the method of sharing those incremental real property taxes generated by the Panattoni Property subsequent to annexation of those parcels to the City. This Tax Revenue Sharing Agreement will become effective only upon annexation of the Panattoni Property to the City. The Tax Revenue Sharing Agreement shall provide that the City and County will each receive forty-seven and one-half percent (47.5%) of the property tax increment, with the American Canyon Fire Protection District, a subsidiary special district of the City receiving five percent (5%). The Agreement shall expressly provide that the City's proposed annexation of parcels within the approved ULL, other than the Subject Parcels and the Panattoni Property, are not subject to the Tax Revenue Sharing Agreement.

G. Return of Tax Revenues

1. Any party who violates one or more of the provisions contained in Agreement Section III.G.2. shall return to the other party the following incremental property tax revenues the offending party has received and will receive pursuant to the Tax Revenue Sharing

Agreements referenced in Agreement Section III.F.1 and III.F.2:

- a. All such property tax revenues received for the four (4) fiscal years prior to the fiscal year in which the violation occurred; and
- b. All such property tax revenues received for the fiscal year in which the violation occurred; and
- c. All such property tax revenues received in all future fiscal years following the fiscal year in which the violation occurred (i.e. in perpetuity).

2. A violation of the Agreement triggering Agreement Section III.G shall be deemed to have occurred if any of the following occurs:

- a. The ULL described and depicted in Exhibit D is changed on or before January 1, 2030, by the City, by the passage of an initiative measure placed on the ballot by the City, or by the passage of an initiative measure which resulted from a successful petition circulated by registered voters of the City which qualifies for the ballot.
- b. The City files an application with LAFCO prior to January 1, 2030 seeking to expand the City's Sphere of Influence to include parcels outside the ULL described and depicted in Exhibit D.
- c. The County fails to support the City's Sphere of Influence application and related annexation of the Subject Parcels in the manner and within the timeframes contemplated by this Agreement. Notwithstanding the foregoing, nothing in this Agreement shall be interpreted to require any member of the County Board of Supervisors to vote in any certain manner when sitting as a Commissioner on LAFCO.
- d. The City fails to provide a water service will-serve letter to any person or entity requesting such a letter in a manner that is consistent with the terms of this Agreement. If City fails to provide such a will-serve letter within 90 days after receiving a request for such a letter, and if a mutual agreement between the City and the property owner making the request to extend that 90 day period for up to an additional 180 days has not been executed within the original 90 day period, then it shall be conclusively presumed that the City has violated the requirement to provide water service will-serve letters upon request. This paragraph shall not apply if during that entire 90 day period the City has in effect a policy of refusing to provide water service to all new City Customers, and of refusing to provide increased levels of water to all existing City Customers, due to factors relating to water shortages encountered by the City. When said policy ceases to be applied, a requirement to provide the requested will-serve letters within the 90 day period following the termination of the policy shall automatically go into effect.
- e. The City fails to provide water service to, or unlawfully discriminates against any Outside Customer in the provision of water services, or the City otherwise does not provide water service to any Outside Customer in a manner that is consistent with this Agreement. However, the amount of water service that the City is obligated to provide shall be subject to the City's Zero Water Footprint Methodology, provided the City applies this Zero

Water Footprint Methodology equally to City Customers and Outside Customers in a manner that does not result in conditions of approval that differ between similarly situated Outside Customers and City Customers. The list of Water Conditions that the City will impose on all parcels for which new water service is requested is attached to this Agreement as Exhibit E, and a copy of the Zero Water Footprint Methodology is attached to this Agreement as Exhibit F. The process for Outside Customers to appeal conditions imposed by the City as a result of implementing the Zero Water Footprint Methodology is described in Exhibit G to this Agreement. Exhibits E, F and G are incorporated herein by this reference and may only be changed upon mutual consent of the parties.

f. The City imposes a requirement that any future Outside Customer, other than the owner or owners of record of the Subject Parcels, must consent to, or waive objection to, annexation of his, her, or its parcel to the City as a condition of receiving water services from the City.

g. The County amends its Airport Specific Plan prior to 2030 to allow residential uses in the Airport Specific Plan area.

II. Development of Parcels

As a precondition to the grant of final entitlements to any of the Subject Parcels or the Panattoni Property that are not challenged within the applicable statute of limitations, the party having land use authority over that parcel shall ensure that all of the following are accomplished conditions of approval, either through a development agreement or a reimbursement agreement:

1. Subject to any claims the County is obligated to perform related to the Montalcino Project (Napa County Use Permit #98177-UP and #P05-0220-MOD), traffic mitigation fees attributable to the Subject Parcels and the Panattoni Property that the County receives pursuant to its Airport Industrial Area Traffic Mitigation Program, to the extent those parcels are developed in the unincorporated area shall be placed in a restricted account, if not already appropriated and expended by the County. All such fees shall be placed in a segregated account by the County Auditor and may only be disbursed to construct improvements to and/or extend Devlin Road from Tower Road to Airpark Road, as depicted in Exhibit I (attached to this Agreement and incorporated herein by this reference), including the construction of a two lane bridge ("Bridge") including pedestrian and bike lanes across Fagan Creek. If any of the Subject Parcels or the Panattoni Property is annexed to the City prior to development same, then the City shall pay to the County the amount of fees the County would have collected under the Airport Industrial Area Traffic Mitigation Program had that parcel been developed in the unincorporated area. City's obligation to pay those fees shall be due and payable within ten days of (1) issuance of the building permit or (2) whenever development would have triggered payment of the traffic mitigation fee under the County's Airport Industrial Area Traffic Mitigation Program had the parcel been developed in the unincorporated area, whichever date is earlier. The fees shall be used by the County to offset costs to construct improvements to and/or extend Devlin Road as described in this Agreement, or to reimburse County for expenditures it may have previously made toward the design and construction of Devlin Road in the event development on these parcels lags any portion of the development of Devlin Road.

2. The County shall take appropriate steps to ensure that the Devlin Road and Bridge are completed prior to 2018. This shall include the design, acquisition of right-of-way and construction of the Devlin Road extension and Bridge (including pedestrian and bike lanes) over Fagan Creek.

3. Development of the Headwaters property shall be conditioned upon dedication of a secondary public access road to support the Airport. That access road shall at a minimum be a Type H Collector including two travel lanes, parallel parking, and consisting of 56 feet of public right-of-way in accordance with Napa County Road and Street Standards.

4. The parties further agree that in order to implement the provisions of Agreement Sections III.H.1, III.H.2 and III.H.3, the Public Works Directors of the City and the County shall annually report to their respective entities with respect to the generation of all traffic revenue within the affected area and their expenditures to accomplish the described improvements.

PART IV. GENERAL PROVISIONS

A. Warranty of Legal Authority

Each party warrants and covenants that it has the present legal authority to enter into this Agreement and to perform the acts required of it hereunder. If any party is found to lack the authority to perform the acts required of it hereunder or is prevented from performing the acts by a court of competent jurisdiction, then this Agreement shall be null and void.

B. Assignment/Delegation

Neither party hereto shall assign or transfer any benefit or obligation of this Agreement without the prior written consent of the other, and no assignment shall be of any force or effect whatsoever unless and until the other party shall have so consented.

C. Severability

In the event any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions of this Agreement will remain in full force and effect.

D. Waiver

Any waiver (express or implied) by either party of any breach of this Agreement shall not constitute a waiver of any other or subsequent breach.

E. Venue

This Agreement shall be governed and construed in accordance with the laws of the State of California. Any claim, action, arbitration or other proceeding arising from this Agreement shall be initiated and conducted only in the County of Napa.

F. 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 addresses 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.

City of American Canyon:
City Manager
300 Crawford Way
American Canyon, California 94503

With copy to:
City Attorney
Law Offices of William Ross
400 Lambert Street
Palo Alto, California 94306

County of Napa:
Napa County Executive Officer
1195 Third Street, Suite 310
Napa, CA 94559

With copy to:
Napa County Counsel
County of Napa
1195 Third Street, Suite 301
Napa, CA 94559

G. Amendment

This Agreement may only be amended in writing by an amendment authorized by the City Council and County Board of Supervisors, except as provided in Agreement Section IV.K below.

H. Recitals Adopted

The parties hereby agree to, and adopt, the Agreement recitals as portions of the Agreement.

I. Termination for Cause

Either party may terminate this Agreement for cause of non-performance. Such termination shall be based upon ninety (90) days notice given to the other party in the manner set forth in Agreement Section IV.F. Such notice shall also constitute a notice of default, which shall provide the defaulting party with an automatic right to cure the default within sixty (60) days.

J. Joint Defense in Event of Third Party Challenges to the Agreement

In the event of a third party challenge of any type to this Agreement, the parties agree to jointly

defend the validity and implementation of the Agreement.

K. Extension of Dates by Mutual Agreement

The dates provided for the performance of any of the terms of this Agreement may be changed and/or extended by mutual written agreement of the parties, the City acting through its City Manager and the County acting through its County Executive Officer.

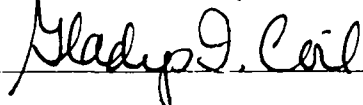
L. Entire Agreement

This document is intended both as the final expression of the agreement between the parties hereto with respect to the included terms and as a complete and exclusive statement of the terms of the Agreement. This Agreement may be executed in two counterparts, each of which shall constitute an original.

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

COUNTY OF NAPA
By: 
BRAD WAGENKNECHT,
Chair of the Board

ATTEST: Gladys I. Coil
Clerk of the Board of Supervisors

By: 

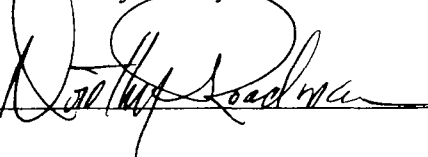
APPROVED AS TO FORM:
ROBERT WESTMEYER, County Counsel

By: 

CITY OF AMERICAN CANYON

By: 
LEON GARCIA,
Mayor

ATTEST: Dorothy Roadman
American Canyon City Clerk

By: 

APPROVED AS TO FORM:
WILLIAM D. ROSS, City Attorney

By: 

EXHIBIT A

Legal Description of Panattoni Parcel

Commencing at the southwest corner of the 0.504 acre parcel of land described in the Deed to the State of California, recorded January 27, 1949 in Book 301 at page 69 of Official Records of Napa County; thence along the western line of the lands of said State of California; northerly along a curve to the left, from a tangent that bears N 0°12'55.6"W having a radius of 9910 feet, through a central angle of 2°16'39.4" an arc distance of 393.94 feet; thence N02°29'35"W 16.21 feet to a point on the south line of a 0.16 acre parcel of land described in Exhibit "B" of the Grant Deed recorded at series number 1993-037831 in the office of the Napa County Recorder; thence N63°49'30"W along the south line of said parcel 31.32 feet; thence N84°18'26"W along said south line 35.36 feet; thence N02°26'14"W to the centerline of Kelly Road South as shown on Exhibit "B" as shown on the Grant Deed recorded at series number 1993-037831 in the office of the Napa County Recorder; thence S87°25'31"W along said centerline 28.33 feet to a curve concave to the south, having a radius of 250 feet; thence westerly and southerly along said curve through a central angle of 33°41'24" an arc length of 147.00 feet; thence S53°44'07"W 376.66 feet to the beginning of a curve concave to the northwest, having a radius of 1000.00 feet; thence southerly and westerly along said curve through a central angle of 12°48'50" an arc length of 223.64 feet; thence S66°32'57"W 117.18 feet to the eastern line of a 35.29 acre parcel of land described in Exhibit "A" of the Grant Deed recorded at series number 1993-037831 in the Office of the Napa County Recorder; thence S08°41'22"E along said eastern line 65.93 feet to the southeast corner of said parcel; thence S61°04'46"W along the southern line of said parcel, 36.24 feet; thence S8°35'53"E 115.44 feet to the beginning of a curve concave to the west having a radius of 1000.00 feet; thence southerly along said curve through a central angle of 13°38'08" an arc length of 237.99 feet; thence S05°02'15"W 494.58 feet to the beginning of a curve concave to the northwest having a radius of 475.00 feet; thence southerly along said curve through a central angle of 51°02'54" an arc length of 423.21 feet; thence S56°05'09"W 312.76 feet to the northeastern line of the Napa Valley Branch of the Southern Pacific Railroad and/or the San Francisco, Napa and Calistoga Railway; thence S27°45'25"E along the northeastern line of said railway 282.16 feet to the south line of the 397.75 acre tract of land described as Parcel One in the Deed to Louis Gonsalves, et ux, recorded July 13, 1944 in Book 211 at Page 476 of Official Records of Napa County; thence east along the south line of said 397.75 acre parcel of land to the southwestern corner of the parcel of land described in the Deed to Ray L. Welch, et ux, recorded December 7, 1953 in Book 428 at page 398 of Official Records of Napa County; thence along the western line of the land of said Welch, N00°36'30"E 582.14 feet to the southwestern corner of the 2.5 acre parcel of land described in the Deed to Arthur C. Pollard, et ux, recorded June 23, 1947 in Book 271 at page 168 of Official Records of Napa County; thence along the western line of the Land of Pollard, N28°36'W 124.4 feet and N17°04'E 302.3 feet to the southwestern corner of the 3.54 acre parcel of land described in the Deed to James K. Pendery, et ux, recorded November 13, 1947 in Book 278 at page 403 of Official Records of Napa County; thence along the western line of the lands of said Pendery N00°36'E 468.30 feet, more or less, to the southeastern corner of the 1 acre parcel of land described in the Deed to William Gonsalves, et ux, recorded November 13, 1961 in Book 640 at page 583 of Official Records of Napa County; thence along the southern line of the land of said Gonsalves, N89°24'W 208 feet to the southwestern corner thereof; thence along the western line of said land N00°36'E, 208 feet to the northwestern corner thereof; thence along the northern line of said land S89°24'E 208 feet to the northeastern corner thereof, said corner also being the northwestern corner of the land of James K. Pendery, above referred to; thence along the northern line of the land of said Pendery S89°24'E, 203.76 feet, more or less, to the point of beginning.

APN 057-090-076

Commencing at the southeasterly corner of the lands of the South Napa Waste Management Authority (S.N.W.M.A.) Exhibit "A" recorded November 19, 1993 as Instrument Number 1993-037831 in the office of the Napa County Recorder and shown on the Record of Survey of a portion of the lands of South Napa Waste Management Authority (S.N.W.M.A.) recorded February 25, 1997 in Book 31 of Surveys at Pages 8-10 in the office of the Napa County Recorder; thence South $61^{\circ} 04' 46''$, 36.24 feet to the TRUE POINT OF BEGINNING; thence from said true point of beginning South $08^{\circ} 35' 53''$ East 115.44 feet to the beginning of a curve concave to the west having a radius of 1000.00 feet; thence southerly along said curve through a central angle of $13^{\circ} 38' 08''$ an arc length of 237.99 feet; thence South $05^{\circ} 02' 15''$ West 494.58 feet to the beginning of a curve concave to the northwest having a radius of 475.00 feet; thence southerly along said curve through a central angle of South $51^{\circ} 02' 54''$ an arch length of 423.21 feet; thence South $56^{\circ} 05' 09''$ West to the northeastern line of the Napa Valley Branch of the Southern Pacific Railroad and/or the San Francisco, Napa and Calistoga Railway; thence northwest along the northeastern line of the Napa Valley Branch of the Southern Pacific Railroad and/or the San Francisco, Napa and Calistoga Railway to the southerly corner of the said South Napa Waste Management Authority parcel; thence northeasterly along the southeasterly boundary of the South Napa Waste Management Authority to the TRUE POINT OF BEGINNING.

APN 057-090-075

EXHIBIT B

Legal Description of Headwaters Parcel

Beginning at the intersection of the south line of the land described in the Deed to the County of Napa recorded December 31, 1986 in Book 1489 at page 213 in the office of the Napa County Recorder and the southwest line of the Napa Valley Branch of the Southern Pacific Railroad and/or the San Francisco, Napa, and, Calistoga Railway; thence South 75°30'04"West along the south line of the said lands of Napa County 4509.24 feet to the southwest corner of said lands of Napa County, said corner also being a point on the western line of the Lands of Louis Gonsalves described as Parcel One in the deed to Louis Gonsalves, et ux, recorded July 13, 1944 in Book 211 at page 476 of official records of Napa County; thence southerly along the western line of said land to the southwestern corner thereof, thence east along the south line of said 397.75 acre parcel of land to the southwestern line said Railway; thence northwesterly along the southwestern line of said Railway to the Point of Beginning.

APN 057-090-069

EXHIBIT C

Legal Description of Atkins Parcel

Commencing at the Southeastern corner of the 140.04 acre tract of land described in the Deed to Steve O. Atkins, et al, recorded January 4, 1954, in book 430, Page 186 Official Records of Napa County, running thence South 87 degrees 54 minutes 30 seconds West, along the Southern line of said tract, 859.82 feet to the Northeastern Right of Way line of the Santa Rosa Branch of the Southern Pacific Railroad; thence North 68 degrees 44 minutes 48 seconds West, along said Northeastern line, 90.77 feet to the most Southerly corner of that certain 52.95 acre tract of land described in the Deed to County of Napa recorded August 16, 1956, in book 521 of Official Records at page 292; thence along the Easterly line of said 52.95 acre tract of land, North 21 degrees 38 minutes East 1919.15 feet to the most Northerly corner of said 52.95 acre tract; being a point in the Southern line of the Napa County Airport as described in the Judgment of Condemnation recorded April 12, 1944 in book 208, page 364, Official Records of Napa County; thence North 76 degrees 08 minutes 23 seconds East along said Southern line, 281.89 feet to the Northeastern corner of the 140.04 acre tract above referred to; thence South 1 degree 03 minutes 57 seconds West, along the Eastern line of said tract, 1859.55 feet to the point of commencement.

Excepting from said Parcel One an undivided 1/2 interest in and to all of the oil, gas and other minerals and mineral rights of whatsoever nature, as granted to Charles I. Joens, et ux, in Deed recorded March 17, 1967, in book 762 of Official Records, at page 759, Napa County Records.

APN 057-040-007

EXHIBIT D

Legal Description - Proposed Urban Limit Line for American Canyon, CA

AREA #1:

A portion of Township 4 North, Range 3, 4, and 5 West, Mount Diablo Base and Meridian (and also being shown on the attached plat entitled "Plat of Description - Proposed American Canyon, CA. Urban Limit Line" attached hereto, for illustrative purposes only, as EXHIBIT "D-1"), more particularly described as follows:

BEGINNING at a t-bar and tag stamped "R.C.E. 6250", marking the westernmost corner of Parcel B-1, as shown on the map entitled "Survey and Division of the Madigan Ranch in Napa County and Solano County, California", filed December 17, 1971 in Book 3 of Parcel Maps at Page 67-68 in the office of the County Recorder of Napa County, California, all further references to filing or recording being made to said Napa County Recorder unless otherwise stated for purposes of this description; said Point of Beginning being a point on the Napa - Solano County line; thence westerly along said Napa - Solano County line 9460± feet to the southwest corner of Parcel A as shown on the map entitled "Final Map of Napa Meadows Unit 8" filed July 27, 2000 in Book 22 of Record Maps at Page 10-15 in the office of the County Recorder of Napa County, California; thence northerly along the extended westerly line of Parcels A, C & B as shown on said "Final Map of Napa Meadows Unit 8" 1900± feet to the southeast corner of the lands known as "Napa Meadows Unit 7" as shown on the map entitled "Final Map of Napa Meadows Unit 7" filed October 26, 2000 in Book 22 of Record Maps at Page 27-33 in the office of the County Recorder of Napa County, California; thence westerly and northwesterly along the southerly and extended westerly lines of said "Napa Meadows Unit 7" to a t-bar and tag stamped "R.C.E. 6250" at the easterly terminus of a line labeled "N87°45'00"W 187.83'" marking a point on the easterly line of the lands of Pauline Burastero, et al, as shown on the map entitled "Record of Survey of the lands of American Canyon Sanitary Land Fill Co., Inc., and the lands of Pauline Burastero, et al" filed May 31, 1974 in Book 18 of Surveys at Page 71; thence westerly, northerly and westerly along the lines of said lands of Pauline Burastero, et al 9700± feet to a ¾" iron pipe stamped "R.C.E. 3389" marking the northwest corner thereof, said point being also the southwest corner of the 58.49 acre parcel of land described in the Judgment and Final Order of Condemnation filed February 15, 2006 and recorded as Document No. 2006-0005485; thence northerly and easterly along the lines of said 58.49 acre parcel of land 2016± feet to a ¾" iron pipe stamped "R.C.E. 11649" marking the southwest corner of Parcel 1 as shown on the map entitled "Parcel Map of the lands of Louis O. Wurz Jr., et al and Covenant Presbyterian Church of Napa" filed December 1, 1986 in Book 15 of Parcel Maps at Page 20; thence northerly along the westerly line of said Parcel 1, 2280± feet to the northwest corner thereof, said northwest corner being also the southwest corner of Parcel One as shown on the map entitled "Parcel Map of the Lands of Napa Mill Development Company..." filed October 12, 2006 in Book 25 of Parcel Maps at Page 29-32; thence northerly along the West line of said Parcel One 575± feet to the southerly right of way line of Green Island Road; thence westerly along said southerly right of way line of Green Island Road 1510± feet to the intersection with the extended westerly line of the lands of All Technical Engineering & Construction, Inc, as shown on the map entitled "Record of Survey of the lands of All Technical Engineering & Construction, Inc.", filed October 6, 1978 in Book 20 of Surveys at Page 88; thence northerly along the extended westerly line of said lands of All Technical Engineering & Construction, Inc. 1820± feet to the southerly line of the lands described in the Grant Deed filed October 11, 2005 and recorded as Document No. 2005-0041461; thence northwesterly and northeasterly along said lands 2010± feet to the northwest corner thereof; thence northeasterly along the northerly line of said lands 282± feet to the northeast corner thereof; thence southerly along the easterly line of said lands 545± feet to the northwest corner of the lands described in the Grant Deed filed September 7, 2006 and recorded as Document No. 2006-0031319; thence northeasterly along the northerly line of said lands 4510± feet to the northeastern corner thereof; said

