

RESOLUTION R2020-134

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NAPA, STATE OF CALIFORNIA, APPROVING A USE PERMIT, DESIGN REVIEW PERMIT AND ALTERNATIVE EQUIVALENT FOR THE FIRST AND OXBOW HOTEL AT 731 FIRST STREET AND DETERMINING THAT THE ACTIONS AUTHORIZED BY THIS RESOLUTION WERE ADEQUATELY ANALYZED BY A PREVIOUS CEQA ACTION OR ARE OTHERWISE EXEMPT.

WHEREAS, on September 13, 2017, JB Leamer ("Applicant"), submitted an application (PL16-0124) for a use permit pursuant to Napa Municipal Code ("NMC") Chapter 17.60 ("Use Permit") to authorize a 74-room hotel and a design review permit pursuant to NMC Chapter 17.62 ("Design Review Permit") to construct two four-story hotel buildings totaling 122,666 square feet in size on two lots bisected by the Wine Train railroad at the southeast corner of the intersection of First Street and Soscol Avenue and bounded by First Street, Soscol Avenue, the Napa River, the Water Street right-of-way, and the Napa River (the "Site"), APNs 003-235-003, -004, -005, -006, -007, 003-241-003, -006 (the "Project"); and

WHEREAS, the Planning Commission of the City of Napa, State of California, held a noticed public hearing on July 16, 2020 and recommended denial of the subject application; and

WHEREAS, the City Council has considered all information related to the Use Permit, Design Review Permit and Alternative Equivalent as presented at the public meetings of the City Council identified herein, including any supporting reports by City Staff, and any information provided during public meetings.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Napa as follows:

Section 1. The City Council hereby finds that the facts set forth in the recitals to this Resolution are true and correct, and establish the factual basis for the City Council's adoption of this Resolution.

Section 2. The City Council hereby determines based on the Initial Study/Addendum for the First and Oxbow Gateway Project dated June 2020 ("Addendum") that was prepared as an addendum to the Downtown Napa Specific Plan Environmental Impact Report (SCH#20100042043) certified by the City Council by Resolution No. R2012-54 ("DNSP EIR") that the potential environmental impacts of the hotel project, including the removal of the Local Landmark structures from 718 Water Street and 731 First Street, were adequately analyzed and addressed in the DNSP EIR and that no further environmental review is required pursuant to CEQA Guidelines

Sections 15162, 15164, and 15168. The City Council further determines that the relocation of the Local Landmark structures to 58 Randolph Street is exempt from CEQA pursuant to CEQA Guidelines Sections 15303 (Class 3, which exempts construction and location of limited numbers of new structures, including up to three single family residences in urbanized areas), 15331 (Class 31, which exempts rehabilitation and restoration of historical structures in a manner consistent with the Secretary of Interior's Standards for the Treatment of Historic Properties) and 15332 (Class 32, which exempts infill development on sites that are five acres or less).

Section 3. The City Council hereby approves the Use Permit and makes the following findings in support of the approval:

The proposed use is in accord with the General Plan, applicable specific plans, the objectives of the Zoning Ordinance, and the purposes of the district and overlay district in which the site is located.

The Project would align with the goals of the Oxbow Commercial (OBC) land use designation and zoning as well as the goals and standards of the Downtown Napa Specific Plan (DNSP). In particular, the hotel makes efficient use of the underutilized site between the central part of First Street and the Oxbow Market. It proposes lodging facilities at a conveniently accessed site and with an active street frontage that would be consistent with Goal LU- 5 and Policies LU 5.6, LU5.8, and LU 6.1.

The Project would further be consistent with the DNSP in that the proposed design would feature a human-scale, pedestrian-friendly environment that is inviting to residents and visitors by having multiple commercial spaces accessible from First Street and Soscol Avenue. The Project would place priority on high-quality design and developing unique structures that complement their surroundings, orienting buildings and entrances to streets and public gathering places. The design of the new building would be complementary to the existing mix of buildings in the DNSP area, being a tall, contemporary building with an active street front like other new downtown Napa hotels built on First Street next to prewar commercial buildings. It is superior to other contemporary buildings in the Oxbow area for having this sidewalk interface where the others are behind vast parking lots. The design would meet the Guidelines of the DNSP and would meet the development standards prescribed by the "Downtown II" Building Form Overlay. Accordingly, the Project is found to further the objectives and policies of the General Plan and would not inhibit attainment of any goals or objectives outlined in the General Plan or the DNSP.

The proposed use, together with the conditions applicable thereto, will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity, or to the general welfare of the City.

The Project application has been circulated to relevant departments and agencies and their comments and special conditions have been incorporated to ensure the Project will not pose a nuisance to the community. The Public Works Department has determined

that the improvements have been designed consistent with both the existing City Floodplain Management regulations and standards, and with Federal floodplain criteria. The proposed access points have been reviewed, modified and designed to minimize traffic conflicts, thereby rendering safe vehicular and pedestrian movements. The building will be setback consistent with the City's site distance standards at the intersection of Soscol Avenue and First Street ensuring safe flow of traffic, both vehicular and pedestrian, at the intersection in front of the Project. Historically, portions of the Site had been occupied by various uses including a foundry, machine shop and a dry cleaning business. Although subsurface investigations conducted with the Phase I ESA determined lead levels below the commercial/industrial land use ESL thresholds, the Project has been conditioned to prepare a Soils Management Plan, Health and Safety Plan and a Human Health Risk Assessment Plan to Construction Workers to ensure contaminants of concern do not pose human health risks to future construction and utility workers and the general public. As conditioned, the Project will not cause negative impacts to the neighborhood nor result in impacts that would be detrimental to the public health, safety, or welfare. Hospitality and visitor accommodation uses already function proximate to the Site.

The proposed use complies with each of the applicable provisions of the Zoning Ordinance.

Hotels may be established by a Use Permit in the OBC Zoning District. The proposed hotel has been reviewed for compliance with the DNSP "Downtown II" development standards and has been found to be compliant with these standards. With City Council approval of a Use Permit as conditioned, the proposed use will be in compliance with the provisions of Chapters 17.10 and 17.60 and 17.52.095 of the Zoning Ordinance.

Section 4. The City Council hereby approves the Design Review Permit and makes the following findings in support of the approval:

The project design is in accord with the General Plan and any applicable Specific Plan design policies.

The proposed Project, associated improvements, and tourist-oriented use of the Site are consistent with the OBC General Plan designation and the prescribed General Plan Floor Area Ratio (FAR). The General Plan allows for a maximum FAR of 4.0 and this Project provides a FAR of 3.97 which is below the General Plan maximum FAR. Likewise, the Project meets the DNSP Design Guidelines in that it employs four-sided architecture, makes a reasonable effort to minimize the perceived mass and scale, and includes measures to create an active pedestrian street frontage. Accordingly, the Project aligns with the design policies set forth in the General Plan and DNSP.

The project design is consistent with applicable Design Review guidelines adopted by the City Council.

The Project is subject to the DNSP Design Guidelines. The proposed hotel's design, site layout and architecture are consistent with the goals, policies and recommendations outlined in the Design Guidelines. The Project design employs four-sided architecture, makes a reasonable effort to minimize the perceived mass and scale, and employs thoughtful landscaping and sustainability measures. The design will exhibit a contemporary interpretation of the traditional "small block, small lot" development pattern in Downtown Napa. The new building would employ articulation in walls and roofing while using a contemporary style with natural materials that would provide variety in First Street architecture. All design elements meet the DNSP Design Guidelines.

The Design Review Permit is in accord with provisions of this Title and will not be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety, or general welfare.