corner being a point on the southwesterly right of way line of the Napa Valley Branch of the Southern Pacific Railroad right of way; thence southeasterly along said southwesterly right of way line 1510± feet to the intersection with the extended southerly line of the lands of S.N.W.M.A. as shown on the map entitled "Record of Survey of South Napa Waste Management Authority..." filed February 25, 1997 in Book 31 of Surveys at Page 8-10; thence northeasterly along said southerly line 1250± feet to the southerly right of way line of Kelly Road South, as shown on the same map entitled "Record of Survey of South Napa Waste Management Authority..."; thence northeasterly along said southerly right of way line 850± feet to the westerly right of way line of State Highway 29; thence southerly along said westerly right of way line 350± feet to the northeast corner of the lands described in the Grant Deed filed August 16, 2007 and recorded as Document No. 2006-0028706; thence westerly along the northerly line of said lands 225± feet to the northwestern corner thereof; said northwestern corner being also the northeastern corner of the lands described in the Grant Deed filed November 13, 1961 and recorded in Book 640 at Page 583; thence westerly along the northerly line of said lands 208± feet to the northwestern corner thereof; thence southerly 208± feet to the southwesterly corner thereof; thence easterly 208± feet to the southeasterly corner thereof, said southeasterly corner being also a point on the westerly line of the aforementioned lands described in the Grant Deed filed August 16, 2007 and recorded as Document No. 2006-0028706; thence southerly along said westerly line 468± feet to the southwestern corner thereof; thence easterly along the extended southerly line of said lands 380± feet to a point on the easterly right of way line of State Highway 29, said easterly right of way line of State Highway 29 being also the westerly line of Parcel C as shown on the map entitled "Parcel Map of the lands of Security Owners Corporation..." filed August 24, 1995 in Book 21 of Parcel Maps at Page 50-51; thence southerly along said westerly line of Parcel C 3460± feet to the southwestern corner thereof; thence easterly along the southerly line of said Parcel C 2500± feet to the southeastern corner thereof, said southeastern corner being also a point on the westerly line of Parcel One as described in the Corporation Grant Deed filed December 31, 1997 and recorded as Document No. 1997-031470; thence northerly along said westerly line 375± feet to the northwestern corner thereof; thence easterly along the northerly line of said Parcel One 1678± feet to the northeastern corner thereof; thence southerly along the extended easterly line of said Parcel One 3580± feet to a point on the northerly line of the lands of John D. & Lorraine D. Cantoni as shown on the map entitled "Record of Survey of the lands of John D. & Lorraine D. Cantoni" filed April 23, 1980 in Book 21 of Surveys at Page 69; thence leaving said northerly line 2200± feet to a nail and tag stamped "R.C.E. 15390" in a corner post at the northerly terminus of a line labeled "N40°13'46"E 2463.39'" on said map; thence southwesterly along the last mentioned line 1300± feet to the point of intersection with the northerly extension of the line labeled "N9°56'50"W 1007.63'" shown on the map entitled "Record of Survey of the lands of Amcan Land Holdings Inc..." filed February 18, 1999 in Book 32 of Surveys at Page 34; thence southerly along said extended line labeled "N9°56'50"W 1007.63'" 3460± feet to the southerly terminus thereof, said line terminus being also a point on the easterly line of Parcel One as described in the Grant Deed filed January 25, 2007 and recorded as Document No. 2007-0002762; thence southeasterly along said easterly line 2600± feet to a point on the southerly line of said Parcel One, said point being also the northwest corner of the lands of Palm, marked by a ½" rebar and tag stamped "L.S. 4510" as shown on the map entitled "Parcel Map of the lands of a portion of the lands of Mary C. Avilla" filed December 10, 1986 in Book 15 of Parcel Maps at Page 23-24; thence southerly along the extended westerly line of said lands of Palm 350± feet to the southerly right of way line of American Canyon Road; thence westerly along said southerly right of way line of American Canyon Road 170± feet to a t-bar and tag stamped "R.C.E. 6250", marking the northeastern corner of Parcel B, as shown on the map entitled "Survey and Division of the Madigan Ranch in Napa County and Solano County, California", filed December 17, 1971 in Book 3 of Parcel Maps at Page 67-68; thence southwesterly, northeasterly, southerly and southwesterly along the eastern line of said Parcel B 5100± feet to a t-bar and tag stamped "R.C.E. 6250", marking the westernmost corner of Parcel B-1 as shown on said map entitled "Survey and Division of the Madigan Ranch in Napa County and Solano County, California", said point being the TRUE POINT OF BEGINNING.

AREA #2 :

BEING that 62.779 acre parcel designated "American Canyon County Water District" as shown on the map entitled "Record of Survey of the lands of American Canyon Sanitary Land Fill Co., Inc., and the lands of Pauline Burastero, et al" filed May 31, 1974 in Book 18 of Surveys at Page 71 in the office of the County Recorder at Napa County, California.

AREA #4 :

A portion of the lands of Pauline Burastero, et al as the same is shown on the map entitled "Record of Survey of the lands of American Canyon Land Fill Co. ...and of the lands of Pauline Burastero, et al" filed May 31, 1974 in Book 18 of Surveys at Page 71 in the office of the Recorder of Napa County, California, more particularly described as follows:

BEGINNING at a $\frac{3}{4}$ " iron pipe tagged "R.C.E. 3389" marking the northeast corner of the lands of Pauline Burastero, et al as shown on the map entitled "Record of Survey of the lands of American Canyon Land Fill Co. ...and of the lands of Pauline Burastero, et al" filed May 31, 1974 in Book 18 of Surveys at Page 71 in the office of the Recorder of Napa County, California; thence along the northerly line of said lands of Burastero N $89^{\circ}14'40''$ W 1318.94 feet to an angle point on said northerly line; thence leaving said northerly line S $3^{\circ}46'32''$ E 790.22 feet to a point on the northerly right of way line of Eucalyptus Drive; thence along said northerly right of way line of Eucalyptus Drive S $89^{\circ}46'10''$ E 1365.83 feet to the intersection of the northerly right of way line of Eucalyptus Drive with the easterly line of said lands of Burastero; thence along the easterly line of the lands of Burastero N $7^{\circ}16'00''$ W 782.90 feet to the POINT OF BEGINNING.

EXHIBIT E**Water Conditions To Be Imposed On All Parcels
(City Customers and Outside Customers) For Which New Water Service is Requested**

The City of American Canyon ("City") may impose the conditions listed below on new water services for Outside Customers by including these conditions in the "will-serve" letters that the City provides to such Outside Customers, but only if the City also imposes the same conditions on all new water services for parcels with similar uses within the City's limits. The County shall include these same conditions in all new land use development permits for parcels within the Airport Industrial Area Specific Plan area.

1. **City Capacity Fees and Conditions of Approval for Water Service.** Capacity Fees charged for parcels within the City's Water Service Area shall be established by the City and will be periodically reviewed and updated. Capacity Fees (also known as Connection Fees) will be uniform throughout the Water Service Area, regardless of whether the parcel to which the fee applies is inside or outside the City's Limits. The Capacity Fee and any conditions on new water service will be determined based on the Water Supply Report, which shall contain the analysis described in Part II.C. of Exhibit "F" of this Agreement, and which will be consistent with the City's Zero Water Footprint Policy, adopted by the City on October 23, 2007.

2. **Cost of Water Service.** The cost of new water service shall be imposed through the capacity fees in the City's Ordinance 2007-09 or through new capacity fees approved by the County and enacted in a new City ordinance. However, if the Water Supply Report finds, consistent with the City's Zero Water Footprint Policy (see Exhibit F), that the City will have to obtain additional water supplies to meet "dry year" shortfalls, then the cost of water to meet such "dry year" shortfalls will be the sole responsibility of the Applicant. In determining whether or not such "dry year" shortfalls will occur, the City shall include in the base supplies available to the City during "dry years" the new water supplies that have been or will be included in the calculations used to set the City's Capacity Fees and water rates. The City will conclude that "dry year" shortfalls will occur only if such base supplies will not be adequate to meet anticipated "dry year" demands. The City may not impose any costs on the Applicant under this section to reimburse the City for any capital or operating costs that have been or will be included in the calculations used to set the City's Capacity Fees or water rates. The City may impose the additional costs described in the preceding sentence on Outside Customers only if the City also imposes such additional costs uniformly on City Customers.

3. **Maximum Allowable Water Use.** Water received from the City for use on parcels within the Airport Industrial Area Specific Plan area and on parcels with similar uses within the City's limits shall be limited to an average of 650 gallons of water per day per acre (measured monthly), and Applicants for new or increased City water service for all such parcels shall be required to demonstrate to the City while the City is preparing the Water Supply Report for the Applicant the maximum extent to which the Applicant can further reduce its water consumption by applying the following best management practices:

- No Flow or Low Flow Fixtures. These Applicants shall be required to install no flow or low flow water fixtures, and to implement other reasonable water conservation measures that are described in the City's Water Conservation Guidelines adopted in the City's Resolution No. 2008-08 or in new City water conservation guidelines approved by the County and adopted in a new City ordinance or resolution.
- Drought Tolerant Landscape & Irrigation with Recycled Water. These Applicants shall be required to use only drought tolerant landscaping, and they may only irrigate landscaped areas with recycled water, when it is available.
- Purple Pipe. These Applicants shall be required to dual plumb their buildings and install "purple pipe" in all landscape areas in anticipation of the availability of recycled water and shall use the recycled water when available.
- These Applicants shall follow the water conservation methods that are described in the Water Conservation Guidelines adopted in the City's Resolution No. 2008-08 or in new City water conservation guidelines approved by the County and adopted in a new City ordinance or resolution.

The City may apply the provisions of this Paragraph 3 to Applicants for new or increased City water service for parcels within the Airport Industrial Area Specific Plan area only if the City also uniformly applies these provisions to all Applicants for new or increased City water service for parcels with similar uses within the City's limits.

4. **Water Offsets.** Applicants for City water service for parcels within the Airport Industrial Area Specific Plan area and for parcels with similar uses within the City's limits that wish to use more than an average of 650 gallons of water per day per acre (measured monthly) shall offset the proposed water use over 650 gallons per day per acre (measured monthly) through the use of one or more options that are made available by the City to the Applicants. These options include, but are not limited to, retrofitting of existing residences with low flow fixtures, purchase of otherwise developable land as permanent open space, or acquisition of other water supply resources as provided for by a water supply analysis that follows the Zero Water Footprint Methodology described in Exhibit F. The City shall make all such options available uniformly to Applicant for City water service for parcels within the Airport Industrial Area Specific Plan area and for parcels with similar uses within the City's limits, and that seek such offsets.

5. **Drought Restrictions.** To the extent permitted by law, the City may curtail or ration the use of water provided by the City below the limit of 650 gallons per day per acre (measured monthly) in dry years through the imposition of drought restrictions that are uniformly applied throughout the City's Water Service Area.

EXHIBIT F

Zero Water Footprint and Water Supply Report Methodology

I. PURPOSE

To implement the Zero Water Footprint Policy adopted by the City Council on October 23, 2007. In this policy, "Zero Water Footprint" is defined as:

"No loss in reliability or increase in water rates for existing water service customers due to requested increased demand for water within the City's Water Service Area."

II. PROCEDURES

- A) Initial Request.** Applicants for all projects requiring additional water supplies from the City of American Canyon, either inside City limits or in the City's Water Service Area but outside of City limits, shall complete a water supply worksheet estimating average and peak use for indoor and outdoor uses and provide the completed worksheet to the City's Engineering Division.
- B) Evaluation of Water Footprint.** The Engineering Division shall evaluate the water footprint of the project, using the water supply worksheet provided by the Applicant, to determine whether a Water Supply Report is required. A Water Supply Report will not be required if the project meets the adopted Zero Water Footprint definition. This can be accomplished by projects with no additional water demand or by projects which offset increased water demand by off-site conservation measures.
- C) Water Supply Report.** A Water Supply Report shall be prepared for all projects that do not meet the adopted Zero Water Footprint definition. The Water Supply Report shall be prepared by the City of American Canyon at the cost of the project applicant. The Water Supply Report shall be substantially in the form of the report approved in the City's Resolution No. 2008-02, or in a new form approved by the County and approved by the City in a new resolution and shall include the following analysis:
- 1) Water service request
 - a) Description of project
 - b) Water service request
 - (i) Average Daily Demand
 - (ii) Peak Day Demand
 - c) Conservation Measures Included in Project
 - 2) Consistency
 - a) Urban Water Management Plan
 - b) Recycled Water Facilities Plan
 - c) Water Conservation Implementation Guidelines
 - 3) Water footprint
 - a) Zero Water Footprint Definition
 - b) Project's impact on reliability
 - c) Project's impact on rates

- d) Project's water footprint
- 4) Project's contribution
 - a) Capacity fee
 - b) Reimbursable improvements
- 5) Capital program status
 - a) Summary
 - b) System planning status
 - c) Water supply
 - (i) Water supply implementation status
 - (ii) Water supply alternatives
 - d) Water treatment
 - (i) Water treatment implementation status
 - (ii) Water treatment alternatives
 - e) Water storage, transmission, and distribution status
 - f) Water capital program financial status
- 6) Vineyards analysis
 - a) Vineyards decision
 - b) Facts with respect to solutions to water supply problems
 - c) Water supply over the life of the project
 - d) Impacts of likely future water sources
 - e) Possible replacement sources and their impacts
- 7) Recommended mitigations
 - a) Long term water mitigations
 - b) Short term water mitigations
- 8) Opportunities to reduce project's water footprint
 - a) On-site conservation opportunities
 - b) Off-site conservation opportunities

D) Applicant Review of Water Supply Report. The Water Supply Report, once approved by the City, will be furnished to the project applicant. If the applicant elects to revise the project to reduce the water footprint, the Water Supply Report may be revised at the applicant's cost.

E) Water Will Serve Letter. Water will-serve letters are required for projects outside of the Napa Valley Gateway project limits that are requesting increased water services from the City. The Napa Valley Gateway project is subject to the terms and conditions of a will-serve letter for the entire project agreed upon between the City of American Canyon and Charles Slutzkin of Napa Valley Gateway Limited in a will-serve letter agreement dated December 13, 2002. So long as the terms and conditions of that will-serve letter agreement are complied with, developments of parcels within the Napa Valley Gateway project limits will not require any Water Supply Report or additional will-serve letters.

EXHIBIT G

Appeal Procedure: Zero Water Footprint Methodology

1. **Grounds for Appeal- Conditions of Approval.** If the water service application is for a parcel outside the City's limits, then the City shall, within 30 days of receipt of such application, provide to the Applicant and the County any conditions of approval that the City proposes to impose on the parcel at least 90 days before imposing the conditions of approval.

Conditions of approval that result from the Water Supply Report and that the City proposes to include in a water service will-serve letter that will be issued by the City for a parcel outside of the City's limits may be appealed by an Applicant under the process described in Section 3 below.

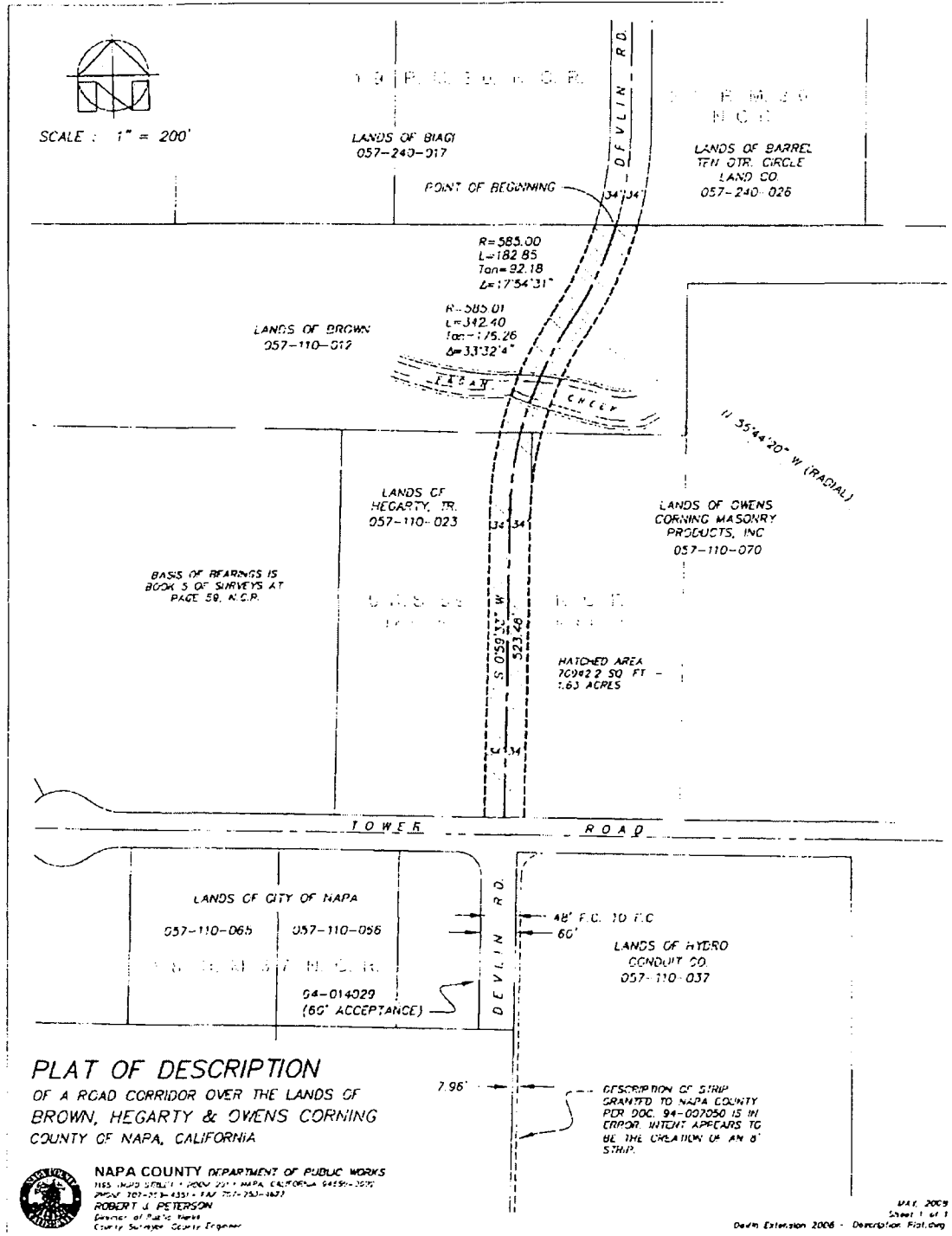
2. **Exceptions:** An appeal may not challenge water rates imposed by the City that are consistent with *Hansen v. City of San Buenaventura* (1986) 42 Cal.3d 1172, and the City's Ordinance 2007-13. An appeal also may not challenge Capacity Fees that are set pursuant to the City's Ordinance 2007-09, or new capacity fees approved by the County and enacted in a new City ordinance.

3. **Appeal Process and Appeal Panel.** An appeal of water service conditions of approval that the City proposes for a parcel outside the City's limits may be filed within ninety (90) days after the proposed conditions are forwarded to the Applicant and the County for inclusion in a development permit. The appeal will be heard by the panel described in the following paragraph, and this panel will determine whether any of the conditions under appeal is inconsistent with any provision of this Agreement.

The Appeal Panel will be made up of one member selected by the County Executive Officer, one member selected by the City Manager and one member selected by the two appointed members. If the two appointed members cannot agree on the third member, the name of each candidate shall be placed in a hat to be drawn for selection. The decision of the Appeal Panel will be final, but subject to judicial review pursuant to Code of Civil Procedure section 1094.5. The reasonable cost of the Appeal Panel shall be borne by the Applicant.

EXHIBIT I

Devlin Road Extension



Being a portion of that parcel of land conveyed to the Brown Trust by deed filed November 4, 1987 and recorded in Book 1547 of Official Records at Page 932 in the office of the Recorder of Napa County, California; being also a portion of Parcel "B" as shown on the Record of Survey filed February 24, 1960 and recorded in Book 5 of Surveys at Page 59 in the office of the Recorder of Napa County, California, and also shown on the "Plat of Description" attached hereto and made a part hereof by reference; more particularly described as follows:

A STRIP OF LAND, 68 feet wide, the centerline of which is described as follows:

BEGINNING at a point on the northerly line of the aforementioned lands of Brown, said point being also the southerly terminus of the centerline of "Devlin Road", as shown on the Final Map filed February 19, 1999 and recorded in Book 21 of Record Maps at Page 30 - 33 in the office of the Recorder of Napa County, California; said point being also a point on a compound curve concave to the northwest having a radius of 585.00; thence southerly 182.85 feet along said curve through a central angle of $17^{\circ}54'31''$ to the beginning of a reverse curve concave to the southeast having a radius of 585.00 feet and to which beginning a radial line bears $N 55^{\circ}44'20'' W$; thence southerly 342.40 feet through a central angle of $33^{\circ}32'04''$; thence leaving said curve along a line parallel to and 34 feet westerly of the easterly line of Parcel "B" as shown on the aforementioned Record of Survey filed February 24, 1960 and recorded in Book 5 of Surveys at Page 59 in the office of the Recorder of Napa County, California, $S 00^{\circ}59'33'' W$ 523.46 feet more or less to the northerly right of way line of Tower Road.

The sidelines of the above described 68 foot strip to be extended or shortened to terminate at the northerly line of that parcel of land conveyed to the Brown Trust by deed filed November 4, 1987 and recorded in Book 1547 of Official Records at Page 932 in the office of the Recorder of Napa County, California, and the northerly right of way line of Tower Road.

A portion of Napa County Assessor's Parcel Numbers 057-110-012, 023 & 070

Containing 70942 square feet or 1.63 Acres, more or less.