The Design Review permit is consistent with NMC Title 17 (Zoning Ordinance), and the development standards of the DNSP "Downtown II" District. As conditioned, the proposed Project would not result in any significant impacts. The hotel and its tourist-oriented uses have been appropriately conditioned to minimize any potential impacts to the surrounding neighborhood and therefore would not result in adverse impacts to adjacent properties or to the general health, safety, and welfare of the community.

Section 5. The City Council hereby approves the Alternative Equivalent proposal attached hereto and incorporated herein as Exhibit C ("Alternative Equivalent Proposal") pursuant to NMC Section 15.94.070 and finds that the proposal will further affordable housing opportunities in the city to an equal or greater extent than payment of the affordable housing impact fees required by Chapter 15. 94 and implementing resolutions.

Section 6. The City Council hereby approves the removal of a protected native tree from the Site pursuant to NMC Section 12.45.090.B.2 and makes the following finding in support of the approval:

The protected native tree must be removed in order for the applicant to use the property for any use permitted by the city for property where the tree is located, and that such use could not be reasonably made of the property unless the tree is removed.

The protected native tree, a Coast Live Oak 36 inches in diameter at breast height, is in the area where the western hotel building will stand. The protected native tree must be removed in order to allow construction of improvements, and no reasonable use of the property can be made unless the tree is removed.

Section 7. The City Council's approval of the Use Permit, Design Review Permit and Alternative Equivalent are subject to the following conditions:

Community Development Department – Planning Division

1. This Use Permit and Design Review Permit authorizes the construction and operation of a 74-room hotel with 37 rooms in each building. The plans submitted for building permits shall conform substantially to the plans and representations submitted with the application (date stamped March 13, 2020) and as reviewed and approved by the City Council, and as amended by these conditions of approval. The approved plans consist of two, four-story buildings totaling approximately 122,666 square feet on two lots that combine to be a site 0.8 acres in size. The west building would have 2,787 square feet of commercial tenant space that could accommodate five commercial tenants as proposed. The pool and fitness facilities would be in the west building. The east building would have 3,507 square feet of commercial tenant space for six commercial tenants as proposed and 5,754 square feet of conference and meeting space. Both buildings would have outdoor bars on their top floors. The hotel would provide 121 parking spaces divided between each building's two-level subterranean garage. Each building would be served by its own laundry and housekeeping facilities. There will be an improved path between First Street and Water Street adjacent to and parallel to the railroad. This Design Review Permit approves the design and installation of the public art piece titled "You are Here" ("Artwork") in accordance with the plans submitted with the application.

2. Applicant shall replace or pay the in-lieu fee for removing one protected native tree (Coast Live Oak) with a diameter of 36 inches. For each six inches or fraction thereof of the protected native tree, two 15-gallon replacement trees of the same species as the protected tree shall be planted on the Site. As the landscape plan does not include any Coast Live Oak trees, the Applicant must pay the tree replacement in-lieu fee listed in the City of Napa Master Schedule of City Fees, Fines, and Charges prior to issuance of Building Permits.

3. All project conditions of approval shall be printed verbatim on one of the first three pages of all the working drawing sets used for issuance of Building Permits (architectural, structural, electrical, mechanical and plumbing) and shall be referenced in the sheet index. The minimum font size utilized for printed text shall be 12 point.

4. The Planning Manager is authorized to determine whether the Applicant is in compliance with the requirements of the Design Review Permit and Use Permit.

5. Valet queuing shall not occur in the First Street travel lane.

6. Prior to issuance of any demolition permit, grading permit, site improvement permit, or building permit for the Site, the Applicant must obtain a building permit for the relocation of the Local Landmark structures at 731 First Street and 718 Water Street to 58 Randolph Street.

7. Prior to issuance of a Certificate of Occupancy for either hotel building, the Applicant must obtain Certificates of Occupancy for both Local Landmark structures at 58 Randolph Street.

8. All mechanical and utility equipment, including transformers and backflow devices, shall be screened and/or integrated into a building structure. Screens shall not be used where they would disproportionately increase the mass of the building or introduce elements that are inconsistent with the high level of design quality reviewed as part of this approval. Landscaping and screening of devices must be installed prior to issuance of a Certificate of Occupancy for the Project.

9. The plans submitted for Building Permit shall include building elevations that provide the same level of architectural detail found on the front elevation for all elevations. The exterior treatment of each building elevation shall be consistent in form and materials, and provide an overall coherent design for the entire building.

10. A detailed landscaping and irrigation plan shall be reviewed and approved by the Community Development Director prior to issuance of a Building Permit. All landscaping shall be installed in compliance with approved landscape plans prior to the issuance of a Certificate of Occupancy.

11. All proposed and required fencing shall be installed in compliance with the approved landscape and fencing plan prior to the issuance of a Certificate of Occupancy.

12. The Lot Merger as delineated on Sheet DR1 of the project plans prepared by RSA+, dated March 12, 2020 shall be recorded prior to issuance of a building permit.

13. The abandonment of portions of the Water Street right-of-way as delineated on Sheet DR1 of the project plans prepared by RSA+, dated March 12, 2020 shall be completed prior to issuance of a building permit.

14. Prior to issuance of a Building Permit, the Applicant shall fulfill all obligations and comply with all requirements regarding the Alternative Equivalent Proposal, dated November 14, 2020, attached hereto and incorporated herein as Exhibit C ("Alternative Equivalent Proposal") and approved by this Resolution. Prior to issuance of any building permit for the Project, the Applicant shall provide the City with an executed affordable housing agreement consistent with NMC Section 15.94.080, in substantial conformance with the Alternative Equivalent Proposal, acceptable to the Community Development Director, and approvable as to form by the City Attorney.

15. The Applicant shall obtain a Building Permit from the Building Division prior to installation of the Artwork.

16. Prior to the issuance of a Building Permit for the installation of the Artwork, the owner shall enter into a maintenance agreement with the City to be recorded against the Site, in a form acceptable to the City Attorney, to ensure that proper maintenance is performed as determined by the Community Development Director.

17. Prior to the issuance of a certificate of occupancy for the hotel, the Applicant shall provide the Community Development Director with proof of installation of the Artwork.

Upon City's receipt of such proof, the Applicant shall be deemed to have complied with NMC Section 15.108.040C.

18. If the cost of the public art is less than the required public art contribution (as defined in NMC Section 15.108.020) for the Project, the Applicant shall make an in-lieu contribution for the balance of the public art contribution.

19. All windows and glass proposed for the exterior of the building shall be non-reflective glass.

20. The Applicant shall develop a plan demonstrating that the off-road equipment used on-site to construct the Project would achieve a fleet-wide average 84-percent reduction in DPM exhaust emissions or greater. One feasible plan to achieve this reduction would include the following:

All diesel-powered off-road equipment, larger than 25 horsepower, operating on the site for more than two days continuously shall, at a minimum, meet U.S. EPA particulate matter emissions standards for Tier 3 engines and this equipment shall include CARB-certified Level 3 Diesel Particulate Filters or equivalent. Additionally, equipment that meets U.S. EPA Tier 4 interim standards or use of equipment that is electrically powered or uses non-diesel fuels would meet this requirement.