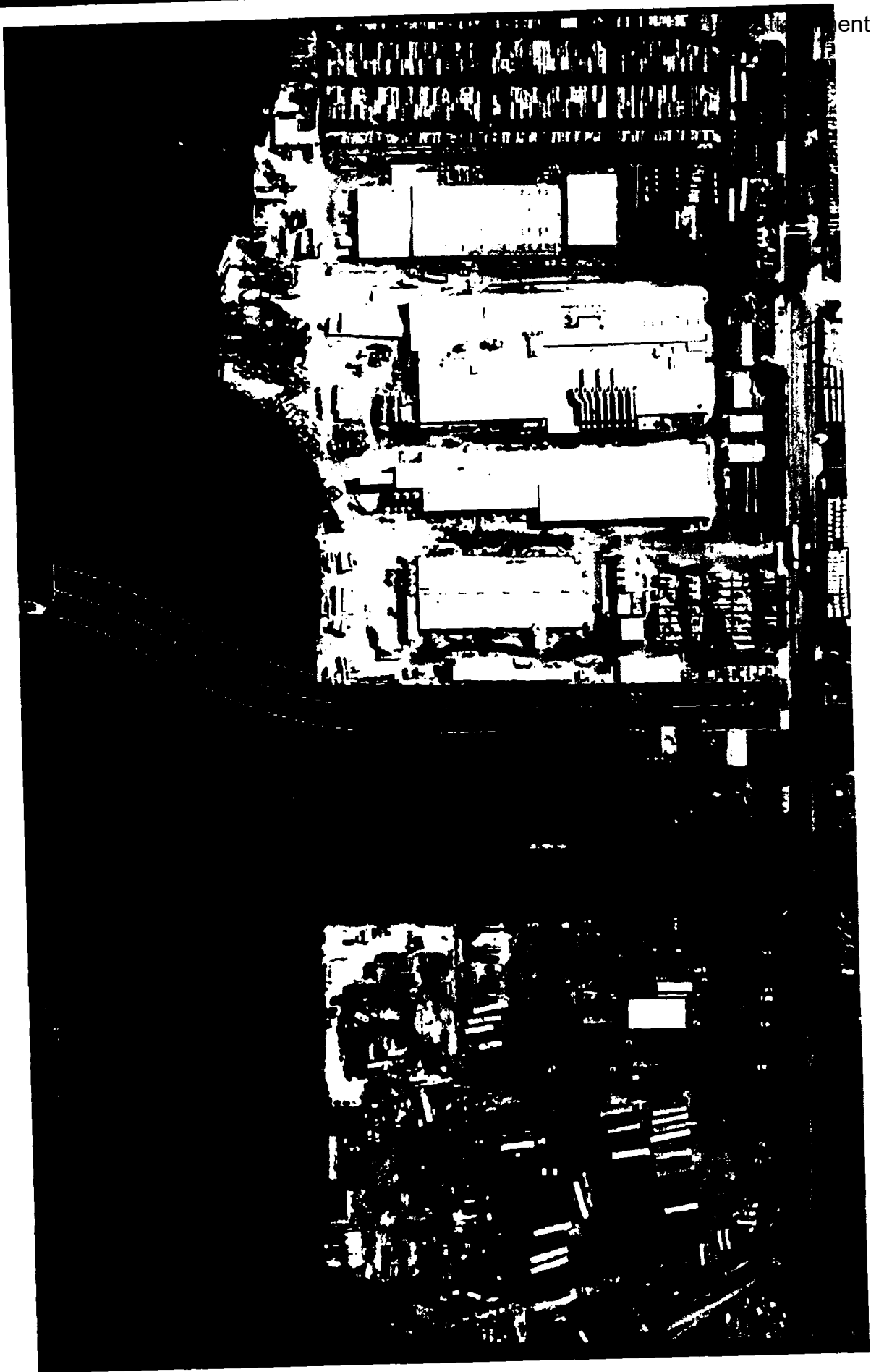


EXHIBIT LIST

- EXHIBIT A** Legal Description of Panattoni Parcel
- EXHIBIT B** Legal Description of Headwaters Parcel
- EXHIBIT C** Legal Description of Atkins Parcel
- EXHIBIT D** Legal Description - Proposed Urban Limit Line for American Canyon, CA
- EXHIBIT E** Water Conditions To Be Imposed On All Parcels (City Customers and Outside Customers) For Which New Water Service is Requested
- EXHIBIT F** Zero Water Footprint and Water Supply Report Methodology
- EXHIBIT G** Appeal Procedure: Zero Water Footprint Methodology
- EXHIBIT H** City's Water Service Area
- EXHIBIT I** Devlin Road Extension



Via Email

bfreeman@napa.lafco.ca.gov

November 23, 2021

Brendon Freeman
 LAFCO Executive Officer
 Local Agency Formation Commission
 of Napa County
 1754 Second Street, Suite C
 Napa, CA 94559

Re: **OPPOSITION – Proposed Sphere of Influence Amendment
 1661 Green Island Road**

Dear Executive Officer Freeman and Members of the Commission:

The California Farm Bureau Federation and the Napa County Farm Bureau (collectively “Farm Bureau”)¹ write to express our continued opposition to the proposed sphere of influence amendment for the property located at 1661 Green Island Road in American Canyon. We attach our 2018 letter to the Napa County Board of Supervisors on this matter and urge the Commission to deny this application as the request arises again in 2021.

It is apparent from the application that the owners have been disappointed in the property’s potential as a vineyard. Nothing within the project application materials rules out the use of the property for all other agricultural purposes as a matter of course², however, or takes away from the property’s ancillary value as open space. It would set a bad precedent in Napa County for an annexation request or sphere amendment to be approved simply because the agricultural land in question was deemed unfit for an owner’s best expectations of particular crop return, or because the owner had difficulty marketing the land on the basis of that particular crop expectation.³

¹ The California Farm Bureau is a non-governmental, non-profit, voluntary membership California corporation whose purpose is to protect and promote agricultural interests throughout the state of California and to find solutions to the problems of the farm, the farm home, and the rural community. Farm Bureau is California's largest farm organization, comprised of 53 county Farm Bureaus currently representing more than 22,000 agricultural members in 56 counties, including over 1,000 members within the County of Napa. Farm Bureau strives to protect and improve the ability of farmers and ranchers engaged in production agriculture to provide a reliable supply of food and fiber through responsible stewardship of California's resources.

² In point of fact, there are a number of agricultural crops which are tolerant of high-salinity soils, including hay, oats and rye. These crops are grown with success in neighboring Sonoma County, as an example.

³ The attachments to the application seem mainly to indicate that the land is not good for a vineyard. The “Site Visit Report” by Vineyard Soil Technologies *does not* broadly conclude, as the applicants state, that future agricultural use is precluded; it is overwhelmingly focused on the land as a *vineyard*. Similarly, applicants overstate their difficulties in marketing the land for *vineyard purposes* as support for the much broader proposition that the property is “no longer suitable for agricultural use.”

Brendon Freeman
1661 Green Island Road
November 23, 2021

We appreciate your careful consideration of the foregoing and thank the Commission for the opportunity to comment as set forth above.

Very Truly Yours,



Ryan Klobas
CEO
Napa County Farm Bureau



Christian C. Scheuring
Managing Counsel
California Farm Bureau

Enclosure:

CC: County of Napa Board of Supervisors:

Alfredo.Pedroza@countyofnapa.org
Diane.Dillon@countyofnapa.org
Ryan.Gregory@countyofnapa.org
Belia.Ramos@countyofnapa.org
Brad.Wagenknecht@countyofnapa.org

City of American Canyon City Council:

Mariam Aboudamous - maboudamous@cityofamericancanyon.org
David Oro - doro@cityofamericancanyon.org
Pierre Washington - pwashington@cityofamericancanyon.org
Mark Joseph - mjoseph@cityofamericancanyon.org
Leon Garcia - lgarcia@cityofamericancanyon.org

David Morrison, County of Napa
David.Morrison@countyofnapa.org

Minh Tran, County of Napa
Minh.Tran@countyofnapa.org

Jason Holley, City of American Canyon
jholley@cityofamericancanyon.org

Bill Ross, City of American Canyon
wross@lawross.com



July 19, 2018

Board of Supervisors
County of Napa
1195 Third Street, 3rd Floor
Napa, CA 94559

Dear Board of Supervisors:

On July 18, 2018, the Napa County Farm Bureau Board of Directors took under advisement the issue of annexation of 1661 Green Island Road to the City of American Canyon. After careful consideration, the Board of Directors voted unanimously to oppose annexation of the parcel to the City of American Canyon.

The Napa County Farm Bureau has studied this issue closely. We have received information from the interested parties and realize the inherent issues with the parcel. We recognize that the owners of the parcel believe the parcel is no longer viable for agricultural use and wish to annex the parcel into the City of American Canyon. However, we strongly disagree that the parcel is no longer viable for agricultural use. While grape growing may be the property owners' preferred use, it is certainly not exhaustive of all other forms of agriculture that can be conducted on the property. In accordance with Farm Bureau's land use policies, we believe annexing this parcel to the City of American Canyon sets a very unwise precedent for agricultural zoning in Napa County and we remain strongly opposed to its annexation.

Thank you for your time and attention to this matter.

Sincerely,

A handwritten signature in cursive script that reads 'Johnnie White'.

Johnnie White
President
Napa County Farm Bureau

cc: Brendon Freeman, LAFCO
Minh Tran, County of Napa
David Morrison, County of Napa
Jason Holley, City of American Canyon



A Tradition of Stewardship
A Commitment to Service

Planning, Building & Environmental Services

1195 Third Street, Suite 210
Napa, CA 94559
www.countyofnapa.org

David Morrison
Director

December 1, 2021

Brendon Freeman, Executive Officer
Napa County Local Agency Formation Commission (LAFCO)
1754 Second Street, Suite C
Napa, California 94559

RE: GREEN ISLAND VINEYARD SPHERE OF INFLUENCE AMENDMENT APPLICATION

Dear Mr. Freeman:

Napa County (County) would like to express our appreciation to LAFCO Commissioners and staff for considering our critical concerns over the proposed Green Island Vineyards Sphere of Influence (SOI). This proposal seeks to amend the SOI for the City of American Canyon (City) and American Canyon Fire District (District) to include this property, which is the first step toward annexation and urbanization. This action would be in direct conflict with the City General Plan, County General Plan, adopted Memorandum of Understanding on growth boundaries between the City and County, and ultimately, LAFCO's Sphere of Influence Policy. Consideration and approval of this SOI amendment is extremely premature by designating an area for future annexation well in advance of any evaluation of the land use and environmental consequences.

The County and the cities/town have a long history of thoughtful and balanced consideration of urban boundary expansion and protection of agricultural lands. To that end, in 2008, the City and County entered into an agreement on the growth boundary for the City. Among other commitments between the agencies, the agreement set forth that the County would support certain annexations of unincorporated properties located within the growth boundary in turn for the City ensuring that additional properties beyond the boundary would not be considered for inclusion within the City prior to 2030, absent voter approval. This proposal is outside of the growth boundary described in that agreement. This proposal should not be considered until at least 2030, and not until the City has taken steps to include this site within their General Plan and various master plans for the provision of urban services. LAFCO should therefore deny this request.

The Objective of LAFCO's Sphere of Influence Policy (Section III) is to "promote the orderly expansion of cities, towns, and special districts in a manner that ensures the protection of the environment and agricultural and open space lands while also ensuring the effective, efficient, and economic provision of essential public services, including public water, wastewater, fire protection and emergency response, and law enforcement." This proposal does not conform to that objective for the following reasons:

- American Canyon's General Plan, including its plans for expansion, does not contemplate inclusion of this property within the City.
- No review of the potential environmental impacts has been conducted, and no project commitments have been put forth to ensure protection of the environment.

Green Island Vineyard SOI
Amendment Application
November 30, 2021

MSR or the City's General Plan and water and sewer master plans. All of these documents will require amendment/updating, including evaluation of potential environmental impacts under CEQA.

- Policy V.A.9 directs that the following land use criteria shall be considered in determining SOI's:
 - a. Land designated for agriculture and open space – The project site is designated for agricultural land use.
 - b. Consistency with the County and City General Plans – The project conflicts with County General Plan Policy AG/LU-130 which recognizes and supports the City's currently adopted urban growth boundary that does not include the subject property. The City has not taken a position to either support or oppose the SOI Amendment, and thus has not provided comments on the proposal's consistency with their General Plan. Adopted policies of affected agencies promoting infill development – As noted previously, the project conflicts with the City/County growth boundary agreement, which implements and supports both agencies General Plans and their overarching goals to direct non-agricultural development into urbanized areas and limit conversion of agricultural lands.
 - c. Amount of existing vacant or undeveloped land located within the affected agency – The applicant's submittal materials do not address this. Furthermore, the City has not taken a position to either support or oppose the SOI Amendment, and thus has not provided any information on the extent of vacant or undeveloped land within its boundaries.
 - d. Adopted urban growth boundaries – As noted previously, the project conflicts with the adopted City/County growth boundary agreement.

Please also note that Section C. of LAFCO's SOI Policy states that SOI amendments will be subject to the California Environmental Quality Act (CEQA). This policy is consistent with the State CEQA Guidelines and supporting case law. This project represents the first step toward inclusion of the property within the City of American Canyon and thus enabling its conversion to urban land uses. Should LAFCO proceed with this application, the CEQA evaluation should occur prior to any final decision. Typically, before LAFCO would see an application of this nature, the City would have prepared a thorough environmental review, (likely an Environmental Impact Report) in concert with required changes to their General Plan and facilities master plans.. Without the environmental review, LAFCO does not have sufficient information to adequately evaluate the potential impacts of this proposal.

As detailed in this letter, there is a strong and compelling argument for LAFCO to deny this request. Agriculture is the foundation of our community identity and the local economy within Napa County. Any loss of farmland needs to be carefully considered in the context of available alternatives and the cumulative effect on the larger land use strategy shared by the City, County, and LAFCO. None of this context is provided with the proposal, which instead has been provided an accelerated process that prevents the thoughtful and deliberative consideration needed when addressing incremental impacts to the future of agriculture.

Thank you for providing an opportunity to review and comment on the document. If you should have any questions regarding any of the items listed above, please feel free to contact me at 707-253-4805 or by email at david.morrison@countyofnapa.org,

Sincerely,



David Morrison

Planning, Building and Environmental Service Director

cc: Board of Supervisors
Minh Tran, Napa County CEO
Jason Holley, American Canyon City Manager

RESOLUTION NO. ____

**RESOLUTION OF
THE LOCAL AGENCY FORMATION COMMISSION OF NAPA COUNTY
MAKING DETERMINATIONS**

**SPHERE OF INFLUENCE AMENDMENTS INVOLVING THE CITY OF AMERICAN CANYON,
AMERICAN CANYON FIRE PROTECTION DISTRICT, AND 1661 GREEN ISLAND ROAD**

WHEREAS, a landowner seeking sphere of influence (SOI) amendments involving the City of American Canyon (“the City”), American Canyon Fire Protection District (ACFPD), and unincorporated territory located at 1661 Green Island Road has filed an application with the Local Agency Formation Commission of Napa County, hereinafter referred to as “Commission,” pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000; and

WHEREAS, the application seeks Commission approval to amend the spheres of influence of the City and ACFPD to include approximately 157.15 acres of territory comprising one entire parcel identified by the County of Napa Assessor’s Office as 058-030-041; and

WHEREAS, the Executive Officer prepared a written report of the application; and

WHEREAS, said Executive Officer’s report has been presented to the Commission in the manner provided by law; and

WHEREAS, the Commission heard and fully considered all the evidence presented at a noticed public hearing held on December 6, 2021; and

WHEREAS, the Commission considered all the factors required by law under California Government Code Section 56425.

NOW, THEREFORE, THE COMMISSION DOES HEREBY RESOLVE, DETERMINE, AND ORDER as follows:

1. The SOIs of the City and ACFPD are hereby amended to include all areas within their current SOIs as of the date of this resolution plus the area shown in Exhibit One.
2. The Commission finds the SOI amendments are exempt from further review under the California Environmental Quality Act pursuant to Title 14 of the California Code of Regulations Section 15061(b)(3). This finding is based on the Commission determining with certainty the SOI amendments will have no possibility of significantly affecting the environment given no new land use or municipal service authority is granted. This finding is based on its independent judgment and analysis. The Executive Officer is the custodian of the records upon which this determination is based and such records are located at the Commission office located at 1754 Second Street, Suite C, Napa, California.

3. Pursuant to California Government Code Section 56425, the Commission adopts the statement of determinations as shown in Exhibit Two.
4. The Commission hereby directs staff to file a Notice of Exemption upon the receipt of the appropriate Commission fee in compliance with CEQA.
5. The effective date of this sphere of influence update shall be immediate upon the Executive Officer's receipt of the appropriate Commission fee.
6. The Executive Officer shall revise the official records of the Commission to reflect the SOI amendments upon the receipt of the appropriate Commission fee.

The foregoing resolution was duly and regularly adopted by the Commission at a public meeting held on December 6, 2021, after a motion by Commissioner _____, seconded by Commissioner _____, by the following vote:

AYES: Commissioners _____

NOES: Commissioners _____

ABSENT: Commissioners _____

ABSTAIN: Commissioners _____

 Diane Dillon
 Commission Chair

ATTEST: _____
 Brendon Freeman
 Executive Officer

Recorded by: Kathy Mabry
 Commission Clerk

EXHIBIT ONE

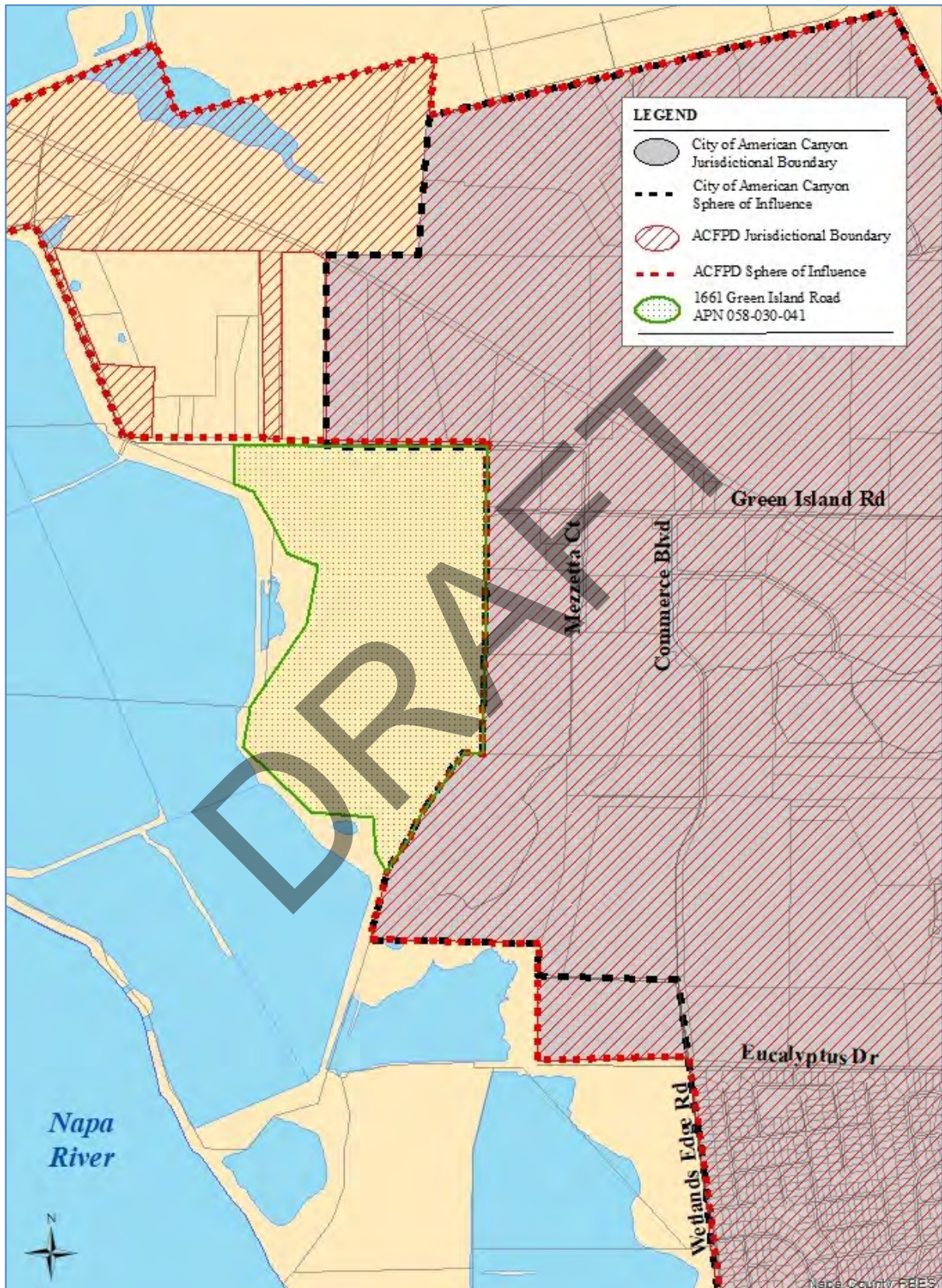


EXHIBIT TWO

STATEMENT OF DETERMINATIONS

**SPHERE OF INFLUENCE AMENDMENTS INVOLVING THE CITY OF AMERICAN CANYON,
AMERICAN CANYON FIRE PROTECTION DISTRICT, AND 1661 GREEN ISLAND ROAD**

1. Present and planned land uses in the sphere, including agricultural and open-space lands (Government Code 56425(e)(1)):

The County General Plan assigns the affected territory a land use designation of *Agriculture, Watershed, and Open Space* and zoning standard of *Agricultural Watershed: Airport Compatibility*. These land use characteristics prescribe a minimum lot size of 160 acres. Actual land uses within the affected territory are currently limited to a commercial vineyard. There are no other planned land uses for the affected territory at this time. However, the discontinuation of existing vineyard operations is planned.

2. The present and probable need for public facilities and services in the sphere (Government Code 56425(e)(2)):

The affected territory currently receives outside water service from the City through a grandfathered agreement consistent with G.C. Section 56133. This includes potable water during the summer months for the vineyard's frontage road located on Jim Oswalt Way. In addition, the City provides potable and reclaimed water for irrigation of the vineyard, with City meters historically showing very little potable use for this purpose. The affected territory also receives fire protection and law enforcement services from the County. Based on current and planned land uses, there is no need for additional public facilities or services within the affected territory at this time.

3. The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide (Government Code 56425(e)(3)):

Based on the Commission's *South County Region Municipal Service Review and Sphere of Influence Updates* adopted in 2018, the City and ACFPD have established adequate capacity to provide a full range of municipal services to the affected territory based on the current land use as a commercial vineyard.

4. The existence of any social or economic communities of interest in the sphere if the Commission determines that they are relevant to the agency (Government Code 56425(e)(4)):

There are no social or economic communities of interest that are relevant to any potential SOI amendments involving the affected territory.

5. Present and probable need for public services for disadvantaged unincorporated communities (Government Code 56425(e)(5)):

There are no disadvantaged unincorporated communities within the City's SOI or ACFPD's SOI.



December 2, 2021

Sent Via Email to:

bfreeman@napa.lafco.ca.gov

Brendon Freeman, Executive Officer
Local Agency Formation Commission of Napa County
1754 2nd St, Suite C
Napa, California 94559

Subject: Green Island Vineyards landowner request to amend the City of American Canyon and American Canyon Fire Protection District Spheres of Influence involving 1661 Green Island Road (APN 058-030-041)

Dear Mr. Freeman:

Thank you for the public hearing notice and staff report informing the City that on December 6, 2021, the Napa County LAFCO Board will consider a landowner request to amend of the City of American Canyon and American Canyon Fire Protection District spheres of influence (SOI).

As explained in the public hearing notice and staff report, the application includes approximately 157.15 acres of unincorporated territory located at 1661 Green Island Road (APN 058-030-041). The staff report notes the property is located outside the boundaries of the 2008 SOI and Urban Limit Line (ULL) Agreement between the City of American Canyon and Napa County.

This letter is intended to inform the LAFCO Board that the City of American Canyon takes "no position" on the proposed application. If you have any questions, I may be contacted at (707) 647-4335 or by e-mail at bcooper@cityofamericancanyon.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Brent Cooper".

Brent Cooper, AICP
Community Development Director

Copies to:

Jason Holley, City Manager
Mike Cahill, Fire Chief, American Canyon Fire Protection District
Bill Ross, City Attorney



December 3, 2021

Brendon Freeman
LAFCO Executive Officer
Local Agency Formation Commission of Napa County
1754 Second Street, Suite C
Napa, CA 94559

Re: Comment to Commission – Please Read: Proposed Sphere of Influence Amendment to 1661 Green Island Road

Dear LAFCO Executive Officer Freeman and Members of the Commission,

On Behalf of the Napa Valley Grapegrowers' 700 members, with a mission to preserve and promote Napa Valley's world-class vineyards, I write to express our opposition to the proposed amendment to the sphere of influence (SOI) for 1661 Green Island Road, which would be a step in the direction of annexation. Preservation is one of the key foundations of who we are as an organization, and as such, NVG has continuously supported policies that protect land zoned for agriculture. This history of commitment to ag preservation has defined Napa County and distinguished us from other regions that have lost farmland at staggering rates to urban development and other pressures.

As such, NVG urges you to deny the SOI amendment. To allow this would set a risky precedent that could lead to more attempts to annex and convert ag land throughout Napa County. Furthermore, the purpose of protections such as the Ag Preserve and Ag Watershed zoning policies is to protect all kinds of agriculture—not only vineyard land; so, while this site may pose unique challenges for growing grapes, this does not mean that it is unsuitable for all forms of agriculture. To amend the SOI for this reason would also set a bad precedent for protecting all types of ag land moving forward. We believe this also against LAFCO's own stated policy "to promote the orderly expansion of cities, towns, and special districts in a manner that ensures the protection of the environment and agricultural and open space lands..."

We greatly appreciate LAFCO Commissioners and staff for taking these concerns into consideration.

Sincerely,

A handwritten signature in black ink that reads "Michael Silacci".

Michael Silacci, President, Napa Valley Grapegrowers



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We Manage Local Government Boundaries, Evaluate Municipal Services, and Protect Agriculture

Agenda Item 9a (Discussion)

TO: Local Agency Formation Commission

PREPARED BY: Dawn Mittleman Longoria, Analyst II *DML*

MEETING DATE: December 6, 2021

SUBJECT: **CALAFCO U Course: Fire and Emergency Medical Services**

RECOMMENDATION

This item is for discussion purposes only. No formal action is required as part of this item. It is recommended the Commission discuss the report on fire and emergency medical services (EMS) and consider providing direction to staff with respect to any appropriate future actions. Staff recommends the Commission give consideration to scheduling a future countywide fire and EMS municipal service review, which would involve a review of operational area mutual aid plans and response capability within these plans.

DISCUSSION

California Wildfires: the Numbers

- County of Napa (2020): over 200,000 acres burned, loss of over 600 residences¹
- The 1964 wildfire in Calistoga took four days to reach Santa Rosa. The 2017 wildfire travelled that same distance in four hours.
- Half of largest wildfires in California's history have occurred in the past four years.²
- Acreage burned across the state (2020): 4.2 million (map counties: LA, Orange, Santa Clara and Santa Cruz) or larger than Connecticut.
- Lightning strikes (15,000) on August 15, 2020. California made 935 requests for help, but only received 193, due to fires out of state.
- Air pollution from smoke (2020): more than 120 times the total amount of all of cars, buses and trucks in California that year.
- Cost to fight the fires (2020): Cal Fire more than \$1 billion
- Dixie Fire (2021): "urban sprawl" over 950,000 acres (map SF, Sacramento, LA)

¹ County of Napa Planning, Building and Environmental Services

² Sacramento Bee

Margie Mohler, Vice Chair
Councilmember, Town of Yountville

Mariam Aboudamous, Commissioner
Councilmember, City of American Canyon

Beth Painter, Alternate Commissioner
Councilmember, City of Napa

Diane Dillon, Chair
County of Napa Supervisor, 3rd District

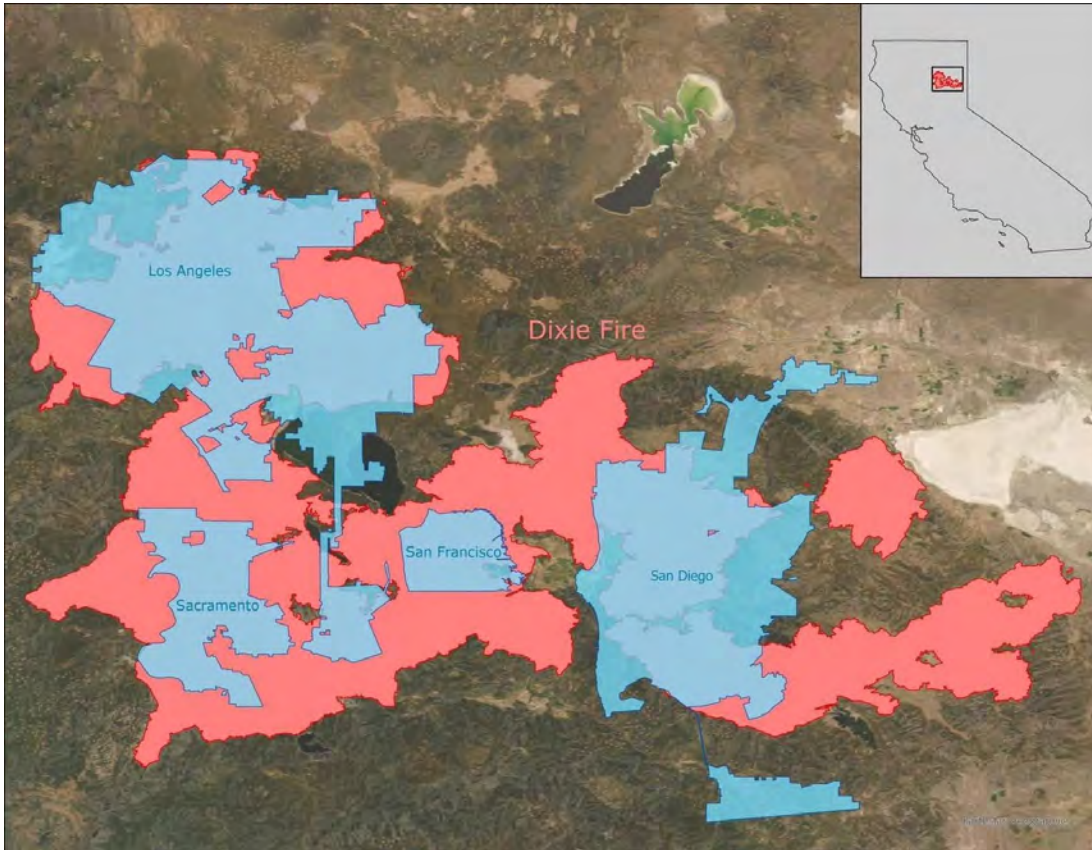
Brad Wagenknecht, Commissioner
County of Napa Supervisor, 1st District

Ryan Gregory, Alternate Commissioner
County of Napa Supervisor, 2nd District

Kenneth Leary, Commissioner
Representative of the General Public

Eve Kahn, Alternate Commissioner
Representative of the General Public

Brendon Freeman
Executive Officer



CALAFCO U Course: Fire and Emergency Medical Services (EMS)

Purpose: Create municipal service reviews (MSRs) with information and determinations that have meaning and create value both short-and-long term.

First CALAFCO U four-part series. Deep dive into Fire and EMS services with each session building on the previous one.

The Course is recorded and available for CALAFCO members on the website along with the course materials.

Panelists included Dawn Mittleman Longoria (Napa LAFCO), Mark Bramfitt (Sonoma LAFCO), Kurt Lapitow (AP Triton), Richard Berkson (Berkson Associates), Martha Poyatos (San Mateo LAFCO), Holly Whatley (San Diego LAFCO), Tom Cooley (Plumas LAFCO), and Mike McMurry (Monterey LAFCO).

A brief summary of each of the four sessions follows. A more detailed overview of the four sessions will be provided by staff during the presentation of this item.

Consultant's Method

- 1) Wait until the study is complete to draw conclusions
- 2) Don't just count number of agencies (i.e. 15 agencies/2 = 7.5 agencies)
- 3) Goal: efficient delivery of government services; current and future
- 4) Sample Request for Information tailored to paid/combo or volunteer organization (samples provided)
- 5) Interview stakeholders
 - a. Include representatives of all agency groups
 - b. Include community representatives
 - c. Consistent questions for each group (samples provided)

Session One:

- 1) Services of an all-risk agency
 - a) More than fire suppression and wildfire response
 - b) Delineated differences between urban/rural, paid/combo/all volunteer agencies
 - c) Provided extensive list of terms and acronyms
- 2) Standards that apply to all-risk agencies
 - a) Summarized applicable standards
 - b) Provided links to standards and agencies that established standards
- 3) The MSR: Getting the information needed:
 - a) Emphasis on LAFCO neutral party; no conclusions before end of study
 - b) Provided consultants process to obtain information
 - c) Included samples, both urban and rural, requests for information and stakeholder interview questions
- 4) Evaluation of community needs
 - a) Risk assessment necessary
 - b) Everyone wants urban level of service
 - c) What service can the community afford?

Session Two:

- 1) Evaluation of current staffing, training, facilities, operations and equipment.
 - a) Critical staffing by risk type explained and charts provided
 - b) Training requirements for various services explained
 - c) Criteria for evaluating facilities and equipment with sample charts provided
 - d) Response reliability and unit hour utilization explained charts provided

- 2) Growth and projected need for services
 - a) Population is not the only factor for increased service needs.
 - b) Call volume and call types are indicators
 - c) Type of new development can increase call volume (i.e. senior care facility, hospital, multi-story building, tourist serving, parks and recreation, etc.)
- 3) Financial ability to provide services
 - a) Provided financial indicators of service provision
 - b) Financial best practices included
 - c) Analysis of revenue trends and possible sources of revenue
 - d) Analysis of expense trends
 - e) Reserves best practices and Asset Management provided
 - f) References provided regarding financial ability to provide services

Session Three:

- 1) Evaluation of governance
 - a) Fire and EMS governance options explained
 - b) Board operations (compliance to legal requirements, staff and public interaction)
 - c) Board members role and understanding of chain of command
- 2) Opportunities for shared services
 - a) Advance auto-aid reviewed
 - b) Functional consolidation: options for shared services
 - c) Operational consolidation and Joint Powers Authority explained
 - d) Review of legal unification options
- 3) Service to disadvantaged unincorporated communities
- 4) Evaluation of SOIs
 - a) Current and future funding sources need to be identified
 - b) Should result in continued or improved services
 - c) Address all required determinations
- 5) Evaluation of contracts for service
 - a) Union must be notified for new service
 - b) Application to LAFCO and independent fiscal analysis required

Session Four:

Case studies provided:

- 1) San Diego LAFCO
- 2) Plumas LAFCO
- 3) Monterey LAFCO

SUMMARY

The stakeholders of Napa County are responding in a variety of ways to the threat of fires. Senator Bill Dodd, the Board of Supervisors, and FireSafe Council, to name a few, are addressing fire safety and emergency preparedness in the County. These efforts should be included in a LAFCO MSR.

The Commission's last comprehensive countywide MSR of fire service was conducted 14 years ago (2007). A lot has changed since then. Climate change and multiple year droughts have increased fire risks across the country. No single agency can handle massive fires alone. The mutual aid system was developed to address these situations. However, the current reality of numerous large fires occurring simultaneously results in limited responses to requests for aid.

Wildfires do not respect jurisdictional boundaries. The fires of 2017 and 2020 were examples of fires occurring in Napa County that crossed the County line into Sonoma and Solano Counties. Wind conditions could result in the opposite occurrence; fires originating in Sonoma, Solano or Lake County could cross the line into Napa County. California fire service is divided into operational areas. These areas have operational mutual aid plans.

The recent catastrophic fires in Napa County suggest there is value to LAFCO conducting a new countywide fire and EMS MSR. Notably, a regional review of fire services in collaboration with neighboring counties may be warranted. At the least, a review of operational area mutual aid plans would be of substantial benefit. Part of this review should include response capability within these plans.

ATTACHMENTS

None



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We Manage Local Government Boundaries, Evaluate Municipal Services, and Protect Agriculture

Agenda Item 9b (Discussion)

TO: Local Agency Formation Commission

PREPARED BY: Brendon Freeman, Executive Officer *BF*
Dawn Mittleman Longoria, Analyst II *DML*

MEETING DATE: December 6, 2021

SUBJECT: Direction on Future Commission Meetings

RECOMMENDATION

This item is for discussion purposes only. No formal action is required as part of this item. It is recommended the Commission consider alternatives for holding future Commission meetings in-person, remotely, or as a hybrid. The Commission is invited to provide direction to staff with respect to its preference for future Commission meetings.

BACKGROUND

At the October 4, 2021, meeting the Commission adopted a resolution, included as Attachment One, to continue remote teleconference meetings. The action was in response the Executive Order declaring a State of Emergency by Governor of California March 4, 2020, and the passage of Assembly Bill (AB) 361, which allows continued flexibility for public meetings following the expiration of the Governor's Executive Orders. The extension of remote meetings is in response to the continued health threat posed by the Delta and other COVID variants. AB 361 requires the Commission to adopt a resolution every 30 days regarding its intent to hold optional meeting formats.

Margie Mohler, Vice Chair
Councilmember, Town of Yountville

Mariam Aboudamous, Commissioner
Councilmember, City of American Canyon

Beth Painter, Alternate Commissioner
Councilmember, City of Napa

Diane Dillon, Chair
County of Napa Supervisor, 3rd District

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Kenneth Leary, Commissioner
Representative of the General Public

Eve Kahn, Alternate Commissioner
Representative of the General Public

Brendon Freeman
Executive Officer

ALTERNATIVES AND DISCUSSION

Staff has identified the following three alternatives for Commission consideration.

1. Virtual teleconference meetings: The Commission has used this format since the State of Emergency was declared. Virtual meetings of government bodies have allowed for increased public participation without the necessity for individuals to take lengthy blocks of time off work or other commitments. Staff of other agencies are able to attend without significant time commitment and with reduction of carbon emissions and traffic congestion resulting from necessary travel. There are no expenses associated with recording meetings.
2. In-person meetings: This format is a possible option, provided health concerns are addressed. It would be necessary to comply with imposed or recommended measures to promote social distancing as required by California Division of Occupational Safety and Health (“Cal/OSHA”) regulations. Staff has already coordinated with the County to reserve the Board of Supervisors Chambers on the first Monday of each even-numbered month for this purpose. Notably, this option involves expenses associated with Napa Valley TV recording meetings at a cost of \$150 per hour. The Commission’s current budget includes sufficient appropriations for this purpose through the end of the fiscal year.
3. Hybrid meetings: The hybrid option combines both in-person and virtual meeting attendance formats. Commission staff has contacted County staff regarding this option and it is possible to conduct hybrid meetings with their assistance. It would be necessary to comply with advised health and safety requirements. This option also involves expenses associated with Napa Valley TV recording meetings at a cost of \$150 per hour.

Staff recommends the Commission discuss the options outlined above and provide direction to staff with respect to scheduling future Commission meetings.

ATTACHMENT

- 1) Resolution #2021-22 Approving Continued Teleconference Meetings (adopted on October 4, 2021)

RESOLUTION NO. 2021-22

**RESOLUTION OF
THE LOCAL AGENCY FORMATION COMMISSION OF NAPA COUNTY
DECLARING ITS INTENT TO CONTINUE REMOTE TELECONFERENCE ONLY
MEETINGS DUE TO THE GOVERNOR'S PROCLAMATION OF STATE EMERGENCY
AND STATE REGULATIONS RELATED TO PHYSICAL DISTANCING DUE TO THE
THREAT OF COVID-19**

WHEREAS, the Local Agency Formation Commission of Napa County (“Commission”) is committed to preserving and nurturing public access and participation in meetings of the Commission;

WHEREAS, all meetings of Commission are open and public, as required by the Ralph M. Brown Act (Cal. Gov. Code 54950 – 54963), so that any member of the public may attend, participate, and observe the Commission conduct its business; and

WHEREAS, the Brown Act, Government Code section 54953(e), makes provisions for remote teleconferencing participation in meetings by members of a legislative body, without compliance with the requirements of Government Code section 54953(b)(3), subject to the existence of certain conditions; and

WHEREAS, a required condition is that a state of emergency is declared by the Governor pursuant to Government Code section 8625, proclaiming the existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by conditions as described in Government Code section 8558; and

WHEREAS, a proclamation is made when there is an actual incident, threat of disaster, or extreme peril to the safety of persons and property within the State; and

WHEREAS, such conditions now exist in the State, specifically, the Governor of the State of California proclaimed a state of emergency on March 4, 2020, related to the threat of COVID-19, which remains in effect; and

WHEREAS, the California Division of Occupational Safety and Health (“Cal/OSHA”) regulations at Title 8 Section 3205 recommends physical distancing in the workplace as precautions against the spread of COVID-19 and imposes certain restrictions and requirements due to a “close contact” which occurs when individuals are within six feet of another in certain circumstances; and

WHEREAS, the proliferation of the Delta variant of the virus continues to pose imminent risk to health and safety and directly impacts the ability of the public and the Commission to meet safely in person, accordingly, the Commission hereby recognizes the proclamation of state of emergency by the Governor of the State of California and the regulations of Cal/OSHA recommending physical distancing; and

WHEREAS, as a consequence of the emergency related to COVID-19, the Commission does hereby find that the Commission shall conduct their meetings without compliance with paragraph (3) of subdivision (b) of Government Code section 54953, as authorized by subdivision (e) of section 54953, and that the Commission shall comply with the requirements to provide the public with access to the meetings as prescribed in paragraph (2) of subdivision (e) of section 54953; and

WHEREAS, the Commission meetings will be accessible to the public to attend electronically or via phone.

NOW, THEREFORE, BE IT RESOLVED THAT THE COMMISSION DOES HEREBY RESOLVE, DETERMINE AND ORDER AS FOLLOWS:

1. Recitals. The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.

2. State of Emergency due to COVID-19. The Board hereby recognizes the imminent threat to the health and safety of attendees at public meetings due to the impacts of COVID-19 and the importance of physical distancing to minimize any potential adverse health and safety risks.

3. Remote Teleconference Meetings. The Executive Officer is hereby authorized and directed to take all actions necessary to carry out the intent and purpose of this Resolution including, conducting open and public meetings of the Commission in accordance with Government Code section 54953(e) and other applicable provisions of the Brown Act for remote only teleconference meetings.

4. Reoccurring Evaluation by the Commission. The Executive Officer is hereby directed to continue to monitor the conditions and health and safety conditions related to COVID-19, the status of the Governor's state of emergency, and the state regulations related to social distancing, and present to the Commission at its next regularly scheduled meeting the related information and recommendations for remote only meetings pursuant to the provisions of Government Code section 54953(e)(3) and to extend the time during which the Commission may continue to teleconference without compliance with paragraph (3) of subdivision (b) of section 54953.

The foregoing resolution was duly and regularly adopted by the Commission at a public meeting held on October 4, 2021, after a motion by Commissioner Mohler, seconded by Commissioner Wagenknecht, by the following vote:

AYES: Commissioners WAGENKNECHT, MOHLER, ABOUDAMOUS, DILLON AND LEARY

NOES: Commissioners NONE

ABSENT: Commissioners NONE

ABSTAIN: Commissioners NONE

Diane Dillon

Diane Dillon (Oct 5, 2021 23:02 PDT)

Diane Dillon
Commission Chair

ATTEST: *Brendon Freeman*
Brendon Freeman
Executive Officer

Recorded by: Kathy Mabry
Commission Clerk



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We Manage Local Government Boundaries, Evaluate Municipal Services, and Protect Agriculture

Agenda Item 10a (Action)

TO: Local Agency Formation Commission

PREPARED BY: Brendon Freeman, Executive Officer *BF*

MEETING DATE: December 6, 2021

SUBJECT: Appointments to the Fiscal Year 2022-23 Budget Committee

RECOMMENDATION

It is recommended the Commission appoint two members to the Fiscal Year 2022-23 Budget Committee and give direction to the Budget Committee with respect to the possible inclusion of appropriations for a strategic planning session in fiscal year 2022-23.

BACKGROUND AND SUMMARY

The Commission establishes an ad hoc Budget Committee (“the Committee”) at its last meeting of each calendar year consistent with the adopted *Budget Policy* (“the Policy”), included as Attachment One.

The Budget Committee includes two appointed Commissioners to advise the Executive Officer in preparing a draft budget and a final budget for review by the Commission, the public, and the six affected funding agencies: Napa County; City of American Canyon; City of Calistoga; City of Napa; City of St. Helena; and Town of Yountville. Draft and final budgets are typically presented to the Commission for adoption at its April and June meetings, respectively. The Budget Committee will also consider the Commission’s adopted Fee Schedule and Work Program.