21. The Applicant shall comply with the following measures to reduce vibration impacts from construction activities:

- a. Avoid impact pile driving where possible. Drilled piers or rammed aggregate piers cause lower vibration levels where geological conditions permit their use.
- b. Phase demolition, earth-moving, and ground impacting operations so as not to occur during the same time period.
- c. A list of all heavy construction equipment to be used for this project and anticipated time duration of using the equipment that is known to produce high vibration levels (clam shovel drops, vibratory rollers, tracked vehicles, vibratory compaction, jackhammers, hoe rams, etc.) shall be submitted to the City by the contractor. This list shall be used to identify equipment and activities that would potentially generate substantial vibration and to define the level of effort for reducing vibration levels below the thresholds.
- d. If pile driving is required, notify neighbors within 500 feet of the construction site of the construction schedule and that there could be noticeable vibration levels resulting from pile driving.
- e. If pile driving is required, foundation pile holes shall be pre-drilled to minimize the number of impacts required to seat the pile.
- f. If pile driving is required, jet or partially jet piles into place to minimize the number of impacts required to seat the pile.
- g. A construction vibration monitoring plan shall be implemented to document conditions at all structures located within 50 feet of construction. If pile driving is

used the construction vibration monitoring plan shall document all structures within 125 feet prior to, during, and after pile driving. The plan shall be finalized upon receipt of the final foundation design. All plan tasks shall be undertaken under the direction of a licensed Professional Structural Engineer in the State of California and be in accordance with industry-accepted standard methods. The construction vibration monitoring plan should be implemented to include the following tasks:

- i. Identification of sensitivity to ground-borne vibration of nearby structures. Vibration limits should be applied to all vibration-sensitive structures located within 50 feet of any pile driving activities.
- ii. Performance of a photo survey, elevation survey, and crack monitoring survey for each of structure of normal construction within 90 feet of pile driving activities and/or within 25 feet of other construction activities identified as sources of high vibration levels. Surveys shall be performed prior to any pile driving activity, in regular interval during pile driving, and after completion and shall include internal and external crack monitoring in structures, settlement, and distress and shall document the condition of foundations, walls and other structural elements in the interior and exterior of said structures.
- h. Conduct post-survey on structures where complaints of damage have been made. Make appropriate repairs or compensation where damage has occurred as a result of construction activities.
- i. Designate a person responsible for registering and investigating claims of excessive vibration. The contact information of such person shall be clearly posted on the construction site.

22. The Project shall be designed so as not to cause significant off-site flooding impacts as defined by NMC Chapter 17.38.

23. Provide a suitable form of forced-air mechanical ventilation, as determined by the Chief Building Official, for all buildings so that windows can be kept closed to control noise.

24. Provide sound rated windows to north, south, and west facing hotel room façades of 711 First Street to maintain interior noise levels at acceptable levels. Preliminary calculations show that sound-rated windows with minimum STC Ratings of 26 to 30 or higher would be satisfactory to achieve acceptable interior noise levels, assuming a window to wall ratio of 40 percent or less. The specific determination of what noise insulation treatments are necessary shall be conducted on a room-by-room basis during final design of the project once final building plans are available.

25. The Applicant shall prepare a Soil Management Plan, Health and Safety Plan, and a Human Health Risk Assessment to Construction Workers to ensure contaminants of concern do not pose human health risks to future construction and utility workers and general public.

26. The Applicant shall prepare a GHG Reduction Plan that includes the proper elements to reduce emissions from the project below 660 MT of CO₂e annually. Elements of this plan may include, but would not be limited to, the following:

- a. Installation of solar power systems or other renewable electric generating systems that provide electricity to power on-site equipment and possibly provide excess electric power;
- b. Install efficient space and water heating systems;
- c. Develop and implement a transportation demand management (TDM) program to further reduce mobile GHG emissions.
- d. Construct onsite or fund off-site carbon sequestration projects (such as a forestry or wetlands projects for which inventory and reporting protocols have been adopted). If the project develops an off-site project, it must be registered with the Climate Action Reserve or otherwise approved by the BAAQMD in order to be used to offset Project emissions;
- e. Purchase of carbon credits to offset Project annual emissions. Carbon offset credits must be verified and registered with The Climate Registry, the Climate Action Reserve, or another source approved by the California Air Resources Board or BAAQMD. The preference for offset carbon credit purchases include those that can be achieved as follows: 1) within the City; 2) within the San Francisco Bay Area Air Basin; 3) within the State of California; then 4) elsewhere in the United States. Provisions of evidence of payments, and funding of an escrow-type account or endowment fund would be overseen by the City.

27. Consistent with Downtown Napa Specific Plan EIR Mitigation Measure 4.D-2a, an archaeological literature search was completed and found the project site is highly sensitive for archaeological resources. A program of subsurface exploration to sample the historically sensitive areas and the deeper native soils that could contain remnant archaeological resources shall be completed by a qualified archaeologist immediately following building demolition and prior to Project grading. In the event archaeological materials are discovered, the resources will be assessed consistent with Downtown Napa Specific Plan EIR Mitigation Measure Mitigation Measure 4.D-2b.

28. Construction activities shall be limited to specific times pursuant to NMC 8.08.025 which limits construction activities to 7:00 a.m. to 7:00 p.m., Monday through Friday and 8:00 a.m. to 7:00 p.m. on weekends or legal holidays, unless a permit is first secured from the City Manager (or his/her designee) for additional hours. The ordinance further states that there will be: no start-up of machines or equipment prior to 8:00 a.m., Monday through Friday; no delivery of materials or equipment prior to 7:30 a.m. or equipment past 6:00 p.m., Monday through Friday; and no servicing of equipment past 6:45 p.m., Monday through Friday.

29. The Applicant shall comply with all mitigation measures from the Downtown Napa Specific Plan Environmental Impact Report Mitigation Monitoring and Reporting Program attached hereto as Exhibit "A" and incorporated herein by reference that are applicable to this Project as determined by the Community Development Director.

30. The Applicant shall obtain a sign permit for all project signage. Temporary signs may be permitted in accordance with NMC Section 17.55.120.

31. Prior to issuance of a building permit, the Applicant shall provide written clearance from the Engineering Division of the Napa Sanitation District and Napa County Environmental Health confirming that the Applicant has complied with all Napa Sanitation District and Napa County Environmental Health requirements applicable to the Project. The Napa Sanitation District has described the applicable requirements in a letter to the Planning Division dated April 7, 2020, attached hereto and incorporated herein as "Exhibit B".

BUILDING DIVISION:

32. Verification of the following shall be required prior to Building permit issuance if applicable:

- a. City of Napa Water Connection fee, (707) 257-9521.
- b. Napa Sanitation District approval, (707) 258-6000.
- c. Napa Valley Unified School District (must show proof of payment from NVUSD), (707) 253-3549.
- d. Public Works Encroachment and or Grading permit may be required, (707) 257-9520.
- e. Napa County Environmental Health Department approval may be required for this project, (707) 252-6052.
- f. Bay Area Air Quality Management District approval may be required for this project if any buildings are required to be demolished. Note: An approval letter from BAAQMD would be required prior to permit issuance, (707) 749-4762.

33. As a condition of this Planning approval and prior to Building permit issuance, the Applicant shall provide to the Building Division the following at time of Building Permit application: Note: The list below may not be a complete list.

- a. A completed Building Permit application.
- b. 7 complete sets of plans for review and approval.
- c. Building, Planning and Fire Prevention plan review fees are due at time of building permit application, all other building permit, Public Works plan review, and all impact fees are due at time of building permit issuance.
- d. Energy Compliance documentation for review and approval.
- e. Waste Reduction and Recycling Program form for review and approval.
- f. A Geotechnical Soils investigation report may be required for this project.

- g. Fire sprinklers may be required for this project. Note: When fire sprinklers and/or fire alarm systems are required, plans shall be submitted under separate cover.

PUBLIC WORKS DEPARTMENT:

34. Prior to issuance of a building permit, the Applicant shall (1) provide evidence to the Public Works Director that a Final Parcel Map has been recorded for the 58 Randolph Street and (2) comply with the conditions of approval in Resolution PC 2018-31.

35. Prior to issuance of a building permit, the Applicant shall obtain a transportation permit from the City of Napa Public Works Department to transport the historic structures at 718 Water Street and 731 First Street to 58 Randolph Street.

36. Approval of this Project shall be subject to the requirements of (and all improvements shall be constructed in accordance with) the NMC, the City of Napa Standard Specifications and Standard Plans (dated October 2018), including any supplemental updates thereto, and the City's "Post-Construction Storm Water Pollution Prevention Design Standards".

37. The Applicant shall construct all on and offsite improvements in accordance with improvement plans and supporting calculations that are prepared by a registered civil engineer and reviewed and approved by the City of Napa Public Works Department (PW) Development Engineering Division. The improvement plans shall be prepared in conformance with the plans prepared by Backen Gillam Architects dated March 9, 2020 and RSA+ Civil Drawings dated March 12, 2020 as modified herein by these Conditions of Approval. The improvement plans and supporting calculations shall include detailed designs for all utilities, water, grading, drainage, erosion control, stormwater, paving, and striping. The Improvement Plans and calculations must be approved by the City Engineer prior to the issuance of the Building Permit.

38. The improvement plans shall be prepared in accordance with (and submittals shall be accompanied by) the "Initial Submittal Checklist" and the "Improvement Plan Checklist". The checklists are available on the City of Napa Website (www.cityofnapa.org) under the Public Works Department Development Engineering Division Forms and Handouts menu.

39. The Applicant shall pay a \$5,000 initial cash deposit for city plan check services.

40. IMPROVEMENT PLANS – The following items shall be shown on the improvement plans prior to approval of the plans:

- a. First Street:

- (1) First Street shall be signed for no parking using the City of Napa custom "No Parking/Bike Lane" signs.
- (2) The Project's parking garage driveway on First Street (Parcel 1) shall be designed for right-in/right-out turning movements only. The Applicant shall be required to construct transportation design features to prohibit left-turn movements at this location. These features may include but are not limited to signage, hard center median, etc. and are subject to the review and approval of the Public Works Director.
- (3) Applicant shall resurface, at a minimum, the entire Project frontage along First Street for both parcels from lip of gutter to lip of gutter and extend far enough past the east property line of Parcel 2 to cover any trenching and utility connections and provide smooth conforms. The resurface limits shall be determined and approved by the Development Engineering Division.
- (4) Applicant shall design and reconstruct all the frontage improvements (curb, gutter, sidewalk, streetlights, street trees, signage, etc.) along the entire Project frontage of both Parcel 1 and Parcel 2. Sidewalk shall be a minimum of 10-feet wide except where the parking bulb-in is allowed, and a portion of the sidewalk will be located on private property (on-site public access easement will be required) to accommodate the minimum 10-foot width. Frontage improvements shall match the finishes of the existing improvements and shall conform to the adjacent street improvements.
- (5) The existing driveway approach serving Parcel 2 shall be removed and replaced with standard curb, gutter and sidewalk. New curb, gutter, and sidewalk finishes shall match those of the surrounding area and shall conform to the adjacent street improvements.
- (6) Applicant shall replace all the existing street signs along the Project frontage.
- (7) Applicant shall restripe between Soscol Avenue and McKinstry Street and restriping shall include an eastbound bike lane, an eastbound vehicular travel lane, a westbound vehicular travel lane, and a westbound bike lane. Additionally, restriping on First Street shall include center line striping, railroad markings, bike lane transitions, as well as, one left-turn lane and one shared through/right lane at the westbound approach to the Soscol Avenue/First Street intersection. Final striping layout design is subject to the review and approval of the Public Works Director.
- (8) The four (4) on-street parking spaces located in the parking bulb-in on First Street adjacent to the north property line of Parcel 2 shall be marked and signed for passenger loading only.
- (9) The parking garage driveway on First Street may be considered for a design exception to the vision triangle requirements specified in City of Napa Public Works Standard Specification Drawing S-25 if a design exception request letter is submitted and additional safety enhancements (signage, etc.) are included at the driveway approach. A Design exception request is subject to the review and approval of the Public Works Director.

- (10) Applicant shall construct a public path between First Street and Water Street adjacent to Parcel 2 and the railroad tracks that provides for a minimum of 12-foot clear space or the minimum width required by the Napa County Flood Control and Water Conservation District for maintenance access. A public access easement shall be dedicated to the City for the entirety of the public pathway.
- b. McKinstry/Water Streets Intersection:
 - (1) Applicant shall modify the existing intersection at Water Street and McKinstry Street to accommodate the privatization of a portion of Water Street.
 - (2) The private street connection of Water Street to the public McKinstry Street shall be constructed per City of Napa Public Works Standard Drawing S-5B (Standard Driveway Approach – with Curb ramps).
 - (3) Applicant shall construct ADA curb ramps at the northwest and southwest corners of Water Street and McKinstry Street intersection.
 - (4) Applicant shall install stop control on the Eastbound direction approach of the abandoned Water Street and McKinstry Street intersection. Stop control shall include Stop Signs (R1-1), stop legend markings, and stop bar markings per CA MUTCD.
 - (5) Applicant shall construct an ADA accessible sidewalk connection along the south side of Water Street that connects McKinstry Street to the public pathway adjacent to the railroad tracks and Parcel 2. A public access easement shall be dedicated for the entirety of this sidewalk.
 - c. Applicant shall prepare an exhibit showing all the easements that are going to be abandoned and reserved as part of the abandonment of the existing Water Street. The Applicant shall show on the Improvement Plans the reserved easements and any new easements required to construct the Project.
 - d. All required public frontage and street improvements shall be designed and built in accordance with City of Napa ordinances and the City of Napa Standard Specifications and Standard Plans on the Project's public street frontage. Street improvements shall include curbs, gutter, standard sidewalk, street paving, streetlights, street type driveway approaches, drainage facilities, and street trees. Final design and location of public frontage improvements shall be subject to the approval of the Public Works Director.
 - e. Any additional right-of-way necessary to accommodate these improvements shall be dedicated to the City prior to improvement plan approval.
 - f. The Applicant shall provide red curb within 20 feet of the curb return at street intersections.
 - g. All existing pedestrian ramps and driveway approaches that do not meet current ADA and City Public Works Standards shall be removed and replaced with ramps conforming to the current ADA and City Public Works Standards.

- h. The existing driveway approaches, which will no longer be used to access the Site, shall be removed and replaced with standard curb, gutter, and sidewalk.
- i. All public street(s) pavement structural section installations shall be per Table 3.1, "Street Design Criteria," of the City of Napa Standard Specifications and Standard Plans or per the Project's geotechnical report(s) recommendations, whichever is larger. First Street's functional classification is an arterial.
- j. To maintain adequate sight visibility at public street access and street corners, the Applicant shall comply with City of Napa Public Works Standard Specification Drawing S-25. The sight distance and visibility triangle lines shall be shown on the grading and drainage plans. The visibility height limits are measured from the top of curb of the fronting street to the top elevation of the obstruction.
- k. The Applicant shall provide an accessible route of travel from the fronting sidewalk to the buildings. The Site development and grading shall be designed to provide access to all entrances and exterior ground floor exits, and access to normal paths of travel, and where necessary to provide access, shall incorporate pedestrian ramps, curb ramps, etc. The accessible route of travel shall be the most practical direct route between accessible building entrances, accessible Site facilities and the accessible entrance to the Site per UBC 1127B. All proposed accessible routes of travel shall be identified on the improvement plans.
- l. The Applicant shall provide bicycle parking in accordance with NMC Section 17.54.060.
- m. The Applicant shall provide truck loading in accordance with NMC Section 17.54.050. Truck turning movements (both entering and exiting the public street and loading zones) shall be provided on the Improvement Plans.
- n. The improvement plans shall include an Erosion Control Plan.
- o. The improvement plans shall include a Joint Trench Plan.
- p. The improvement plans shall include a Construction Traffic Control Plan.
- q. The improvement plans shall include a Grading and Drainage Plan.
- r. The improvement plans shall include a Utility Plan showing all the existing and proposed utilities including overhead and underground utilities.
- s. The improvement plans shall include all the existing easements (utilities, slopes, Napa County Flood Control, drainage, etc.).
- t. The Improvement Plans shall include a Public Street Repair Plan (showing the repair details and limits of repair) for all improvement installations that will result in the cutting, demolition, destruction, etc. of any existing improvements within the public right of way including but not limited to the installation of curb, gutter, sidewalk, and utilities (water, sanitary sewer, storm drain, electrical, cable TV, telephone, etc.). This plan shall be updated during the construction process as necessary to reflect any unanticipated street repairs. Associated with said plan are the following requirements:

- (1) The plans show multiple dry and wet utility connections within the City of Napa right-of-way along First Street that will require deep trenches (based on Napa County Flood Control as built information) and extensive street restoration. The Applicant shall resurface the existing street pavement whenever a street is cut, either by a longitudinal or transverse cut, for utility or other improvement installations. The resurfacing shall extend a sufficient distance beyond any cut to ensure a smooth transition and shall consist of a full 2-inch deep grind for the entire area and a 2-inch asphalt concrete overlay placed. The Applicant shall also provide digouts and reconstruction of any potholed and/or alligatored areas. Installation of street paving by the Applicant shall include reconstruction of the existing pavement section as required to provide adequate conforms. The limits of such reconstruction shall be reviewed by the Public Works Department Development Engineering Division and approved by the City Engineer as part of the construction plan review.
 - (2) The Applicant shall repair all pavement, curb, gutter and sidewalks that are damaged by the construction process (even if these are in adjacent properties frontage) in accordance with the Public Works Department Standard Specifications and Standard Plans.
 - (3) Any unanticipated street cuts or other street repair items that become evident following improvement plan approval shall be included by way of revisions to the Street Repair Plan.
- u. For trenching within existing roadway areas, the Applicant's engineer shall pothole or otherwise physically determine the actual horizontal location and vertical depth of all underground utility systems throughout the proposed area of work and at all utility connection points. The Applicant shall provide, with the first improvement plan submittal, all the pothole information and the design of all new utility installations required to serve the Project including a schedule for implementation of such work as to prevent disrupting of utility service to adjacent properties.
 - v. The Applicant shall underground all new utilities to serve the Project from the existing point of connection to the Project. The Applicant is responsible for all coordination with utility companies and the design of all utility service installations that are required to serve the Project, including utility layout, design and costs associated with any necessary facilities upgrades, revisions, relocations and/or extensions. The Applicant shall relocate or underground any overhead utilities that conflict with the new improvements.
 - w. The proposed stairs and appurtenant railing between the public street sidewalk and landing along the north side of the building in Parcel 2 shall not encroach into the public street right-of-way.

41. ON-SITE ACCESS AND CIRCULATION - The following items related to on-site access and circulation shall be shown on the improvement plans prior to approval of the plans:

- a. Curb, gutter, curb adjacent sidewalk, street paving, ADA curb ramps, and drainage facilities shall be installed along the private Water Street frontage.

- b. All curb frontage intended for no parking shall be painted red and posted with signs (R26F - No Stopping Fire Lane).
- c. The Applicant shall pave all required onsite parking areas and drive aisles thereto in conformance with the minimum City of Napa standard structural section standard (equivalent to a minimum 3 inches of Asphalt Concrete over 10 inches of Class II aggregate Base material) and the Project's geotechnical reports recommendations, whichever is larger.
- d. The private Water Street shall be clearly distinguishable from the public street. To accomplish this, a 10-foot wide decorative stamped concrete strip shall be installed on the private street along the right of way line at the McKinstry/Water Street intersection entrance.

38. DRAINAGE AND GRADING - The following items related to grading and drainage shall be shown on the improvement plans prior to approval of the plans:

- a. All existing storm drains, drainage inlets, storm drain manholes, etc. shall be shown in the plans along with all the relevant information describing each item such as inverts, sizes, slopes, etc.
- b. On-site detention improvements shall be incorporated into the Project storm drain system design as determined by the requirements in the chart titled, "Detention Requirements," within Section 2.10, "Detention," of the City of Napa Standard Specifications and Standard Plans. This Project shall provide on-site detention such that the post-Project runoff does not exceed pre-developed flow rate for the 10-year storm event in accordance with local Floodplain Management regulations and NPDES Permit requirements. As an alternative to this prescriptive requirement, the Applicant may provide a flood study prepared by a Certified Floodplain Manager (CFM) demonstrating that it would be more advantageous to direct discharge into the Napa River due to its adjacency than to detain it in accordance with the City of Napa Standards. The flood study will be subject to review and approval by regulatory agencies and the Public Works Department.
- c. Per City of Napa Standards Plans and Specifications, any storm drainpipes within the City of Napa right-of-way shall be a minimum of 18-inches in diameter.
- d. Applicant shall remove the existing drainage catch basin located at the northeast corner of Parcel 1 ("Existing Drainage Catch Basin").
- e. On plan sheet DR5, on the northeast corner of Parcel 1 the plans show a new storm drain pipe 16-feet long and 15-inches in diameter being installed from Existing Drainage Catch Basin. The Applicant shall remove this new pipe and direct the surface stormwater runoff to the proposed drainage catch basin located west of the Existing Drainage Catch Basin.
- f. The EX 18" SD TO REMAIN shown on plan sheet DR5 in front of Parcel 1 shall be removed and a new 18-inch RCP pipe shall be installed from the existing SDMH to the proposed drainage CB.

- g. The EX 15" SD shown on plan sheet DR5 in front of Parcel 1 between the proposed REMOVE EX CB and the new proposed drainage CB shall be removed unless approved by the Public Works Director to be abandoned in place.
- h. Any EX SD TO BE ABANDONED shown on plan sheet DR5 shall be removed unless approved by the Public Works Director to be abandoned in place.
- i. The plans show proposed storm drain lines for both Parcel 1 and Parcel 2 connecting to existing storm drain lines and existing 12" storm drain outfalls. If any work is to be performed at the outfall or if the outfall needs to be replaced, the Applicant shall obtain all the required regulatory agency permits (Regional Water Quality Control Board, USACE permits, etc.), needed to complete the work.
- j. Lot grading and drainage system improvements shall be installed by the Applicant as part of the improvements. Constructed lot pad elevations shall not deviate more than 0.5 feet from the pad elevations shown on the Improvement Plans.
- k. The grading plans provided by the Applicant for review shall include the existing topography shown with contour line labeled at one-foot intervals and extending a minimum of 100-feet beyond the limits of the Site, or a sufficient distance to indicate impacts on adjacent properties.
- l. The grading and drainage plan shall include a design that allows for a 100-year overland release with all finish floor and garage slab elevations a minimum of one foot above the 100-year overland release elevation.
- m. On-site storm drains, outside of City right-of-way, shall be made of SDR-35 plastic or reinforced concrete pipe.
- n. Any retaining walls which are greater than one foot in height, which are adjacent to a property line, shall be masonry or concrete. Wood retaining walls shall not be installed adjacent to property lines.
- o. It is the City's policy to require all new parcels to be graded to drain independently from adjoining parcels. If surface drainage is currently passing from adjoining properties onto the Site, the grading plan for the Project shall be designed to continue to accept such drainage and easements shall be established to allow such drainage patterns to continue. All surface drainage must be collected and conveyed to a public street, storm drain or approved outfall.
- p. Applicant shall follow and comply with NMC Chapter 8.36 Stormwater Quality Ordinance.
- q. The Applicant shall provide an Erosion and Sediment Control Plan (ESCP) and a schedule for implementation of approved measures to the Public Works Department Development Engineering Division for review and approval with the first improvement plans submitted for review. A grading permit shall not be issued until the erosion and sediment control plan is approved.
- r. The roof drainage and downspouts from the building shall not be allowed to discharge into the adjacent properties, and the gutter downspouts and drainage need to be directed away from the adjacent property lines.