It is anticipated the Budget Committee will meet with the Executive Officer during the months of February and April. The Budget Committee for fiscal year 2022-23 will terminate after adoption of the final budget. Staff recommends the Commission appoint two members to the Fiscal Year 2022-23 Budget Committee. The Commission appointed Commissioners Mohler and Gregory to serve with the Executive Officer on the Fiscal Year 2021-22 Budget Committee.

The Policy directs the Commission to maintain its undesignated/unreserved fund balance (“reserves”) equal to no less than 33.3% of budgeted operating expenses. The Commission does not budget for contingencies and instead relies on reserves to cover any unanticipated expenses.

Margie Mohler, Vice Chair
Councilmember, Town of Yountville

Mariam Aboudamous, Commissioner
Councilmember, City of American Canyon

Beth Painter, Alternate Commissioner
Councilmember, City of Napa

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County of Napa Supervisor, 2nd District

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Representative of the General Public

Eve Kahn, Alternate Commissioner
Representative of the General Public

Brendon Freeman
Executive Officer

Continuation of October 4, 2021 Discussion Item

On October 4, 2021, the Commission received a report that provided alternatives (summarized below) to balance the Commission's budget while maintaining sufficient reserves in the foreseeable future. The Commission continued the discussion to today's meeting. The staff report for the October 4, 2021 item is available online at: https://www.napa.lafco.ca.gov/uploads/documents/10-4-21_7c_BudgetAlternatives.pdf.

A significant factor that contributed to the budget imbalance was an unanticipated increase to personnel costs that were negotiated by the County of Napa and Service Employees International Union 1021. The Union contract was approved after the Commission adopted its final budget for fiscal year 2021-22, which prompted the Commission to approve a budget adjustment to increase operating expenses by \$15,825 to be covered by drawing down reserves.

At the time of the October 4th meeting, it was anticipated the Commission's reserves would fall below the minimum 33.3% Policy threshold by fiscal year 2023-24 and remain below 33.3% of budgeted expenses until at least fiscal year 2027-28.

Subsequently, events occurred that improved the Commission's budget situation. LAFCO's Staff Analyst II, Dawn Mittleman Longoria, was appointed to the position of California Association of LAFCOs (CALAFCO) Coastal Region Deputy Executive Officer. The position includes a budget contribution from CALAFCO to Napa LAFCO in the amount of \$4,000 per year to offset staff time dedicated to CALAFCO business during this two-year assignment.

Another event that had a positive impact on the budget was the cancellation of the CALAFCO Annual Conference. The cancellation provided a one-time savings of approximately \$7,000 to \$8,000 relative to the budgeted amount.

Based on the aforementioned factors coupled with staff's year-end projections as part of the first quarter budget report for fiscal year 2021-22 (see item 7d on today's agenda), it is anticipated the Commission's reserves will remain above 33.3% of budgeted expenses for the foreseeable future and the budget will be balanced by fiscal year 2025-26. Therefore, it is no longer necessary for the Commission to discuss alternatives to balance the budget.

Strategic Planning

It is important to note the Commission's current strategic plan will sunset in 2022. Staff recommends the Commission consider providing direction to the Committee to include appropriations for a strategic planning session, including costs associated with potentially hiring a third party facilitator, during fiscal year 2022-23.

ATTACHMENT

- 1) Budget Policy



LOCAL AGENCY FORMATION COMMISSION OF NAPA COUNTY

Budget Policy

(Adopted: August 9, 2001; Last Amended: November 18, 2019)

I. Background

The Cortese-Knox-Hertzberg Local Government Reorganization (CKH) Act of 2000 includes provisions for establishing a budget and for the receipt of funds. [Government Code \(G.C.\) §56381](#) establishes that the Commission shall annually adopt a budget for the purpose of fulfilling its duties under CKH.

II. Purpose

It is the intent of the Commission to adopt a policy for budget purposes which establishes procedures for compiling, adopting and administering the budget. The Commission is committed to providing transparency of its operations including its fiscal activities. The Commission follows recognized accounting principles and best practices in recognition of its responsibility to the public.

III. Preparation of Annual Budget

- A) An annual budget shall be prepared, adopted and administered in accordance with [\(G.C.\) §56381](#).
- B) The Commission should annually consider the Fee Schedule, including any anticipated changes, and Work Program in conjunction with the budget process.
- C) The Commission is committed to ensuring the agency is appropriately funded each fiscal year to effectively meet its prescribed regulatory and planning responsibilities. The Commission is also committed to controlling operating expenses to reduce the financial obligations on the County of Napa, the cities and town, hereafter referred to as the “funding agencies,” whenever possible and appropriate.
- D) The budget shall include an undesignated/unreserved fund balance equal to a minimum of one-third (i.e., four months) of annually budgeted operating expenses.
- E) The Commission shall establish an ad-hoc budget committee at the last meeting of each calendar year comprising of two Commissioners which will terminate with the adoption of the final budget. Commissioners appointed to a budget committee shall receive a regular per diem payment for each meeting attended.
- F) The adopted final budget should be posted on the Commission’s website for public viewing for a minimum of five years.
- G) The Executive Officer shall provide quarterly budget reports to the Commission for informational purposes.

IV. Budget Contributions and Collection of Funds

[G.C. §56381](#) establishes that the Commission shall adopt annually a budget for the purpose of fulfilling its duties under CKH. It further establishes that the County Auditor shall apportion the operating expenses from this budget in the manner prescribed by [G.C. §56381\(b\)](#), or in a manner mutually agreed upon by the agencies responsible for the funding of the Commission's budget [G.C. §56381\(c\)](#) states that:

After apportioning the costs as required in subdivision (b), the auditor shall request payment from the Board of Supervisors and from each city no later than July 1 of each year for the amount that entity owes and the actual administrative costs incurred by the auditor in apportioning costs and requesting payment from each entity. If the County or a city does not remit its required payment within 60 days, the Commission may determine an appropriate method of collecting the required payment, including a request to the auditor to collect an equivalent amount from the property tax, or any fee or eligible revenue owed to the County or city. The auditor shall provide written notice to the County or city prior to appropriating a share of the property tax or other revenue to the Commission for the payment due the Commission pursuant to this section.

It is the intent of the Commission that all agencies provide the costs apportioned to them from the LAFCO budget. Pursuant to [G.C. §56381\(c\)](#), the policy of the Commission is:

- A) If the County or a city or a town does not remit its required payment within 45 days of the July 1 deadline, the County Auditor shall send written notice to the agency in question that pursuant to [G.C. §56381\(c\)](#) and this policy, the Auditor has the authority to collect the amount of the Commission's operating expenses apportioned to that agency after 60 days from the July 1 deadline.
- B) If the County or a city or a town does not remit its required payment within 60 days of the July 1 deadline, the County Auditor shall collect an amount equivalent to the cost apportioned to that agency from the property tax owed to that agency, or some other eligible revenue deemed appropriate or necessary by the County Auditor. The County Auditor shall send written notice of the action taken to the agency and to the Commission.

V. Executive Officer Purchasing and Budget Adjustment Authority

Pursuant to [G.C. §56380](#), the Commission shall make its own provision for necessary quarters, equipment, supplies, and services. The associated operating costs are provided for through the Commission's adoption of its annual budget in the manner prescribed in [G.C. §56381](#).

It is the intent of the Commission to charge the LAFCO Executive Officer with the responsibility and authority for coordinating and managing the procurement of necessary quarters, equipment, supplies, and services, and to adjust the annual budget as necessary under certain circumstances. The policy of the Commission is:

- A) The Executive Officer is charged with the responsibility and authority for coordinating and managing the procurement of necessary quarters, equipment, supplies, and services in accordance with applicable laws, regulations and policies.
- B) The Executive Officer is authorized to act as the agent for LAFCO in procuring necessary quarters, equipment, supplies, and services.
- C) Only the Commission itself or the Executive Officer may commit LAFCO funds for the purchase of any necessary quarters, equipment, supplies, or services for LAFCO use.
- D) The Executive Officer is delegated purchasing authority on behalf of LAFCO for necessary quarters, equipment, supplies, and services not to exceed \$5,000 per transaction. The Commission must approve any purchase of necessary quarters, equipment, supplies, and services that exceed the monetary limits set forth in this policy.
- E) Following review and approval by the Chair, the Executive Office is authorized to make adjustments and administrative corrections to the budget without Commission action provided the adjustments and corrections are within the total budget allocations adopted by the Commission.
- F) Following review and approval by the Chair, the Executive Officer is authorized to adjust the budget for purposes of carrying over to the new fiscal year any encumbered funds that have been approved by the Commission in a prior fiscal year and involve unspent balances. Said funds include committed contracts for services that were not completed in the prior fiscal year and must be re-encumbered by way of a budget adjustment in the new fiscal year.



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Agenda Item 10b (Action)

TO: Local Agency Formation Commission

PREPARED BY: Brendon Freeman, Executive Officer *BF*

MEETING DATE: December 6, 2021

SUBJECT: Consideration of Legal Services Contract

RECOMMENDATION

The recommended action is for the Commission to provide direction to the Executive Officer with respect to contracted legal services.

BACKGROUND AND SUMMARY

The Commission will consider its options related to contracted legal services prior to the end of the contract term on June 30, 2022.

On March 16, 2015, the Commission entered into a private contract for professional legal services with a term ending June 30, 2019. As part of separate amendments, the Commission extended the term for three additional years to June 30, 2022.

On December 7, 2020, the Commission considered its options with respect to the contract, which at the time was set to expire on June 30, 2021. The Commission directed staff to return at the next regular meeting to formally amend the contract. On February 1, 2021, the Commission formally amended the contract to extend the term through June 30, 2022.

DeeAnne Gillick with Sloan Sakai serves as the Commission's primary Legal Counsel. Staff is generally satisfied with the services provided by Sloan Sakai to date.

The contract with all amendments and current rates is included as Attachment One.

Staff requests formal direction from the Commission in advance of the contract term ending. The Commission's alternatives are summarized on the following page.

Margie Mohler, Vice Chair
Councilmember, Town of Yountville

Mariam Aboudamous, Commissioner
Councilmember, City of American Canyon

Beth Painter, Alternate Commissioner
Councilmember, City of Napa

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Eve Kahn, Alternate Commissioner
Representative of the General Public

Brendon Freeman
Executive Officer

ALTERNATIVES FOR COMMISSION CONSIDERATION

The Commission may take any of the following actions as part of this item:

- 1) Authorize the Executive Officer to execute an amendment to the existing legal services contract with Sloan Sakai to extend the term for an additional year through June 30, 2023.
- 2) Distribute a Request for Proposal for legal services and establish an ad hoc subcommittee with two appointed Commissioners to advise the Executive Officer.
- 3) Continue this item to the Commission's next regular meeting on February 7, 2022.

ATTACHMENT

- 1) Amended and Restated Legal Services Contract with Sloan Sakai with Amendments No. 1 to 3 and Updated Hourly Rates

LOCAL AGENCY FORMATION COMMISSION OF NAPA COUNTY
AMENDED AND RESTATED
PROFESSIONAL SERVICES AGREEMENT NO. 2015-05

THIS AMENDED AND RESTATED PROFESSIONAL SERVICES AGREEMENT (“Amended and Restated Agreement”) is made and entered into as of August 1, 2017, by and between the Local Agency Formation Commission of Napa County, a political subdivision of the State of California, hereinafter referred to as "LAFCO", and Renne Sloan Holtzman Sakai LLP (“Contractor”), whose mailing address is 555 Capitol Mall, Sacramento, CA 95814.

RECITALS

WHEREAS, LAFCO wishes to receive reliable and effective legal services; and

WHEREAS, LAFCO entered into an agreement for legal services to be provided by Miller & Owen, effective March 16, 2015 (“Agreement”); and

WHEREAS, LAFCO approved the assignment of the Agreement to RSHS, which was effective October 1, 2015; and

WHEREAS, LAFCO’s Executive Officer approved a brief extension of the Agreement to extend the time for performance through LAFCO’s August 2017 meeting, but not increasing the total not-to-exceed amount under the Agreement;

WHEREAS, CONTRACTOR represents that it remains qualified and willing to provide such specialized services to LAFCO; and

WHEREAS, LAFCO and CONTRACTOR now wish to enter into this Amended and Restated Agreement to further extend the time for performance for up to two additional years, and to reflect CONTRACTOR’s updated billing rates.

TERMS

NOW, THEREFORE, LAFCO hereby engages the services of CONTRACTOR, and CONTRACTOR agrees to serve LAFCO in accordance with the terms and conditions set forth herein:

1. **Term of the Agreement.** The term of this Agreement shall commence on the date first above written and shall expire on June 30, 2018, unless terminated earlier in accordance with Paragraph 9 (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 LAFCO 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 one additional year at the end of the 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. Such notice of nonrenewal may be given on behalf of LAFCO by the Napa LAFCO Executive Officer or designee thereof. For purposes of this Agreement, "fiscal year" shall mean the period commencing on July 1 and ending on June 30.

2. **Scope of Services.** CONTRACTOR shall provide LAFCO those services set forth in Exhibit "A", attached hereto and incorporated by reference herein. All work performed by CONTRACTOR under this Agreement shall be in accordance with all applicable legal requirements and shall meet the standard of quality ordinarily to be expected of competent professionals in CONTRACTOR's field of expertise.

3. **Compensation.**

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

(b) **Expenses.** Travel and other expenses will be reimbursed by LAFCO 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 payments under this Agreement shall not exceed twenty-six thousand, five hundred dollars (\$26,500) per fiscal year; provided, however, that such amounts shall not be construed as guaranteed sums, and compensation shall be based upon services actually rendered and expenses actually incurred. In no instance shall LAFCO be liable for any payments or costs for work in excess of this amount, nor for any unauthorized or ineligible costs. CONTRACTOR shall be paid at the times and in the manner set forth in this Agreement. The consideration to be paid CONTRACTOR, as provided in this Agreement, shall be in compensation for all of CONTRACTOR's expenses incurred in the performance of work under this Agreement, including travel and expenses, unless otherwise expressly so provided.

4. **Method of Payment.**

(a) **Invoices.** All payments for compensation and reimbursement for expenses shall be made only upon presentation by CONTRACTOR to LAFCO of an itemized billing invoice in a form acceptable to the LAFCO Executive Director which indicates, at a minimum, CONTRACTOR's name, address, Social Security or Taxpayer Identification Number, itemization of the hours worked or, where compensation is on a per-task basis, a description of the tasks completed during the billing period, the person(s) actually performing the services and the position(s) held by such person(s), and the approved hourly or task rate. Invoices shall also indicate the number of hours worked by each of CONTRACTOR's personnel and reimbursable costs incurred to the date of such billing since the date of the preceding billing, if any. The invoices shall include documentation of reimbursable expenses and other invoiced items

sufficient for LAFCO, in its opinion, to substantiate billings.

(b) CONTRACTOR shall submit invoices not more often than monthly to the Executive Officer. Approved invoices shall be submitted to the Napa County Auditor for payment no later than fifteen (15) calendar days following receipt. CONTRACTOR shall be notified within fifteen (15) calendar days following receipt of its invoice by LAFCO of any circumstances or data identified by LAFCO in CONTRACTOR's written billing which would cause withholding of approval and subsequent payment. LAFCO reserves the right to withhold payment of disputed amounts.

(c) Legal status. So that LAFCO 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 LAFCO Executive Director upon request in a form satisfactory to the LAFCO Executive Director. 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, LAFCO 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 LAFCO may monitor the work performed by CONTRACTOR. LAFCO 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. As between the parties to this Agreement, CONTRACTOR shall be solely responsible for all such payments.

6. **[Reserved]**

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 LAFCO with certification of all such coverages as set forth in subsection (c), below.

(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 FIVE HUNDRED THOUSAND DOLLARS (\$500,000) combined single limit per occurrence.

(c) Certificates. All insurance coverages referenced in 7(a) and (b), above, shall be evidenced by one or more certificates of coverage or, with the consent of LAFCO's Risk Manager, demonstrated by other evidence of coverage acceptable to LAFCO's Risk Manager, which shall be filed by CONTRACTOR with LAFCO's Executive Officer prior to commencement of performance of any of CONTRACTOR's duties. Such certificate(s) shall (1) reference this Agreement by its LAFCO number or title; (2) shall provide that LAFCO 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 (3) 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.

(d) For the commercial general liability insurance coverage referenced in 7(b)(1) and the comprehensive automobile liability insurance coverage referenced in 7(b)(3), CONTRACTOR shall also file with the evidence of coverage, an endorsement from the insurance provider naming LAFCO, its officers, employees, agents and volunteers as additional insureds and waiving subrogation. The certificate or other evidence of coverage shall also 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 LAFCO shall pertain only to liability for activities of CONTRACTOR under this Agreement, and that the insurance provided is primary coverage to LAFCO with respect to any insurance or self-insurance programs maintained by LAFCO. 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. Upon request by LAFCO'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.

(e) Deductibles/Retentions. Any deductibles or self-insured retentions shall be declared to, and be subject to approval by, LAFCO's Risk Manager, which approval shall not be denied unless the LAFCO'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 LAFCO'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 LAFCO, its officers, employees, agents and volunteers, or CONTRACTOR shall procure a bond guaranteeing payment of losses and related investigations, claims administration and defense expenses.

8. Hold Harmless/Defense/Indemnification.

(a) In General. To the full extent permitted by law, CONTRACTOR shall hold harmless, defend at its own expense, and indemnify LAFCO and the officers, agents, employees and volunteers of LAFCO from any and all liability, claims, losses, damages or expenses, including reasonable attorney's fees, arising from all acts or omissions of CONTRACTOR or its officers, agents, employees, volunteers, contractors and subcontractors in rendering services under this Agreement, including any patent or copyright infringements, but excluding, however, such liability, claims, losses, damages or expenses arising from the sole negligence or willful acts of LAFCO or its officers, agents, employees, volunteers, or other contractors or their subcontractors. Each party shall notify the other party immediately in writing of any claim or damage related to activities performed under this Agreement. The parties shall cooperate with each other in the investigation and disposition of any claim arising out of the activities under this Agreement, providing that nothing shall require either party to disclose any documents, records or communications that are protected under peer review privilege, attorney-client privilege, or attorney work product privilege.

(b) Employee Character and Fitness. CONTRACTOR accepts responsibility for determining and approving the character and fitness of its employees (including volunteers, agents or representatives) to provide the services required of CONTRACTOR under this Agreement, including completion of a satisfactory criminal/background check and periodic rechecks to the extent permitted by law. Notwithstanding anything to the contrary in this Paragraph, CONTRACTOR shall hold LAFCO 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.

(a) LAFCO shall have the right to terminate this Agreement for any reason, with or without cause, at any time, by giving CONTRACTOR fifteen (15) days written notice. The notice shall be deemed served and effective for all purposes on the date it is deposited in the U.S. mail, certified, return receipt requested, addressed to CONTRACTOR at the address indicated in Section 13.

(b) If LAFCO issues a notice of termination:

(1) Contractor shall immediately cease rendering services pursuant to this Agreement.

(2) Contractor shall deliver to LAFCO copies of all Writings, whether or not completed, which were prepared by Contractor, its employees or its subcontractors, if any,

pursuant to this Agreement. The term "Writings" shall include, but not be limited to, handwriting, typesetting, computer files and records, drawings, blueprints, printing, photostating, photographs, and every other means of recording upon any tangible thing, any form of communication or representation, including, letters, works, pictures, sounds, symbols computer data, or combinations thereof. 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 LAFCO shall be entitled to claim or apply for the copyright or patent thereof.

(3) LAFCO shall pay Contractor for work actually performed up to the effective date of the notice of termination, subject to the limitations in Section 3, less any compensation to LAFCO for damages suffered as a result of Contractor's failure to comply with the terms of this Agreement. Such payment shall be in accordance with Section 4. However, if this Agreement is terminated because the work of Contractor does not meet the terms or standards specified in this Agreement, then LAFCO shall be obligated to compensate Contractor only for that portion of Contractor's services which is of benefit to LAFCO. LAFCO may withhold any payments not yet made to CONTRACTOR for purpose of setoff until such time as the exact amount of damages due to LAFCO from CONTRACTOR is determined.

10. **Time.** Time is of the essence in this Agreement.

11. **Campaign Contribution Disclosure.** Contractor has complied with the campaign contribution disclosure provisions of the California Levine Act (Government Code § 84308) and has completed the Levine Act Disclosure Statement attached hereto as Exhibit "C."

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.

LAFCO

Brendon Freeman
Executive Officer
LAFCO of Napa County
1030 Seminary Street, Suite B
Napa, CA 94559-2814

CONTRACTOR

Nancy C. Miller
Renne Sloan Holtzman Sakai LLP
555 Capitol Mall, Suite 600
Sacramento, CA 95814

14. **National Labor Relations Board Certification.** CONTRACTOR, by signing this Agreement, does swear under penalty of perjury that no more than one final unappealable finding of contempt of court by a federal court has been issued against CONTRACTOR within the immediately preceding two-year period because of CONTRACTOR's failure to comply with an order of a federal court which orders CONTRACTOR to comply with an order of the National Labor Relations Board (Public Contract Code § 10296).

15. **Confidentiality.** Confidential information is defined as all information disclosed to CONTRACTOR which relates to LAFCO'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 LAFCO, expressed through its Executive Officer. Upon cancellation or expiration of this Agreement, CONTRACTOR shall return to LAFCO 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 LAFCO.

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 LAFCO, 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 LAFCO to withhold its consent to assignment. For purposes of this subparagraph, the consent of LAFCO may be given by the Executive Officer.

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

17. **Amendment/Modification.** Except as specifically provided herein, this Agreement may be modified or amended only in writing and with the prior written consent of both parties. In particular, only LAFCO, through its Executive Officer, in the form of an amendment of this Agreement, may authorize extra and/or changed work if beyond the scope of services prescribed by Exhibit "A". Failure of CONTRACTOR to secure such authorization in writing in advance of performing any of the 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 of the various sections of this Agreement are intended solely for convenience of reference and are not intended to explain, modify, or place

any interpretation upon any of the provisions of this Agreement. 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 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, mental disability, physical disability 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 LAFCO by the State of California pursuant to agreement between LAFCO 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 LAFCO for inspection.