- s. The drainage from the parking pits shall not be allowed to discharge into the storm drain system. Parking pit drainage shall be discharged into the sanitary sewer system.
- t. CONSTRUCTION WATER QUALITY MEASURES – In accordance with the NPDES Construction General Permit, the property owner shall insure that the Applicant and the contractor incorporate storm water quality Best Management Practices (BMP's) into the Project construction process.
 - (1) **Projects < 1 acre:** Provide an Erosion and Sediment Control Plan (ESCP) See ESCP template at: <http://www.cityofnapa.org/574/Stormwater-Quality>
 - (2) **Project > 1 acre of disturbance:** Provide an Erosion and Sediment Control Plan (ESCP) and/or a State Stormwater Pollution Prevention Plan (project disturbance >1 acre), as required per the State Construction General Permit. A copy of the Stormwater Pollution Prevention Plans (SWPPP) along with waste discharge identification number (WDID) will need to be provided to the Public Works – Stormwater Program prior to grading permits. http://www.swrcb.ca.gov/water_issues/programs/stormwater/constpermits.shtml

PLEASE NOTE: Item above does not require a separate Erosion and Sediment Control Plan (ESCP). The ESCP is a part or element of these plans; however, the SWPPP must address all elements of the required ESCP. See ESCP template at: <http://www.cityofnapa.org/574/Stormwater-Quality>

 - (3) The construction BMP's shall be shown on the project Erosion and Sediment Control Plan (ESCP).
 - (4) The project property owner shall insure that the contractor manages all construction activities; and handles, stores and disposes of all hazardous and non-hazardous waste in a manner that eliminates or minimizes (to the maximum extent practicable) the discharge of pollutants (e.g. motor oil, fuels, paints/stains and solvents, asphalt products, concrete, herbicides and pesticides, etc.) to the storm drains, ground water, and/or waterways.
 - (5) The project property owner shall insure that the contractor incorporates spill prevention and cleanup measures into the construction operation. All discarded materials shall be removed from the site and disposed of at an approved disposal facility.
 - (6) The project property owner shall pay all cleanup, testing, disposal and City administrative costs associated with the discharge of pollutants into the storm drains and/or waterways as a result of the project construction activity.
- u. POST CONSTRUCTION WATER QUALITY MEASURES - In accordance with the City of Napa, "BASMAA Post-Construction Manual prepared by the Bay Area Stormwater Management Agencies Associated (BASMAA) Phase II Committee, dated July 14, 2014" the Applicant shall incorporate post Development measures (BEST MANAGEMENT PRACTICES (BMP'S)) into the project design to mitigate project impacts to water quality. <http://www.cityofnapa.org/574/Stormwater-Quality> Under "Documents"

- (1) The post-construction BMP's shall be shown on the project improvement plans and in the required Storm Water Control Plan (SCP).
 - (2) All designated projects – The Applicant shall prepare and submit a SCP per "BASMAA Post-Construction Manual, dated July 14, 2014," standards and an Erosion and Sediment Control Plan.
 - (3) The Landscape plans shall be submitted to the Development Engineering Division with the submittal of the Improvement Plans. Landscape Plans shall illustrate all LID post construction measures and include the required plant species as specified in the BASMAA Post-Construction Manual.
 - (4) The post construction BMP measures shall be installed by the Applicant and designed and sized by a registered civil engineer in accordance with the City's adopted BASMAA Post-Construction Manual and an accepted design method such as that which is outlined in the "California Storm Water Quality Association BMP (CASQA-BMP) Handbook". The design and calculations are to be reviewed and approved by the Development Engineering Division.
 - (5) The Project post-construction BMP's shall include but not be limited to the applicable items listed in the City Council adopted Stormwater Quality Control Standards, BASMAA Post-Construction Manual and accepted design review Stormwater Control Plan prepared by RSA+ dated 3-12-2020.
- v. The Applicant shall submit storm drain system design calculations that are prepared by a registered civil engineer for review and approval by the Development Engineering Division. Storm drain system design flows shall be calculated based on the requirements listed in the City of Napa Public Works Department Standard Specifications and Standard Plans. The calculations shall include a drainage basin map showing basin limits and area in acres, hydrology, and system hydraulic calculations, pipe size calculations, inlet capacity calculations, stormwater quality treatment and other information necessary to support the proposed design. Storm drains will be sized to carry the flows generated by the design storm per City of Napa Standards. The storm drain system design calculations shall show that the pipes have a self-cleaning minimum velocity of three feet (3-feet) per second when flowing half full.
 - w. Install drainage facilities, including detention pipe(s), metering boxes, and other appurtenances to collect and convey all surface drainage to an approved outfall.
 - x. Easements (or deed restrictions requiring the reservation of easements upon property transfer) shall be established for piped, V-ditched and overland (sheet and channeled) drainage between the parcels. Drainage easements shall be provided for the drainage facilities shown on the plans in accordance with the City of Napa Public Works Department Standard Specifications and Standard Plans. Easements shall have a minimum width of 10 feet. Pipes exceeding 24-inches in diameter or deeper than 5-feet will require wider easements as required by the Public Works Director. All drainage easements must be shown on the improvement plans. Easement documents shall be reviewed and approved by

the Public Works Department Engineering Division as to substance and the City Attorney as to form and recorded prior to occupancy.

- y. Low Impact Development (LID), Bio-retention areas, underground treatment systems, and all other treatment based BMP systems are to be sized in accordance with calculations that conform to the City's BASMAA Post-Construction Manual dated July 14, 2014 and the State MS4 General Permit E.12 provisions and are to be reviewed and approved by the Development Engineering Division.
- z. The Applicant shall install full trash capture device(s) in accordance with the State Water Boards Trash Provisions Water Code section 13383. Full trash capture systems shall be designed to
 - (1) Trap all particles 5mm or greater
 - (2) Be sized to treat the 1-year, 1-hour storm event
 - (3) Device(s) shall be chosen from State Water Board list of certified devices.
 - (4) Device(s) shall be maintained at a frequency that ensures captured trash does not reduce device efficiency or create flooding, a minimum of once annually.
- aa. The property owner shall enter into a long term maintenance agreement with the City of Napa approved both as to form and substance by the City Attorney and City Engineer for long term maintenance, financing and monitoring for the post construction storm water best management practices that are incorporated as part of the project and as called out in the Approved Stormwater Control Plan.
 - (1) The agreement shall include a detailed outline of responsible parties, inspections, maintenance procedures, monitoring documentation and annual reporting to the City Public Works Department, and procedures for administration and oversight.
 - (2) The agreement shall be recorded prior to approval of the Improvement Plans. The agreement must provide for the perpetual maintenance and replacement of the improvement as well as appropriate provisions relating to enforcement options, the right of the City to access the property to perform work, the right of the City to recover its costs, indemnification and enforcement provisions, as well as any other provisions deemed necessary or convenient to accomplish the City's objectives. The City of Napa shall either be a signatory to the agreement or a third-party beneficiary to the agreement with the right but not the obligation to enforce the obligation and secure attorney's fees for legal counsel to enforce such obligations.
 - (3) Updated information, including contact information, must be provided to the municipality whenever a property is sold and whenever designated individuals or contractors change.
 - (4) Appropriate easements or other arrangements satisfactory to the City Engineer and City Attorney necessary or convenient to ensure the feasibility of the scheme and fulfillment of maintenance responsibilities shall be secured and recorded prior to improvement plan approval.

- (5) All development projects must be planned, designed and constructed consistent with the post construction standards in the city's NPDES permit and in accordance with the post construction storm water management requirements established by the city, including but not limited to, the current version of the Bay Area Stormwater Management Agencies Association Post-Construction Manual or an updated version of that manual or other post-construction storm water management standards as adopted by Council resolution.
- (6) The owner of the real property shall provide a written document, deed, agreement or similar writing acceptable to the Director, obligating the project proponent, their successors in control of the project and successors in fee title to the underlying real property (or premises), to assume responsibility for the operation and maintenance of all installed treatment systems and hydromodification controls, if any, for the project.
- (7) The owner or operator of any installed treatment system or hydromodification control shall provide the Director with information and physical access necessary to assess compliance with this chapter, with the city's NPDES permit, and with any writing establishing operation and maintenance responsibilities and shall pay the city an annual fee for inspection and maintenance services in accordance with the latest Master Fee Schedule adopted by the City Council.

39. NOTES - The following notes shall be shown on the improvement plans prior to approval of the plans. The Applicant and the construction contractor shall satisfy the requirements stated in the following notes. The Applicant's engineer shall include the following notes on the improvement plans prior to approval of the plans by the Public Works Department Development Engineering Division:

- a. No grading and/or excavation shall be performed except in accordance with the approved erosion control plan and schedule. The contractor shall have all erosion control measures on site during the course of the work and installed in accordance with the approved erosion control plan schedule.
- b. During the course of the Project construction (including non-working hours), the contractor is to provide appropriate signage, flashers, and barricades for open trenches that are approved by the Public Works Department Construction Division Inspector to warn oncoming motorists, bicyclists, and pedestrians of potential safety hazards.
- c. Any existing pedestrian access through and/or adjacent to the Project Site shall remain unobstructed during the Project construction or an alternate route shall be established as approved by the Police Chief and City Engineer.
- d. During the course of the Project construction, all project-related grading, trenching, backfilling, and compaction operations shall be conducted in accordance with the City of Napa Standard Specifications and Standard Plans.

- e. All construction activities shall meet the Uniform Building Code regulations for seismic safety (i.e., reinforcing perimeter and/or load bearing walls, bracing parapets, etc.)
- f. Grading and construction equipment shall be shut down when not in use.
- g. For all construction activity, the contractor shall control dust in accordance with the requirements of the City of Napa Standard Specifications and Standard Plans (Section 1.10.08 - Dust Control); the National Pollution Discharge Elimination System requirements; and the California Department of Transportation Construction Manual (Chapter 4 – Construction Details – Section 4-1003C Dust Control). Use of any City of Napa water for this purpose shall be from a metered source that is approved by the City of Napa Water Division and shall be requested in writing by the Contractor.
- h. During the construction/demolition/renovation period of the Project, the contractor shall use the franchised garbage hauler for the service area in which the Project is located to remove all wastes generated during Project development, unless contractor transports Project waste. If the contractor transports the Project's waste, the contractor must use the appropriate landfill for the service area in which the Project is located.
- i. The contractor shall provide for the source separation of wood waste for recycling. The contractor shall use the franchised garbage hauler for the service area in which located for collection of such wood waste, unless the contractor transports such wood waste to a location where wood waste is recycled.

40. WATER FACILITIES - The following items related to water facilities shall be shown on the improvement plans and or completed prior to approval of the plans. The Water Division shall review and approve these items:

- a. The size of all the existing water service(s) to the Site and adjacent parcel(s).
- b. The existing water main(s) and applicable tie-in locations, details, etc.
- c. The abandonment of any existing unused water service(s).
- d. Installation of a single water service for each lot with approved backflow devices. Each water service shall be connected to a city water main and cannot be installed as a manifolded service.
- e. Installation of a sufficient number of fire hydrants on all public water facilities as directed by the Fire Marshal at City approved locations.
- f. Installation of a sufficient number of water main valves as directed by City of Napa Water Division at City-approved locations.
- g. Installation of a sufficient number of water quality monitoring/sampling stations at City-approved locations.
- h. The size and location of all proposed water services (residential, fire, irrigation, etc.) and tie-in locations, details, surrounding utilities, etc.
- i. If the Water Street right-of-way is abandoned, the public waterline within Water Street shall be converted to a private waterline.

- j. Relocation of any affected water pipelines, facilities and their appurtenances (including but not limited to the private water services affected by the privatization of the Water Street waterline).
- k. The size and location of appropriately sized water services with backflow devices (applicant must install backflow device(s) if one does not exist), with tie-in locations, surrounding utilities, etc.
- l. Designate applicable on-site fire hydrants as private.
- m. A combined fixture count worksheet for all tenant spaces to ensure existing water service size meets proposed demands. Undersize services are not allowed.
- n. Identify and record all private water easement(s) necessary to extend private service(s) behind the public water meter to the property served.
- o. Contact the City of Napa Fire Department to determine fire sprinkler requirements.

41. MISCELLANEOUS - The following items shall be shown on the improvement plans prior to approval of the improvement plans:

- a. The Applicant shall connect the Project to the Napa Sanitation District for sanitary sewer service. Sewer services shall be shown on the improvement plans and shall be installed in accordance with Napa Sanitation District standards and reviewed and approved by the Napa Sanitation District.
- b. The Site is located in parcels that are within a Special Flood Hazard Area "Zone AE" as designated on the Flood Insurance Rate Map (FIRM), 06055C0516F effective September 29, 2010 and revised per LOMR16-09-1316P effective 1/22/2019 and it is also in Measure A parcels. As such the requirements of the NMC Chapter 17.38 Floodplain Management apply to all new construction within the Special Flood Hazard Area and NMC Section 17.52.300 requirements apply to all parcels designated as Measure A Parcels. These include but are not limited to:
 - (1) A note shall be included in the plans stating that "This project is located in a Special Flood Hazard Area "Zone AE" as designated on the Flood Insurance Rate Map (FIRM), 06055C0516F effective September 29, 2010 and revised per LOMR16-09-1316P effective January 22, 2019. Project is also in Measure A parcels."
 - (2) The Project site plans shall show the floodplain limits and indicate the Base Flood Elevation (BFE) of the Floodplain as delineated in the current FEMA FIS and FIRM prepared for the City of Napa. All elevations should be based on NAD88 datum and shall be noted on the Improvement Plans.
 - (3) All new construction or substantial improvements shall be floodproof to a minimum of one foot above the BFE per FEMA Technical Bulletin 7-93 and shall be noted on the Improvement Plans.