(c) Americans with Disabilities Act (ADA) of 1990. By signing this Agreement, CONTRACTOR assures LAFCO that it complies with the Americans with Disabilities Act (ADA) of 1990 (42 U.S.C. § 12101, et seq.), which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA, including but not limited to those found within the Code of Federal Regulations, title 49, parts 27, 37, and 38.

(d) Drug-Free Certification. By signing this Agreement, CONTRACTOR hereby certifies under penalty of perjury under the laws of the State of California that Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 (Government Code § 8350, et seq.) and will provide a drug-free workplace by taking the following actions:

(1) Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited, and specifying actions to be taken against employees for violations.

(2) Establish a Drug-Free Awareness Program to inform employees about:

- i. The dangers of drug abuse in the workplace;
- ii. The person's or the organization's policy of maintaining a drug-free workplace;
- iii. Any available counseling, rehabilitation, and employee assistance programs; and
- iv. Penalties that may be imposed upon employees for drug abuse violations.

(3) Every employee of CONTRACTOR who works under this Agreement shall:

- i. Receive a copy of CONTRACTOR's Drug-Free Workplace Policy Statement; and
- ii. Agree to abide by the terms of Contractor's Statement as a condition of employment on this Agreement.

(e) Union Organizing: By signing this Agreement, CONTRACTOR hereby acknowledges the applicability of Government Code § 16645 through § 16649 to this Agreement, excluding § 16645.2 and § 16645.7.

(1) CONTRACTOR will not assist, promote, or deter union organizing by employees performing work on this Agreement if such assistance, promotion, or deterrence contains a threat of reprisal or force, or a promise of benefit.

(2) CONTRACTOR will not meet with employees or supervisors on LAFCO or state property if the purpose of the meeting is to assist, promote, or deter union organizing, unless the property is equally available to the general public for meetings.

(3) No funds received from LAFCO under this Agreement shall be used to assist, promote, or deter union organizing.

(f) 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 in all such subcontracts as obligations of the subcontractor.

20. **Taxes.** CONTRACTOR agrees to file federal and state tax returns or applicable withholding documents and to pay all applicable taxes or make all required withholdings on

amounts paid pursuant to this Agreement and shall be solely liable and responsible to make such withholdings and/or pay such taxes and other obligations including, without limitation, state and federal income and FICA taxes. CONTRACTOR agrees to indemnify and hold LAFCO 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 LAFCO is audited for compliance regarding any withholding or other applicable taxes or amounts, CONTRACTOR agrees to furnish LAFCO with proof of payment of taxes or withholdings on those earnings.

21. **Access to Records/Retention.** LAFCO, 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 LAFCO 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 LAFCO 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 LAFCO and shall not, during the term of this Agreement, 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 LAFCO 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 LAFCO relating to this Agreement. CONTRACTOR agrees that if such financial interest does exist at the inception of this Agreement, LAFCO may terminate this Agreement immediately upon giving written notice without further obligation by LAFCO to CONTRACTOR under this Agreement.

(b) **Statements of Economic Interest.** CONTRACTOR acknowledges and understands that LAFCO 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.

By authorizing its Chair to execute this Agreement on its behalf, LAFCO's Commission hereby determines in writing on behalf of LAFCO that CONTRACTOR has been hired to perform a

range of duties so limited in scope as to not be required to comply with such disclosure obligation.

24. **Non-Solicitation of Employees.** Each party agrees not to solicit for employment the employees of the other party who were directly involved in the performance of the services hereunder for the term of this Agreement and a period of six (6) months after termination of this Agreement except with the written permission of the other party, except that nothing in this Paragraph shall preclude either party from publishing or otherwise distributing applications and information regarding that party's job openings where such publication or distribution is directed to the public generally.

25. **Ownership; Permission.**

- a. CONTRACTOR agrees that all work products, including but not limited to, notes, designs, drawings, reports, memoranda, and all other tangible personal property produced in the performance of this Agreement, shall be the sole property of LAFCO, provided that CONTRACTOR may retain file copies of said work products. CONTRACTOR shall provide said work products to LAFCO upon request.
- b. CONTRACTOR represents and warrants that: (i) all materials used or work products produced in the performance of this Agreement, including, without limitation, all computer software materials and all written materials, are either owned by or produced by CONTRACTOR or that all required permissions and license agreements have been obtained and paid for by CONTRACTOR; and (ii) LAFCO is free to use, reuse, publish or otherwise deal with all such materials or work products except as otherwise specifically provided in Exhibit "A." CONTRACTOR shall defend, indemnify and hold harmless LAFCO and its directors, officers, employees, and agents from any claim, loss, damage, cost, liability, or expense to the extent of any violation or falsity of the foregoing representation and warranty.

26. **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.

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

28. **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.

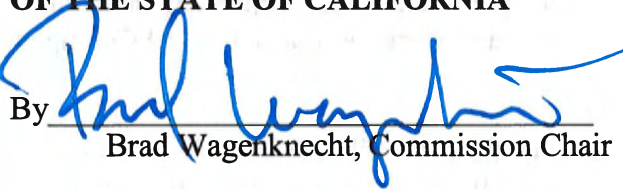
29. **Entirety of Contract.** This Agreement, including any documents expressly incorporated

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.

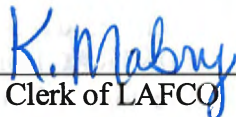
30. **Counterparts.** This Agreement may be signed in one or more counterparts, each of which shall constitute an original and all of which taken together shall constitute one and the same instrument.

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

**LOCAL AGENCY FORMATION COMMISSION
OF NAPA COUNTY, A POLITICAL SUBDIVISION
OF THE STATE OF CALIFORNIA**

By 
Brad Wagenknecht, Commission Chair

ATTEST:

By: 
Clerk of LAFCO

RENNE SLOAN HOLTZMAN SAKAI LLP

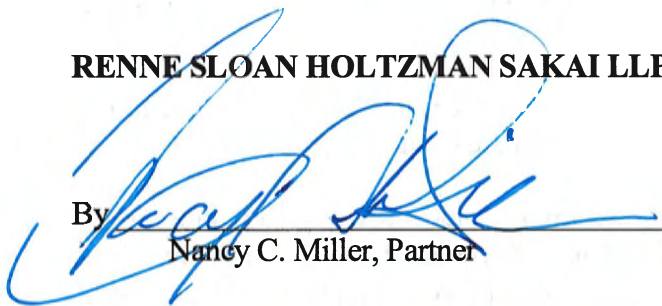
By 
Nancy C. Miller, Partner

EXHIBIT "A"

Scope of Work

I. CONTRACTOR shall provide LAFCO with the following services:

CONTRACTOR shall provide all aspects of legal representation and legal services to LAFCO, including but not limited to legal advice and document drafting and representation of LAFCO in its operations, as requested by LAFCO.

II. Compliance with Government Code Section 7550: As required by Government Code 7550, each document or report prepared by CONTRACTOR for or under the direction of LAFCO pursuant to this Agreement shall contain the numbers and dollar amounts of the Agreement and all subcontracts under the Agreement relating to the preparation of the document or written report. The Agreement and subcontract dollar amounts shall be contained in a separate section of the document or written report. If multiple documents or written reports are the subject of the Agreement or subcontracts, the disclosure section may also contain a statement indicating that the total contract amount represents compensation for multiple documents or written reports.

EXHIBIT "B-1"**Rates of Compensation and Expense Reimbursement**

[Effective August 1, 2017]

A. Hourly Rates

Renne Sloan Holtzman Sakai takes pride in providing the most cost-effective services possible to its clients. Our commitment to serve public agencies is reflected in lower hourly rates for public agencies, rates below those charged by attorneys with comparable experience and backgrounds. Rates are subject to change no more than once annually. The following is a list of the hourly rates charged:

Nancy C. Miller	\$295
Paul J. Chrisman	\$280
Christiane E. Layton	\$280
Jennifer V. Gore	\$260
Madeline E. Miller	\$260
Other Partners	\$275 – 350
Other Associates	\$185 – 250
Paralegals	\$120

B. Reimbursable Expenses

The firm will not charge Napa LAFCO for travel time. The firm charges actual costs for any travel related expenses.

In addition to paying legal fees, the firm requests reimbursement for all costs and expenses incurred by the firm (at actual cost, no markup) including, but not limited to, fees fixed by law or assessed by courts or other agencies, courier service, computerized legal research, postage, facsimile charges, parking, mileage (at the current IRS rate), out of town travel expenses, investigation expenses, consultants' fees, court reporter's fees, registered copy service fees, and other similar items. All costs and expense are fully itemized, along with a description of services rendered and the time devoted to described tasks. The firm does not charge an administrative fee.

EXHIBIT "C"
LEVINE ACT DISCLOSURE STATEMENT

(To be completed by all proposers on LAFCO consultant contracts)

California Government Code § 84308, commonly referred to as the "Levine Act," precludes an Officer of a local government agency from participating in the award of a contract if he or she receives any political contributions totaling more than \$250 in the 12 months preceding the pendency of the contract award, and for three months following the final decision, from the person or company awarded the contract. This prohibition applies to contributions to the Officer, or received by the Officer on behalf of any other Officer, or on behalf of any candidate for office or on behalf of any committee. The Levine Act also requires disclosure of such contributions by a party to be awarded a specified contract. Please refer to the attachment for the complete statutory language.

Current members of the Napa County LAFCO are:

Juliana Inman	Diane Dillon
Brian Kelly	Brad Wagenknecht
Margie Mohler	Ryan Gregory, Alternate
Kenneth Leary, Alternate	Gregory Rodeno, Alternate

1. Have you or your company, or any agent on behalf of you or your company, made any political contributions of more than \$250 to any LAFCO Commissioner(s) in the 12 months preceding the date of the issuance of this request for proposal or request for qualifications? YES NO

If yes, please identify the Commissioner(s): _____

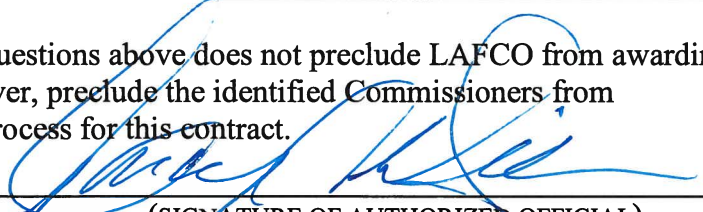
2. Do you or your company, or any agency on behalf of you or your company, anticipate or plan to make any political contributions of more than \$250 to any LAFCO Commissioner(s) in the three months following the award of the contract?

YES NO

If yes, please identify the Commissioner(s): _____

Answering yes to either of the two questions above does not preclude LAFCO from awarding a contract to your firm. It does, however, preclude the identified Commissioners from participating in the contract award process for this contract.

8/7/2017
DATE



(SIGNATURE OF AUTHORIZED OFFICIAL)

Nancy Miller, Partner

(TYPE OR WRITE APPROPRIATE NAME, TITLE)

Renne Sloan Holtzman Sakai LLP

(TYPE OR WRITE NAME OF COMPANY)

**AMENDMENT NO. 1 TO
AMENDED AND RESTATED PROFESSIONAL SERVICES AGREEMENT NO. 2015-05
BETWEEN THE LOCAL AGENCY FORMATION COMMISSION OF NAPA COUNTY
AND RENNE SLOAN HOLTZMAN SAKAI LLP
AND ASSIGNMENT TO
SLOAN SAKAI YEUNG & WONG LLP**

This Amendment No. 1 to the August 1, 2017, Amended and Restated Professional Services Agreement No. 2015-05 (“Agreement”) between the Local Agency Formation Commission of Napa County, a political subdivision of the State of California (hereinafter “LAFCO”), and Renne Sloan Holtzman Sakai LLP (hereinafter “RSHS”), and Assignment of Agreement to Sloan Sakai Yeung & Wong LLP (hereinafter “SSYW”), shall be effective March 1, 2018.

WHEREAS, LAFCO entered into the Agreement for legal services to be provided by RSHS, effective August 1, 2017;

WHEREAS, RSHS is changing the law firm name to Sloan Sakai Yeung & Wong LLP effective March 1, 2018;

WHEREAS, pursuant to Sections 16 and 17 of the Agreement, RSHS may assign the Agreement to SSYW with the prior written consent of LAFCO’s Executive Officer;

WHEREAS, the attorneys and support personnel currently providing legal services to LAFCO shall remain the same; and

WHEREAS, LAFCO and SSYW now wish to enter into this Amendment to change the law firm name and to increase the not-to-exceed amount under the Agreement.

NOW, THEREFORE, the parties agree as follows:

1. Amendment of the Agreement:

a. Section 13 of the Agreement (“Notices”), is hereby amended to reflect that, effective March 1, 2018, all notices, demands, requests, consent, approval, or other communication to Sloan Sakai Yeung & Wong LLP (formerly Renne Sloan Holtzman Sakai LLP) shall be directed to:

Nancy C. Miller
Sloan Sakai Yeung & Wong LLP
555 Capitol Mall, Suite 600
Sacramento, CA 95814

b. The first sentence only of Section 3, subsection (c), of the Agreement (“Compensation; Maximum Amount”) is hereby deleted and replaced with the following:

“(c) Notwithstanding subparagraphs (a) and (b), the maximum, payments under this Agreement shall not exceed a total of thirty-five thousand dollars (\$35,000) for professional services and expenses, per fiscal year; provided, however, such amounts shall not be construed as guaranteed sums, and compensation shall be based upon services actually rendered and reimbursable expenses actually incurred.”

2. Assignment of the Agreement:

a. Renne Sloan Holtzman Sakai LLP warrants and represents that the Agreement is in full force and effect and is fully assignable, with the prior approval of LAFCO.


b. As of March 1, 2018, RSHS assigns and transfers all rights and interest in the Agreement to SSYW. Payments for services provided on or after March 1, 2018, shall be made payable to Sloan Sakai Yeung & Wong LLP.

c. SSYW hereby assumes and agrees to perform all obligations of RSHS.

3. Except as expressly amended herein, all terms and conditions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, THE PARTIES HAVE ENTERED INTO THIS AMENDMENT AS OF THE DATE HEREIN ABOVE APPEARING.

RENNE SLOAN HOLTZMAN SAKAI LLP

By: 

Nancy C. Miller
Partner

LAFCO OF NAPA COUNTY

By: 

Brad Wagenknecht
LAFCO Chair

SLOAN SAKAI YEUNG & WONG LLP

By: 

Nancy C. Miller
Partner

By: 

Brendon Freeman
LAFCO Executive Officer

**AMENDMENT NO. 2 TO
AMENDED AND RESTATED PROFESSIONAL SERVICES AGREEMENT NO. 2015-05
BETWEEN THE LOCAL AGENCY FORMATION COMMISSION OF NAPA COUNTY
AND SLOAN SAKAI YEUNG & WONG LLP
(formerly RENNE SLOAN HOLTZMAN SAKAI LLP)**

This Amendment No. 2 to the August 1, 2017, Amended and Restated Professional Services Agreement No. 2015-05 (“Agreement”) between the Local Agency Formation Commission of Napa County, a political subdivision of the State of California (hereinafter “LAFCO”), and Sloan Sakai Yeung & Wong LLP (formerly Renne Sloan Holtzman Sakai LLP) (hereinafter “SSYW,”), shall be effective July 1, 2019.

WHEREAS, LAFCO entered into the Agreement for legal services to be provided by the predecessor of SSYW, effective August 1, 2017;

WHEREAS, the Amendment No. 1. (Amendment No. 1”) to the Agreement was entered into by LAFCO and SSYW effective March 1, 2018, to change the law firm name and to increase the not-to-exceed amount under the Agreement.

WHEREAS, the parties now wish to enter into this Amendment No. 2 to extend the term of the Agreement.

NOW, THEREFORE, the parties agree as follows:

1. Term of the Agreement.

Section 1. Term of the Agreement, is hereby amended to extend the term of the Agreement an additional one year from July 1, 2019 through June 30, 2020, and shall be automatically renewed for one additional year at the end of the 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 ten current term. All other provisions of Section 1 of the Agreement shall remain in full force and effect.

2. Except as expressly amended herein, all terms and conditions of the Agreement as amended by Amendment No. 1, shall remain in full force and effect.


IN WITNESS WHEREOF, THE PARTIES HAVE ENTERED INTO THIS AMENDMENT AS OF THE DATE HEREIN ABOVE APPEARING.


SLOAN SAKAI YEUNG & WONG LLP



By: _____
Nancy C. Miller
Partner

LAFCO OF NAPA COUNTY

By:  _____
Gregory Rodeno
LAFCO Chair

By:  _____
Brendon Freeman
LAFCO Executive Officer

**AMENDMENT NO. 3 TO
AMENDED AND RESTATED PROFESSIONAL SERVICES AGREEMENT NO. 2015-05
BETWEEN THE LOCAL AGENCY FORMATION COMMISSION OF NAPA COUNTY
AND SLOAN SAKAI YEUNG & WONG LLP**

This Amendment No. 3 to the Amended and Restated Professional Services Agreement No. 2015-05 (“Agreement”) between the Local Agency Formation Commission of Napa County, a political subdivision of the State of California (hereinafter “LAFCO”), and Sloan Sakai Yeung & Wong LLP (hereinafter “SSYW”), shall be effective February 1, 2021.

WHEREAS, LAFCO entered into the Agreement for legal services to be provided by SSYW, effective August 1, 2017;

WHEREAS, Amendment No. 1 to the Agreement was entered into by LAFCO and SSYW effective March 1, 2018, to change the law firm name and increase the not-to-exceed amount under the Agreement;

WHEREAS, Amendment No. 2 to the Agreement was entered into by LAFCO and SSYW effective July 1, 2019, to extend the term of the agreement; and

WHEREAS, LAFCO and SSYW wish to enter into this Amendment No. 3 to the Agreement to extend the term of the Agreement.

NOW, THEREFORE, the parties agree as follows:

1. Term of the Agreement:

Section 1. Term of the Agreement, is hereby amended to extend the term of the Agreement an additional one year from July 1, 2021 to June 30, 2022. All other provisions of Section 1 of the Agreement shall remain in full force and effect.

2. Except as expressly amended herein, all terms and conditions of the Agreement as amended by Amendment No. 1 and Amendment No. 2 shall remain in full force and effect.

IN WITNESS WHEREOF, THE PARTIES HAVE ENTERED INTO THIS AMENDMENT AS OF THE DATE HEREIN ABOVE APPEARING.

SLOAN SAKAI YEUNG & WONG LLP



By: _____
Nancy C. Miller
Partner

LAFCO OF NAPA COUNTY



By: Margie Mohler (Feb 3, 2021 15:36 PST)
Margie Mohler
LAFCO Chair



By: _____
Brendon Freeman
LAFCO Executive Officer

MAY 31 2019

NAPA COUNTY
LAFCO

May 29, 2019

Nancy C. Miller
916-258-8817
nmiller@sloansakai.com

Brendon Freeman
Napa Local Agency Formation Commission
1030 Seminary Street, Suite B
Napa, CA 94559

Via U.S. Mail

Re: *Legal Services for Napa Local Agency Formation Commission*

Dear Brendon:

The purpose of this letter is to give you advance written notice of a modification to our hourly rates. The new hourly rates are shown on the attached rate schedule and will be effective July 1, 2019.

I hope you will appreciate that we make every effort to keep our rates as low as possible. We also exercise great discretion in our billing practices, and we make every effort to provide the highest quality legal services as cost effectively as possible. We hope that you will contact us if you ever have concerns regarding any of our invoices.

We enjoy working with you and please contact me if you have any questions regarding these changes.

Sincerely,



Nancy C. Miller

Enclosure

Brendon Freeman

May 29, 2019

Page 2

Exhibit A

Effective July 1, 2019

RATE SCHEDULE

Nancy C. Miller	\$300.00
Christiane E. Layton	\$285.00
Paul J. Chrisman	\$285.00
DeeAnne Gillick	\$275.00
Madeline E. Miller	\$275.00
Osman I. Mufti	\$260.00
Susan Yoon	\$230.00
Other Associates / Sr. Counsel	\$230-\$285
Other Partners / Of Counsel	\$285-\$335
Paralegals	\$125.00



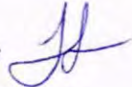
Local Agency Formation Commission of Napa County
Subdivision of the State of California

1754 Second Street, Suite C
Napa, California 94559
Phone: (707) 259-8645
www.napa.lafco.ca.gov

We Manage Local Government Boundaries, Evaluate Municipal Services, and Protect Agriculture

Agenda Item 10c (Action)

TO: Local Agency Formation Commission

PREPARED BY: Tracy A. Schulze, County of Napa Auditor-Controller 

MEETING DATE: December 6, 2021

SUBJECT: Financial Audit for Fiscal Year Ending June 30, 2021

RECOMMENDATION

Receive and file the financial audit report for fiscal year 2020-21 (Attachment One).

SUMMARY

Brown Armstrong was retained to conduct an independent audit of the agency's financial statements for the 2020-21 fiscal year. Brown Armstrong completed their audit in November 2021 and found no material misstatements. The audit also found no instances of significant or unusual changes in reporting practices and does not include any suggestions for improvements. A copy of the audit is included as Attachment One.

Brown Armstrong's audit provides an unqualified opinion the Commission's financial statements are reliable representations of the agency's financial position as of June 30, 2021. This "clean" opinion affirms the Commission maintains an effective level of internal control in managing its financial records and transactions which helps to ensure maximum accountability with respect to the agency's use of public funds. The audit also affirms that the Commission is in relatively strong financial position given it finished the fiscal year with an available/unrestricted fund balance of \$270,586; an amount representing approximately 47.7% of the agency's budgeted expenditures for the 2020-21 fiscal year.

A financial summary chart is included as Attachment Three and depicts changes in the Commission's audited fund balance for the past 15 years, beginning with the 2006-07 fiscal year.

ATTACHMENTS

- 1) Local Agency Formation Commission Audit Report for the Fiscal Year Ended June 30, 2021
- 2) Communications Letter From Brown Armstrong to the Commissioners
- 3) LAFCO Financial Summary Chart Fiscal Years 2006-07 to 2020-21

Margie Mohler, Vice Chair
Councilmember, Town of Yountville

Mariam Aboudamous, Commissioner
Councilmember, City of American Canyon

Beth Painter, Alternate Commissioner
Councilmember, City of Napa

Diane Dillon, Chair
County of Napa Supervisor, 3rd District

Brad Wagenknecht, Commissioner
County of Napa Supervisor, 1st District

Ryan Gregory, Alternate Commissioner
County of Napa Supervisor, 2nd District

Kenneth Leary, Commissioner
Representative of the General Public

Eve Kahn, Alternate Commissioner
Representative of the General Public

Brendon Freeman
Executive Officer

**LOCAL AGENCY FORMATION
COMMISSION OF NAPA COUNTY**

**FINANCIAL STATEMENTS
AND
INDEPENDENT AUDITOR'S REPORT**

**FOR THE YEAR ENDED
JUNE 30, 2021**

**LOCAL AGENCY FORMATION COMMISSION OF NAPA COUNTY
JUNE 30, 2021**

Table of Contents

	<u>Page</u>
Commission Membership.....	i
<u>FINANCIAL SECTION</u>	
Independent Auditor’s Report	1
Management’s Discussion and Analysis.....	3
<u>Basic Financial Statements</u>	
Government-Wide Financial Statements:	
Statement of Net Position	7
Statement of Activities.....	8
Fund Financial Statements:	
Balance Sheet – Governmental Fund.....	9
Statement of Revenues, Expenditures, and Changes in Fund Balance – Governmental Fund.....	10
Notes to the Basic Financial Statements	11
<u>Required Supplementary Information</u>	
Budgetary Comparison Schedule	15
Note to the Required Supplementary Information.....	16
<u>Other Report</u>	
Independent Auditor’s Report on Internal Control Over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with <i>Government Auditing Standards</i>	17

**LOCAL AGENCY FORMATION COMMISSION OF NAPA COUNTY
COMMISSION MEMBERSHIP
FOR THE YEAR ENDED JUNE 30, 2021**

Diane Dillon	Chair Napa County Board of Supervisors	May 2022
Margie Mohler	Vice Chair City Selection Committee	May 2025
Mariam Aboudamous	Commissioner City Selection Committee	May 2023
Brad Wagenknecht	Commissioner Napa County Board of Supervisors	May 2024
Kenneth Leary	Commissioner Public Member	May 2022
Beth Painter	Alternate Commissioner City Selection Committee	May 2023
Ryan Gregory	Alternate Commissioner Napa County Board of Supervisors	May 2025
Eve Kahn	Alternate Commissioner Public Member	May 2024

FINANCIAL SECTION



INDEPENDENT AUDITOR'S REPORT

Board of Commissioners
Local Agency Formation Commission of Napa County
Napa, California

Report on the Basic Financial Statements

We have audited the accompanying basic financial statements of the governmental activities and the major fund of the Local Agency Formation Commission of Napa County (the Commission), California, as of and for the year ended June 30, 2021, and the related notes to the basic financial statements, which collectively comprise the Commission's basic financial statements as listed in the table of contents.

Management's Responsibility for the Basic Financial Statements

Management is responsible for the preparation and fair presentation of these basic financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of basic financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express opinions on these basic financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the basic financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the basic financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the basic financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the Commission's preparation and fair presentation of the basic financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Commission's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the basic financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, the basic financial statements referred to above present fairly, in all material respects, the respective financial position of the governmental activities and the major fund of the Commission as of June 30, 2021, and the respective changes in its financial position for the year then ended, in accordance with accounting principles generally accepted in the United States of America.

Other Matters*Required Supplementary Information*

Accounting principles generally accepted in the United States of America require that the Management's Discussion and Analysis and the Budgetary Comparison Schedule, as listed in the table of contents, be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board, who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

Other Reporting Required by Government Auditing Standards

In accordance with *Government Auditing Standards*, we have also issued our report dated November 17, 2021, on our consideration of the Commission's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is solely to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the Commission's internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the Commission's internal control over financial reporting and compliance.

BROWN ARMSTRONG
ACCOUNTANCY CORPORATION

Brown Armstrong
Accountancy Corporation

Bakersfield, California
November 17, 2021

**LOCAL AGENCY FORMATION COMMISSION OF NAPA COUNTY
MANAGEMENT'S DISCUSSION AND ANALYSIS
FOR THE YEAR ENDED JUNE 30, 2021**

The Local Agency Formation Commission of Napa County (the Commission) administers a section of California Government Code now known as the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000. The Commission is delegated regulatory and planning responsibilities to coordinate the logical formation and development of local agencies in a manner preserving agricultural and open-space resources, promoting the orderly extension of municipal services, and discouraging urban sprawl. Key duties include regulating boundary changes through annexations or detachments; approving city incorporations or disincorporations; and forming, consolidating, or dissolving special districts. The Commission is also responsible for preparing studies in order to knowledgeably perform its regulatory activities, including establishing and updating spheres of influence for all cities and special districts within its jurisdiction. Spheres are planning tools used by the Commission to designate the territory it believes represents the appropriate and probable future service area of the affected agency. All jurisdictional changes, such as annexations, must be consistent with the spheres of the affected agencies with limited exceptions. As of June 30, 2021, there are currently 23 cities and special districts subject to Commission jurisdiction in the County of Napa (the County).

The Commission was first established in 1963 as an office within the County. From 1963 to 2000, 100% of the Commission's annual budget was funded by the County. On July 1, 2001, in conjunction with the enactment of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, the Commission became autonomous of the County in terms of fulfilling its statutory duties and responsibilities. This transition was highlighted by the Commission appointing its own executive officer and counsel as well as altering its funding to include contributions from the cities of American Canyon, Calistoga, Napa, and St. Helena and the town of Yountville. The County is now responsible for funding 50% of the Commission's annual budget with the remaining portion divided among the five cities based on a locally adopted formula as provided under Government Code Section 56381.

This narrative overview and analysis of the financial activities for the fiscal year ending June 30, 2021, is offered by the Commission's manager, the Executive Officer, to provide greater context to the audit performed by the Commission's independent auditor, Brown Armstrong Accountancy Corporation. Please read it in conjunction with the Commission's basic financial statements, which follow this section.

OVERVIEW OF THE BASIC FINANCIAL STATEMENTS

This discussion and analysis is intended to serve as an introduction to the Commission's basic financial statements. The following Statement of Net Position and Governmental Fund Balance Sheet, and the Statement of Activities and Governmental Fund Statement of Revenues, Expenditures, and Changes in Fund Balance, provide information about the activities of the Commission. The financial statements also include various note disclosures, which further describe the Commission's activities.

Government-Wide Statements

The government-wide financial statements are designed to provide readers with a broad overview of the Commission's finances, in a manner similar to a private sector business.

The Statement of Net Position presents information on all of the Commission's assets and liabilities, with the difference between the two reported as net position.

The Statement of Activities presents information showing how the Commission's net position changed during the most recent fiscal year. All changes in net position are reported as soon as the underlying event giving rise to the change occurs, regardless of the timing of related cash flows. Thus, revenues and expenses are reported in the statement for some items that will only result in cash flows in future fiscal periods (e.g., earned but unused vacation leave).

Fund Financial Statements

A fund is a grouping of related accounts used to maintain control over resources segregated for specific activities or objectives. The Commission, like other local governments, uses fund accounting to ensure and demonstrate compliance with finance-related legal requirements. Fund financial statements report essentially the same functions as those reported in the government-wide financial statements. However, unlike the government-wide financial statements, fund financial statements focus on near-term inflows and outflows of spendable resources, as well as on balances of spendable resources available at the end of the fiscal year.

Because the focus of governmental funds is narrower than government-wide financial statements, it is useful to compare the information presented. Both the governmental fund Balance Sheet and the governmental fund Statement of Revenues, Expenditures, and Changes in Fund Balance provide reconciliations to facilitate the comparison between governmental funds and government-wide statements.

Notes to the Basic Financial Statements

The notes provide additional information essential to a full understanding of the data provided in the government-wide and fund financial statements.

Required Supplementary Information (RSI)

RSI is presented concerning the Commission's General Fund budgetary schedule. The Commission adopts an annual appropriated budget for its General Fund. A budgetary comparison schedule has been provided for the General Fund to demonstrate compliance with this budget.

FINANCIAL ANALYSIS OF THE COMMISSION

Net Position

The Commission has presented its basic financial statements under the reporting model required by Governmental Accounting Standards Board (GASB) Statement No. 34, *Basic Financial Statements – and Management's Discussion and Analysis (MD&A) – for State and Local Governments*.

Condensed Statement of Net Position As of June 30, 2021

	2021	2020	Variance
Assets			
Current Assets	\$ 291,764	\$ 332,158	\$ (40,394)
Total Assets	<u>291,764</u>	<u>332,158</u>	<u>(40,394)</u>
Liabilities			
Current Liabilities	1,521	12,396	(10,875)
Total Liabilities	<u>1,521</u>	<u>12,396</u>	<u>(10,875)</u>
Net Position			
Unrestricted	290,243	319,762	(29,519)
Total Net Position	<u>\$ 290,243</u>	<u>\$ 319,762</u>	<u>\$ (29,519)</u>

State law requires that the County and the four cities and town of within the County fund the Commission's budget each year. The Commission is also authorized to establish and collect fees for purposes of offsetting agency contributions. It is also the practice of the Commission to make use of its unrestricted fund balance to help cover operating costs to help minimize the fiscal impact on local agencies as long as the balance does not fall below the equivalent of four months of operating expenses. This practice of using the unrestricted fund balance to help cover operating costs occasionally results in budgeting an operating shortfall. For the year ending June 30, 2021, the Commission budgeted an operating shortfall of \$47,310. The actual operating net was a shortfall of \$29,519, primarily due to the increase in administrative expenses and consulting expenses.

Changes in Net Position

The government-wide financial statement presented below represents an analysis of the Commission's governmental activities. It should be noted that Intergovernmental Revenues represent the amount each agency was required to contribute to the Commission's budget. The sum of these contributions and the fund balance at the beginning of the year must sum to the adopted budget.

Condensed Statement of Activities For the Year Ended June 30, 2021

	2021	2020	Variance
Revenues:			
Intergovernmental	\$ 485,400	\$ 471,262	\$ 14,138
Charges for Services	37,949	27,745	10,204
Interest Income	6,818	15,128	(8,310)
Total Revenues	<u>530,167</u>	<u>514,135</u>	<u>16,032</u>
Expenses:			
Contracted Administrative Services	434,700	416,354	18,346
Services and Supplies	124,986	199,849	(74,863)
Total Expenses	<u>559,686</u>	<u>616,203</u>	<u>(56,517)</u>
Change in Net Position	(29,519)	(102,068)	72,549
Net Position - Beginning of Year	<u>319,762</u>	<u>421,830</u>	<u>(102,068)</u>
Net Position - End of Year	<u>\$ 290,243</u>	<u>\$ 319,762</u>	<u>\$ (29,519)</u>

Financial Analysis of the Commission's Governmental Fund

As noted earlier, fund accounting is used by the Commission to ensure and demonstrate compliance with finance-related legal requirements.

For the year ending June 30, 2021, the Commission reported an ending fund balance of \$290,243, for a decrease of \$29,519 from the prior year.

BUDGETARY HIGHLIGHTS

The Commission practices bottom-line accounting, giving management the discretion to use excess funds in one account to offset deficits in other accounts. This allows management to minimize the fiscal impact of unanticipated increases in contracted administrative services by controlling spending in other accounts.

CAPITAL ASSETS

During fiscal year 2008-09, the Commission purchased an electronic document management system with a cost of \$19,657. This asset was depreciated over an estimated useful life of 5 years, using the straight-line depreciation method, and therefore, was fully depreciated as of fiscal year 2013-14.

DEBT ADMINISTRATION

With the close of the fiscal year on June 30, 2021, the Commission did not have any long-term obligations outstanding.

ECONOMIC FACTORS AND NEXT YEAR'S BUDGET

The Commission is committed to fulfilling its state-mandated mission with as little fiscal impact on local agencies as possible. In preparing the budget for fiscal year 2021-22, the Commission used a spending baseline to estimate how much it would cost to continue the level of its activities and services at next year's price for labor and supplies. The Commission's adopted fiscal year 2021-2022 budget is \$554,141, an overall percentage increase of 2.4% from prior year's original adopted budget. This increase is due to administrative cost increases and anticipated conference attendance.

CONTACTING THE COMMISSION

These financial statements are designed to provide a general overview of the Commission's finances for all those interested. Through a memorandum of understanding, the County provides certain management and administrative functions, including financial management and accounting. Questions concerning any of the information provided in this report or requests for additional financial information should be addressed to:

Local Agency Formation Commission of Napa County
1754 Second Street, Suite C
Napa, California 94559

BASIC FINANCIAL STATEMENTS

LOCAL AGENCY FORMATION COMMISSION OF NAPA COUNTY
STATEMENT OF NET POSITION
JUNE 30, 2021

Assets	
Cash in County Treasury	\$ 289,210
Imprest Cash	100
Deposits with Others	2,000
Receivables	<u>454</u>
Total Assets	<u>291,764</u>
Liabilities	
Accounts Payable	<u>1,521</u>
Total Liabilities	<u>1,521</u>
Net Position	
Unrestricted	<u>290,243</u>
Total Net Position	<u><u>\$ 290,243</u></u>

The accompanying notes are an integral part of these financial statements.

**LOCAL AGENCY FORMATION COMMISSION OF NAPA COUNTY
STATEMENT OF ACTIVITIES
FOR THE YEAR ENDED JUNE 30, 2021**

Expenses	
Contracted Administrative Services	\$ 434,700
Services and Supplies	<u>124,986</u>
Total Expenses	<u>559,686</u>
Program Revenues	
Intergovernmental Revenues:	
County of Napa	242,700
Other Governmental Agencies	242,700
Charges for Services	<u>37,949</u>
Total Program Revenues	<u>523,349</u>
Net Program Revenue	(36,337)
General Revenues	
Interest Income	<u>6,818</u>
Change in Net Position	(29,519)
Net Position - Beginning of Year	<u>319,762</u>
Net Position - End of Year	<u><u>\$ 290,243</u></u>

The accompanying notes are an integral part of these financial statements.

**LOCAL AGENCY FORMATION COMMISSION OF NAPA COUNTY
BALANCE SHEET
GOVERNMENTAL FUND
JUNE 30, 2021**

Assets	
Cash in County Treasury	\$ 289,210
Imprest Cash	100
Deposits with Others	2,000
Receivables	<u>454</u>
Total Assets	<u>291,764</u>
Liabilities	
Accounts Payable	<u>1,521</u>
Total Liabilities	<u>1,521</u>
Fund Balance	
Assigned	19,657
Unassigned	<u>270,586</u>
Total Fund Balance	<u><u>\$ 290,243</u></u>

The accompanying notes are an integral part of these financial statements.

**LOCAL AGENCY FORMATION COMMISSION OF NAPA COUNTY
STATEMENT OF REVENUES, EXPENDITURES,
AND CHANGES IN FUND BALANCE
GOVERNMENTAL FUND
FOR THE YEAR ENDED JUNE 30, 2021**

Revenues

Intergovernmental Revenues:

County of Napa	\$ 242,700
Other Governmental Agencies	242,700
Charges for Services	37,949
Interest Income	6,818
	6,818

Total Revenues

530,167

Expenditures

Contracted Administrative Services	434,700
Services and Supplies	124,986
	124,986

Total Expenditures

559,686

Change in Fund Balance

(29,519)

Fund Balance - Beginning of Year

319,762

Fund Balance - End of Year

\$ 290,243

The accompanying notes are an integral part of these financial statements.

LOCAL AGENCY FORMATION COMMISSION OF NAPA COUNTY
NOTES TO THE BASIC FINANCIAL STATEMENTS
JUNE 30, 2021

NOTE 1 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

A. Reporting Entity

The Local Agency Formation Commission of Napa County (the Commission) was created in 1963 by the California Legislature to encourage the orderly formation and development of local agencies, promote the efficient extension of municipal services, and protect against the premature conversion of agricultural and open-space lands. In 2001, following the enactment of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, the Commission became an independent agency separate from the County of Napa (the County). As of June 30, 2021, there are 23 cities and special districts under the jurisdiction of the Commission in the County.

The Board of Commissioners is comprised of five regular and three alternate members. Each member is appointed pursuant to California Government Code Section 56000 et. seq. and represents one of the following three interests:

- County Members: Two regular and one alternate member represent the County. These members are members of the County Board of Supervisors. Appointments are made by the Board of Supervisors.
- City Members: Two regular and one alternate member represent the four cities and town in the County. The members are mayors or council members. Appointments are made by the City Selection Committee.
- Public Members: One regular and one alternate member represent the general public. Appointments are made by the County and City Members on the Commission.

The Commission includes all activities (operations of its administrative staff and commission officers) considered to be a part of the Commission. The Commission reviewed the criteria developed by the Governmental Accounting Standards Board (GASB) in its issuance of Statement No. 14 and amended by Statement No. 61, relating to the financial reporting entity, to determine whether the Commission is financially accountable for other entities. The Commission has determined that no other outside entity meets the above criteria and, therefore, no agency has been included as a component unit in the financial statements. In addition, the Commission is not aware of any entity that would be financially accountable for the Commission that would result in the Commission being considered a component unit of that entity.

B. Basis of Presentation and Accounting

Government-Wide Financial Statements

The Statement of Net Position and Statement of Activities display information about the primary government (the Commission). These statements include the financial activities of the overall Commission.

The Statement of Activities presents a comparison between direct expenses and program revenues for the Commission's governmental activity. Direct expenses are those that are specifically associated with the Commission's governmental activity. Program revenues include grants and contributions that are restricted to meeting the operational or capital requirements of the Commission. Revenues that are not classified as program revenues, including all taxes and investment income, are presented as general revenues.

NOTE 1 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)**B. Basis of Presentation and Accounting** (Continued)*Government-Wide Financial Statements* (Continued)

The government-wide financial statements are reported using the economic resources measurement focus and the accrual basis of accounting. Revenues are recorded when earned and expenses are recorded when a liability is incurred, regardless of when the related cash flows take place. Nonexchange transactions are those in which the Commission gives (or receives) value without directly receiving (or giving) equal value in exchange, including grants. Revenues from grants are recognized in the fiscal year in which all eligible requirements have been satisfied. No grants have been received or are anticipated to be received in the near future.

When both restricted and unrestricted net position are available, restricted resources are used before non-restricted resources.

Fund Financial Statements

Governmental fund financial statements are reported using the current financial resources measurement focus and the modified accrual basis of accounting. Revenues are recognized when measurable and available (“susceptible to accrual”). Taxes, interest, certain state and federal grants, and charges for services revenues are accrued when their receipt occurs within sixty days after the end of the accounting period so as to be measurable and available. Expenditures are generally recorded when a liability is incurred, as under the accrual basis of accounting. However, debt service expenditures, as well as expenditures related to compensated absences, are recorded only when payment is due.

The General Fund is the Commission’s primary operating fund. It accounts for all financial resources of the general government.

C. Capital Assets

Capital assets are recorded at historical cost or estimated historical cost if actual historical cost is not available. Contributed capital assets are valued at their estimated fair market value on the date contributed. The Commission defines capital assets as assets with an initial, individual cost of more than \$5,000 and an estimated useful life in excess of one year. Capital assets used in operations are depreciated using the straight-line method over their estimated useful lives in the government-wide statements. Depreciation begins on the first day of the fiscal year following the period the asset is placed in service and ends in the fiscal year that it is retired from service or is fully depreciated.

D. Use of Estimates

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect certain reported amounts and disclosures. Accordingly, actual results could differ from those estimates.

NOTE 2 – CASH

Cash at June 30, 2021, consisted of the following:

Cash in County Treasury	\$ 289,210
Imprest Cash	100
	<hr/>
	\$ 289,310
	<hr/> <hr/>

NOTE 2 – CASH (Continued)

The Commission maintains all of its cash and investments with the County Treasurer in an investment pool. On a quarterly basis, the Treasurer allocates interest to participants based upon their average daily balances. Required disclosure information regarding categorization of investments and other deposit and investment risk disclosures can be found in the County's financial statements. The County's financial statements may be obtained by contacting the County's Auditor-Controller's Office at 1195 Third Street, Room B-10, Napa, California 94559. The County Treasury Oversight Committee oversees the Treasurer's investments and policies.

Required disclosures for the Commission's deposit and investment risks at June 30, 2021, were as follows:

Credit risk	Not rated
Custodial risk	Not applicable
Concentration of credit risk	Not applicable
Interest rate risk	Not available

Investments held in the County's investment pool are available on demand and are stated at cost plus accrued interest, which approximates fair value. The Commission has no deposit or investment policy that addresses a specific type of risk.

NOTE 3 – CAPITAL ASSETS

Capital assets at June 30, 2021, were as follows:

	Balance July 1, 2020	Additions	Retirements	Balance June 30, 2021
Capital assets being depreciated:				
Equipment	\$ 19,657	\$ -	\$ -	\$ 19,657
Less accumulated depreciation:				
Equipment	<u>(19,657)</u>	<u>-</u>	<u>-</u>	<u>(19,657)</u>
Capital assets, net	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>

NOTE 4 – NET POSITION/FUND BALANCE**Net Position**

Net position comprises the various net earnings from operating and nonoperating revenues, expenses, and capital contributions. Net position is classified in the following three components: net investment in capital assets, net position – restricted, and net position – unrestricted. The Commission reports net investment in capital assets and net position – unrestricted balances. Net investment in capital assets consists of all capital assets, net of accumulated depreciation and reduced by outstanding debt that is attributable to the acquisition, construction, and improvement of those assets. Unrestricted net position consists of all other net position not included in the above categories.

Fund Balance

Governmental funds report fund balance in classifications based primarily on the extent to which the Commission is bound to honor constraints on the specific purposes for which amounts in the funds can be spent. As of June 30, 2021, fund balances for governmental funds are made up of the following:

NOTE 4 – NET POSITION/FUND BALANCE (Continued)**Fund Balance** (Continued)

- *Nonspendable fund balance* – amounts that are not in spendable form (such as inventory) or are required to be maintained intact.
- *Restricted fund balance* – amounts constrained to specific purposes by their providers (such as grantors, bondholders, and higher levels of government), through constitutional provisions, or by enabling legislation.
- *Committed fund balance* – amounts constrained to specific purposes by the Commission itself, using its highest level of decision-making authority. To be reported as committed, amounts cannot be used for any other purpose unless the Commission takes the same highest level of action to remove or change the constraint.
- *Assigned fund balance* – amounts the Commission intends to use for a specific purpose. Intent can be expressed by the Board of Commissioners or by an official or body to which the Board of Commissioners delegates the authority.
- *Unassigned fund balance* – amounts that are available for any purpose. Positive amounts are reported only in the General Fund.

The Board of Commissioners establishes (and modifies or rescinds) fund balance commitments by adopting a final budget no later than June 15th and approving amendments as needed throughout the year. A fund balance commitment is further indicated in the budget document as a designation or commitment of the fund (such as for special incentives).

In circumstances when an expenditure is made for a purpose for which amounts are available in multiple fund balance classifications, fund balance is generally depleted in the order of restricted, committed, assigned, and unassigned.

The Commission strives to maintain an unassigned fund balance to be used for unanticipated emergencies of approximately four months of expenditures.

NOTE 5 – RELATED PARTY TRANSACTIONS

During the year ended June 30, 2021, the Commission paid the County, a related party, \$447,928 for personnel and other support services.

In addition, the Commission received \$242,700 during the year ended June 30, 2021, from the County, a related party, pursuant to Government Code Section 56381. The County provides half of the intergovernmental revenue to the Commission. The other half is funded by the City of Napa, City of St. Helena, City of American Canyon, City of Calistoga, and Town of Yountville.

NOTE 6 – RISK MANAGEMENT

The Commission is exposed to various risks of loss related to torts; theft of, damage to, and destruction of assets; errors and omissions; injuries to employees; and natural disasters. The Commission participates in the County's risk pool. Information about coverage can be found in the County's basic financial statements.

NOTE 7 – SUBSEQUENT EVENTS

Subsequent events have been evaluated through November 17, 2021, which is the date the basic financial statements were available to be issued. No events have occurred that would require disclosure.

REQUIRED SUPPLEMENTARY INFORMATION

**LOCAL AGENCY FORMATION COMMISSION OF NAPA COUNTY
BUDGETARY COMPARISON SCHEDULE
FOR THE YEAR ENDED JUNE 30, 2021**

	Original Budget	Final Budget	Actual	Variance with Final Budget
Revenues				
Intergovernmental Revenues	\$ 485,400	\$ 485,400	\$ 485,400	\$ -
Charges for Services	21,684	21,684	37,949	16,265
Interest Income	12,000	12,000	6,818	(5,182)
Total Revenues	<u>519,084</u>	<u>519,084</u>	<u>530,167</u>	<u>11,083</u>
Expenditures				
Contracted Administrative Services	429,119	431,119	434,700	(3,581)
Services and Supplies	111,774	135,275	124,986	10,289
Total Expenditures	<u>540,893</u>	<u>566,394</u>	<u>559,686</u>	<u>6,708</u>
Change in Fund Balance	<u>\$ (21,809)</u>	<u>\$ (47,310)</u>	(29,519)	<u>\$ 17,791</u>
Fund Balance - Beginning of Year			<u>319,762</u>	
Fund Balance - End of Year			<u>\$ 290,243</u>	

See accompanying note to the required supplementary information.

**LOCAL AGENCY FORMATION COMMISSION OF NAPA COUNTY
NOTE TO THE REQUIRED SUPPLEMENTARY INFORMATION
FOR THE YEAR ENDED JUNE 30, 2021**

BUDGET AND BUDGETARY REPORTING

The Local Agency Formation Commission of Napa County (the Commission) prepares and legally adopts a final budget on or before June 15th of each fiscal year.

After the budget is approved, the appropriations can be added to, subtracted from, or changed only by Board of Commissioners resolution. All such changes must be within the revenues and reserves estimated as available in the final budget or within revised revenue estimates as approved by the Commission.

An operating budget is adopted each fiscal year on the modified accrual basis of accounting. Additionally, encumbrance accounting is utilized to assure effective budgetary control. Encumbrances outstanding at year-end represent the estimated amount of the expenditures ultimately to result if the unperformed contracts in process at year-end are completed or purchase commitments satisfied. Such year-end encumbrances are reported as reservations of fund balances and do not constitute expenditures or liabilities because the commitments will be honored during the subsequent year and included in the subsequent year's budget. Unencumbered appropriations lapse at year-end. Budgets are prepared using accounting principles generally accepted in the United States of America.

The legal level of budgetary control (the level on which expenditures may not legally exceed appropriations) is at the object level. Object levels of expenditures are as follows: salaries and benefits, services and supplies, and other charges.

OTHER REPORT

**INDEPENDENT AUDITOR'S REPORT ON INTERNAL CONTROL OVER
FINANCIAL REPORTING AND ON COMPLIANCE AND OTHER MATTERS
BASED ON AN AUDIT OF FINANCIAL STATEMENTS PERFORMED IN
ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS**

Board of Commissioners
Local Agency Formation Commission of Napa County
Napa, California

We have audited, in accordance with the auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the basic financial statements of the governmental activities and the major fund of the Local Agency Formation Commission of Napa County (the Commission) as of and for the year ended June 30, 2021, and the related notes to the basic financial statements, which collectively comprise the Commission's basic financial statements, and have issued our report thereon dated November 17, 2021.

Internal Control over Financial Reporting

In planning and performing our audit of the basic financial statements, we considered the Commission's internal control over financial reporting (internal control) as a basis for designing audit procedures that are appropriate in the circumstances for the purpose of expressing our opinions on the basic financial statements, but not for the purpose of expressing an opinion on the effectiveness of the Commission's internal control. Accordingly, we do not express an opinion on the effectiveness of the Commission's internal control.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the Commission's basic financial statements will not be prevented, or detected and corrected on a timely basis. A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

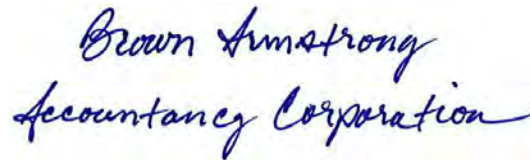
Compliance and Other Matters

As part of obtaining reasonable assurance about whether the Commission's basic financial statements are free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the basic financial statements. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

Purpose of this Report

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the Commission's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the Commission's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

BROWN ARMSTRONG
ACCOUNTANCY CORPORATION

A handwritten signature in blue ink that reads "Brown Armstrong Accountancy Corporation". The signature is written in a cursive style and is positioned below the printed name of the firm.

Bakersfield, California
November 17, 2021



Board of Commissioners
Local Agency Formation Commission of Napa County
Napa, California

We have audited the financial statements of the governmental activities and the major fund of the Local Agency Formation Commission of Napa County (the Commission) for the year ended June 30, 2021. Professional standards require that we provide you with information about our responsibilities under auditing standards generally accepted in the United States of America and *Government Auditing Standards*, as well as certain information related to the planned scope and timing of our audit. We have communicated such information in our letter to you dated April 30, 2021. Professional standards also require that we communicate to you the following information related to our audit.

Significant Audit Matters

Qualitative Aspects of Accounting Practices

Management is responsible for the selection and use of appropriate accounting policies. The significant accounting policies used by the Commission are described in Note 1 to the financial statements. No new accounting policies were adopted and the application of existing policies was not changed during the year. We noted no transactions entered into by the Commission during the year for which there is a lack of authoritative guidance or consensus. All significant transactions have been recognized in the financial statements in the proper period.

Accounting estimates are an integral part of the financial statements prepared by management and are based on management's knowledge and experience about past and current events and assumptions about future events. Certain accounting estimates are particularly sensitive because of their significance to the financial statements and because of the possibility that future events affecting them may differ significantly from those expected. There were no sensitive estimates.

The financial statement disclosures are neutral, consistent, and clear.

Difficulties Encountered in Performing the Audit

We encountered no significant difficulties in dealing with management in performing and completing our audit.

Corrected and Uncorrected Misstatements

Professional standards require us to accumulate all known and likely misstatements identified during the audit, other than those that are clearly trivial, and communicate them to the appropriate level of management. No such misstatements were identified.

Disagreements with Management

For purposes of this letter, a disagreement with management is a financial accounting, reporting, or auditing matter, whether or not resolved to our satisfaction, that could be significant to the financial statements or the auditor's report. We are pleased to report that no such disagreements arose during the course of our audit.

Management Representations

We have requested certain representations from management that are included in the management representation letter dated November 17, 2021.

Management Consultations with Other Independent Accountants

In some cases, management may decide to consult with other accountants about auditing and accounting matters, similar to obtaining a “second opinion” on certain situations. If a consultation involves application of an accounting principle to the Commission’s financial statements or a determination of the type of auditor’s opinion that may be expressed on those statements, our professional standards require the consulting accountant to check with us to determine that the consultant has all the relevant facts. To our knowledge, there were no such consultations with other accountants.

Other Audit Findings or Issues

We generally discuss a variety of matters, including the application of accounting principles and auditing standards, with management each year prior to retention as the Commission’s auditors. However, these discussions occurred in the normal course of our professional relationship and our responses were not a condition to our retention.

Other Matters

We applied certain limited procedures to Management’s Discussion and Analysis and the Budgetary Comparison Schedule, which are required supplementary information (RSI) that supplement the basic financial statements. Our procedures consisted of inquiries of management regarding the methods of preparing the information and comparing the information for consistency with management’s responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We did not audit the RSI and do not express an opinion or provide any assurance on the RSI.

Restriction on Use

This information is intended solely for the information and use of the Board of Commissioners and management of the Commission and is not intended to be, and should not be, used by anyone other than these specified parties.

BROWN ARMSTRONG
ACCOUNTANCY CORPORATION

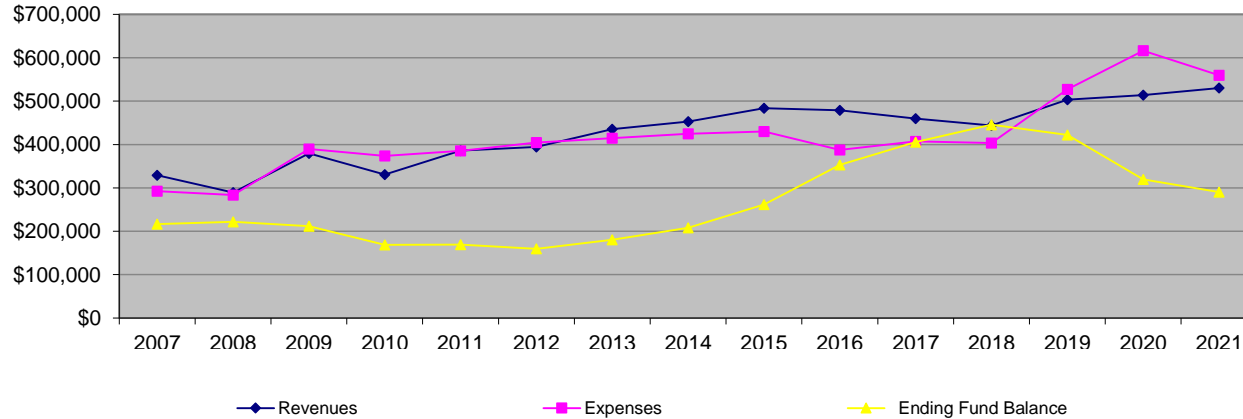
*Brown Armstrong
Accountancy Corporation*

Bakersfield, California
November 17, 2021

LAFCO Financial Summary
For the Past 15 Years

Attachment Three

	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Revenues	\$ 329,214	\$ 289,341	\$ 379,499	\$ 330,942	\$ 386,070	\$ 394,658	\$ 435,317	\$ 452,727	\$ 483,743	\$ 479,137	\$ 459,555	\$ 443,870	\$ 503,137	\$ 514,135	\$ 530,167
Expenses	292,636	283,622	389,688	373,993	385,677	404,358	414,578	424,924	430,146	387,701	407,207	403,630	526,982	616,203	559,686
Surplus/Deficit	\$ 36,578	\$ 5,719	\$ (10,189)	\$ (43,051)	\$ 393	\$ (9,700)	\$ 20,739	\$ 27,803	\$ 53,597	\$ 91,436	\$ 52,348	\$ 40,240	\$ (23,845)	\$ (102,068)	\$ (29,519)
Fund Balance:															
Beginning Fund Balance	\$ 179,762	\$ 216,340	\$ 222,059	\$ 211,870	\$ 168,819	\$ 169,212	\$ 159,512	\$ 180,251	\$ 208,054	\$ 261,651	\$ 353,087	\$ 405,435	\$ 445,675	\$ 421,830	\$ 319,762
Surplus/Deficit 6/30	36,578	5,719	(10,189)	(43,051)	393	(9,700)	20,739	27,803	53,597	91,436	52,348	40,240	(23,845)	(102,068)	(29,519)
Ending Fund Balance	\$ 216,340	\$ 222,059	\$ 211,870	\$ 168,819	\$ 169,212	\$ 159,512	\$ 180,251	\$ 208,054	\$ 261,651	\$ 353,087	\$ 405,435	\$ 445,675	\$ 421,830	\$ 319,762	\$ 290,243
Breakdown of Fund Balance:															
Professional Services	\$ 50,000	\$ 50,000	\$ 50,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Operating Reserve	36,978	37,879	40,594	-	-	-	-	-	-	-	-	-	-	-	-
Petty Cash Reserve	-	-	-	100	100	100	100	100	100	100	100	100	100	100	100
Equipment Replacement Reserve	-	-	-	3,931	7,862	11,793	15,724	19,557	19,557	19,557	19,557	19,557	19,557	19,557	19,557
Future Projects	-	55,000	-	-	-	-	-	-	-	-	-	-	-	-	-
Reserve for Encumbrances	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Available Fund Balance	129,362	79,180	121,276	164,788	161,250	147,619	164,427	188,397	241,994	333,430	385,778	426,018	402,173	300,105	270,586
Total Fund Balance	\$ 216,340	\$ 222,059	\$ 211,870	\$ 168,819	\$ 169,212	\$ 159,512	\$ 180,251	\$ 208,054	\$ 261,651	\$ 353,087	\$ 405,435	\$ 445,675	\$ 421,830	\$ 319,762	\$ 290,243





Local Agency Formation Commission of Napa County
Subdivision of the State of California

1754 Second Street, Suite C
Napa, California 94559
Phone: (707) 259-8645
www.napa.lafco.ca.gov

We Manage Local Government Boundaries, Evaluate Municipal Services, and Protect Agriculture

Agenda Item 10d (Action)

TO: Local Agency Formation Commission

PREPARED BY: Brendon Freeman, Executive Officer *BF*

MEETING DATE: December 6, 2021

SUBJECT: Consideration of Appointment Procedure for Public Member

RECOMMENDATION

It is recommended the city and county members provide direction to the Executive Officer with respect to the appointment procedure for the Public Member position currently held by Kenneth Leary.

BACKGROUND AND SUMMARY

California Government Code Section 56325(d) states the composition of LAFCOs shall include one member representing the general public, referred to as the “Public Member”. This statute also states that LAFCOs may designate one Alternate Public Member. The Public Member and Alternate Public Member are each appointed to four-year terms and by statute cannot be officers or employees with local governmental agencies.

Commissioner Leary’s term as Public Member expires on Monday, May 2, 2022. The Commission originally appointed Commissioner Leary as Public Member beginning in April 2021 to fill an unexpired term. Commissioner Leary previously served as the Commission’s Alternate City Member from February 2017 to May 2019, and then served as the regular City Member from May 2019 to December 2020.

The Commission’s *Policy on the Appointment of a Public Member and Alternate Public Member* (“the Policy”) is included as Attachment One. The Policy directs the Executive Officer to notify the Commission no less than 120 days prior to an impending vacancy and whether the incumbent is eligible to seek reappointment. Upon notification, the Commission must direct the Executive Officer to (a) recruit candidates and schedule a hearing to make an appointment or (b) schedule a hearing to expedite the reappointment of the incumbent if they are eligible and have served no more than one term.

Commissioner Leary is eligible to seek reappointment and is also eligible for an expedited reappointment consistent with the Policy.

Margie Mohler, Vice Chair
Councilmember, Town of Yountville

Mariam Aboudamous, Commissioner
Councilmember, City of American Canyon

Beth Painter, Alternate Commissioner
Councilmember, City of Napa

Diane Dillon, Chair
County of Napa Supervisor, 3rd District

Brad Wagenknecht, Commissioner
County of Napa Supervisor, 1st District

Ryan Gregory, Alternate Commissioner
County of Napa Supervisor, 2nd District

Kenneth Leary, Commissioner
Representative of the General Public

Eve Kahn, Alternate Commissioner
Representative of the General Public

Brendon Freeman
Executive Officer

ALTERNATIVES FOR COMMISSION ACTION

Staff has identified the following three alternatives for Commission consideration.

Alternative Action One:

Schedule a future public hearing date to reappoint Commissioner Leary to a new four-year term as Public Member consistent with the procedures identified in the Policy. The hearing date should be before May 2, 2022.

Alternative Action Two:

Direct the Executive Officer to initiate an open recruitment for the Public Member position and schedule a future public hearing date consistent with the procedures identified in the Policy. The hearing date should be before May 2, 2022. The Commission may provide additional direction as desired with respect to organizing the recruitment and appointment process.

Alternative Action Three:

Continue consideration of this item to the Commission's next regular meeting scheduled for February 7, 2022, and direct staff to provide additional information as necessary.

ATTACHMENT

- 1) Policy on the Appointment of a Public Member and Alternate Public Member



LOCAL AGENCY FORMATION COMMISSION OF NAPA COUNTY

Policy on the Appointment of a Public Member and Alternate Public Member

(Adopted: October 11, 2001; Last Amended: November 18, 2019)

I. Background

The Cortese-Knox-Hertzberg Local Government Reorganization (CKH) Act of 2000 includes provisions for the composition of the Commission including the Public Member as follows:

The composition of the Commission shall include one member representing the general public, hereinafter referred to as “public member.” The Commission may designate one alternate public member. The selection of the public member and alternate public member shall be subject to the affirmative vote of at least one of the members appointed by each of the appointing authorities ([California Government Code \(G.C.\) §56325\(d\)](#)).

II. Purpose

It is the intent of the Commission to establish a policy for the appointment of a public member and alternate public member which is consistent with CKH. This policy also includes procedures to address a vacancy in the position and other relevant matters.

III. Eligibility

The public member and alternate public member shall be a resident of Napa County. No person may serve as public member or alternate public member if at the same time they are an officer or employee of the County, a city, town or district within Napa County.¹ For purposes of this policy, an officer of a local government agency is a member of a local public board, commission, committee, or council with the authority to make advisory or final decisions relative to land use or the provision of municipal services.

IV. Term of Office

The term of office for Public Member and Alternate Public Member shall be four years and shall end on the first Monday in May of the year in which the term expires. The Public Member and Alternate Public Member shall continue to serve until a successor is appointed.

¹ The term “district” is defined in [G.C. §56036](#).

V. Appointment Procedures

A) New Term for Public Member or Alternate Public Member

It is the policy of the Commission that in anticipation of the expiration of a four-year term for the Public Member or Alternate Public Member, the following procedures will be taken:

At a regular meeting at least 120 days prior to the scheduled expiration of the Public Member or Alternate Public Member's term, the Executive Officer shall inform the Commission of the impending vacancy and whether the incumbent is eligible to seek reappointment. The Commission shall take one of the following two actions as set forth in the following subsection 1 or 2 below.

- 1) Direct the Executive Officer to recruit candidates and schedule a public hearing to consider making an appointment to the position. Tasks of the Executive Officer shall include, but not limited to, the following:
 - (a) At least 60 days prior to the scheduled hearing for the appointment, issue a notice announcing the vacancy and that the Commission is accepting applications for the position. The notice shall be posted at the LAFCO office and on its website, sent to all local agencies, and published in a newspaper of general circulation in Napa County.² The notice shall indicate if the incumbent is eligible for reappointment.
 - (b) Determine the filing period to receive applications for the position. All applications shall be made available to each city and county member on the Commission at least 14 days prior to the scheduled hearing for the appointment.
 - (c) If it becomes necessary for the Commission to cancel or reschedule the meeting at which the hearing for the appointment has been scheduled, the Executive Officer shall reschedule the hearing for the next regular meeting.
- 2) If the incumbent is eligible and has served no more than one four-year term, the Commission may direct the Executive Officer to schedule a public hearing to consider approving reappointment. Tasks of the Executive Officer shall include, but not limited to, the following:
 - (a) Issue a notice announcing the scheduled reappointment of the incumbent. The notice shall be posted at the LAFCO office and on its website and sent to all local agencies. The notice shall be posted at least 21 days prior to the hearing for which the reappointment has been scheduled.
 - (b) If it becomes necessary for the Commission to cancel or reschedule the meeting at which the hearing for the reappointment has been scheduled, the Executive Officer shall reschedule the hearing for the next regular meeting.

² For purposes of this policy, notice to local agencies is fulfilled by sending a copy of the notice to the clerk or secretary of the legislative body of each local agency in Napa County. Publishing in a newspaper of general circulation in Napa County shall be conducted by publishing, at minimum, a prominently placed display ad.

B) Mid-Term Vacancies

An appointment to fill an unexpired term for the position of Public Member or Alternate Public Member shall be preceded by posting a notice of vacancy. The notice will be posted at the LAFCO office and on its website and sent to all local agencies. The notice will be posted at least 21 days prior to the meeting at which time the Commission will consider taking action to fill the unexpired term. An appointment to fill an unexpired term will occur as follows:

- 1) Public Member: If the position of Public Member becomes vacant prior to the expiration of the term, it is the policy of the Commission that it may fill the unexpired term through one of the following:
 - (a) Appoint the Alternate Public Member.
 - (b) Fill the position in the manner prescribed in Section V(A) “New Term for Public Member or Alternate Public Member” for the appointment of the Public Member to a new term.
- 2) Alternate Public Member: If the position of Alternate Public Member becomes vacant prior to the expiration of the term, it is the policy of the Commission that it may fill the unexpired term in the manner prescribed in Section V(A) “New Term for Public Member or Alternate Public Member” for the appointment of the Alternate Public Member to a new term.

C) Conducting Public Hearings for Appointing a Public Member or Alternate Public Member

It is the policy of the Commission that a public hearing to appoint either the Public Member or Alternate Public Member shall be conducted as follows:

The Chair shall open the public hearing and first invite candidates to address the Commission. The Commission may ask questions of the candidates. The Chair shall then invite public comments from the audience. Upon the close of the public comment period, the Public Member or Alternate Public Member will be selected based upon a motion and second followed by an affirmative vote.