- (4) Indicate on the Improvement Plans water resistant materials for all construction below BFE plus one foot per FEMA Technical Bulletin 2-93.
 - (5) All new and replaced service facilities such as electrical, heating, ventilation, plumbing and air conditioning, sanitary sewage systems, and other service facilities shall be located a minimum of one foot above BFE or designed to be flood proofed/watertight to one foot above BFE as per FEMA Technical Bulletin 3-93. Improvement Plans shall provide details on how utilities will comply with this requirement.
 - (6) Elevator and elevator equipment shall be designed and installed per the latest FEMA NFIP Technical Bulletin "Elevator Installation" guidelines.
 - (7) Provide a letter prepared by a Licensed Surveyor (or Civil Engineer authorized to perform surveying by the State) verifying the correct elevation of the lowest floor relative to the FEMA identified Base Flood Elevation. All referenced elevations shall be based on NAD88 datum and the current FEMA FIS and FIRM prepared for the City of Napa.
 - (8) The Applicant shall either floodproof the buildings or the lowest floor, including basement, shall be elevated to at least one foot above the base flood elevation. Any proposed floodproofing shall be reviewed and approved by the CDD Building Division and the Public Works Department prior to improvement plan approval.
 - (9) All new and existing sanitary sewer manholes that are within the floodplain limits shall be floodproof.
 - (10) A floodproofing certificate must be submitted for the design with the first Building Permit Plan submittal. A floodproofing certificate can be obtained from the FEMA website at <https://www.fema.gov/media-library/assets/documents/2748>. Upon Project completion, the Floodproofing Certificate shall be certified, and an elevation certificate will be required on finished construction prior to the building's final sign off.
 - (11) Projects in Measure A parcels require approval from the Napa County Flood Control and Water Conservation District (NCFCWCD). The Applicant shall submit an approval letter from the NCFCWCD with the first Improvement Plan submittal.
- c. As designed and shown on the RSA+ plans, the Project impacts several adjacent properties. The Applicant shall provide details for each affected property describing how their existing improvements (fences, retaining walls, concrete curb, concrete gutter, DIs, etc.) are going to be impacted by the Project and how those impacts will be mitigated.
 - d. The Applicant is proposing to act as a "self-hauler" for solid waste, recyclable materials, and compostables. If Applicant acts as a "self-hauler", the business must consolidate solid waste (and separate each of the recyclable, compostable, and landfill material streams) and transport it with its own employees and in its

own vehicles to fully permitted disposal or recycling/composting facilities, with no payment to another third party per NMC Section 5.60.110. The Materials Diversion Division will have no obligation to collect waste generated by the Project. Under Assembly Bill 341 Mandatory Commercial Recycling Regulation, businesses are required to source-separate recyclable materials from solid waste and subscribe to a basic level of recycling service that includes collection, self-hauling, or other arrangements for the pickup of the recyclable materials. To keep organic waste out of landfills, Assembly Bill 1826 (Mandatory Commercial Organics Recycling) requires businesses that generate organic waste materials (which include food waste, green waste, landscape and pruning waste, clean wood waste and food soiled paper) to site-separate the material for composting.

- e. As a “self-hauler”, the Applicant must abide by City codes summarized here and including but not limited to:
 - (1) All three streams of materials; solid waste, recyclables and organics must be source-separated and placed in approved containers (AB341, NMC Section 5.60.050, AB1826);
 - (2) All containers shall be watertight and must be suitably packed to ensure that there is no spillage (NMC Sections 5.60.050 and 5.60.130);
 - (3) All containers shall be maintained on premises in a space large enough to accommodate all three separate streams and must be easily accessible for servicing (NMC Section 5.60.060, AB341, AB1826);
 - (4) Garbage enclosure/room shall be kept clean and sanitary at all times and will not be a public nuisance or otherwise offensive. All containers shall be provided and maintained on the premises where the garbage, including trash, is produced in a place easily accessible to the contractor but where it will not be a public nuisance or otherwise offensive. (NMC Section 5.60.110);
 - (5) Solid waste, recyclables and organic material must be collected and transported for disposition, and must be disposed of, at a dump, transfer station or recycling facility which is appropriately permitted or authorized under applicable health and safety laws and regulations (NMC Section 5.60.130, AB341, AB1826);
 - (6) All solid waste must be removed within 7 days or more frequent if deemed necessary in the interest of public health and safety. Frequency of garbage removal shall follow the NMC Section 5.60.200, Napa County Code 8.52.050, and Title 14 of the California Code of Regulations;
 - (7) Self-hauler must keep records for auditing and inspection (Title 14 of the California Code of Regulations, NMC 5.60.030);
 - (8) The Applicant shall comply with AB 341 “Mandatory Commercial Recycling Regulation”;

- (9) The Applicant shall comply with AB1826 "Mandatory Commercial Organics Recycling";
- (10) The Applicant shall comply with AB901 "Recycling and Disposal Facility Reporting".
- f. To act as a "self-hauler" the Applicant shall submit a Waste Management Plan for review and approval by the Materials Diversion Division. The Waste Management Plan shall include at least the following information:
 - (1) Location and dimensions of waste enclosure area (dimension of interior and exterior of enclosure);
 - (2) Diagram showing the waste collection containers with dimensions shown (carts, bins, compactors, balers, roll-off boxes etc.);
 - (3) Description and dimensions of vehicles used for transport of waste;
 - (4) Truck-turning templates for the vehicles planned for transport of waste to the waste enclosure area;
 - (5) Information on the estimated amount of waste generated for all streams (municipal solid waste, recyclables, food scraps and soiled paper, cooking oil, yard trimmings, etc.) and the anticipated frequency of transport of each waste stream;
 - (6) The name and location of the facility the waste streams will be transported to including a letter from the waste facility that states they will accept the waste generated by the Project; and
 - (7) The types of containers including sizes that each waste stream will be stored in on-site.
- g. It is the Materials Diversion Division's preference, that the Applicant contract for service with the City of Napa's authorized contractor for trash, recycling, and compostables collection. If Applicant does not desire to act as a "self-hauler" or cannot abide by City codes to act as a "self-hauler," the following conditions apply which may involve modification to either planned or existing infrastructure to accommodate access by the City's authorized contractor:
 - (1) The Applicant shall provide adequate, accessible, and convenient areas for the collection and loading of all waste streams. Collection and loading areas shall contain adequate area to accommodate all waste streams generated by the Project. All service locations and/or enclosures shall be accessible by collection vehicles. The Utilities Director shall approve the design and location of each collection and loading area.
 - (2) The Applicant shall indicate the storage location and quantity of the solid waste/recycling/compost carts/bins on the plan set; trash enclosures onsite shall comply with the City's Solid Waste, Recyclable Materials and Compostables Enclosures Standards.

- (3) Where applicable, the Applicant shall provide one or more trash enclosures (decorative masonry or equivalent) where required by the Development Plan or Design Guidelines, the design of which shall be compatible with the architecture of the Project and the City's Solid Waste, Recyclable Materials and Compostables Enclosures Standards. The Utilities Director shall approve the design and location of each enclosure.
- h. The Project is subject to NMC Chapter 15.32 which requires projects that exceed \$100,000 in building permit valuation; or (b) exceed 5,000 sq.ft. of new, improved, or remodeled areas; to file a Waste Reduction and Recycling Plan (WRRP) with the building permit application. The WRRP form is provided by the City. No building permit shall be issued for any project until the Compliance Official has approved the WRRP. The plan shall document that recyclable materials shall be separated for recycling in order to meet the requirement of the City's construction and demolition debris ordinance — recycling mandatory recyclables and exceeding overall 50% diversion. Official weight receipts/tags for each load shall be obtained, and at the conclusion of construction shall be submitted for review by the Compliance Official prior to the approval of a Certificate of Occupancy. Sign-off from Materials Diversion for a certificate of occupancy shall not occur until the weight tag documentation is approved.
- i. Any projections of building appurtenances into public easements, such as building structure, trellis, canopies, awnings shall require approval of the Public Works Director and/or the Community Development Director prior to improvement plan approval. Napa Municipal Code Section 17.52.370.
- j. The Applicant shall install all new utilities required to serve the Project underground including but not limited to water, sewer, electricity, gas, telecommunications, etc.
- k. The Applicant is responsible for all coordination with utility companies and the design of all utility service installations that are required to serve the Project, including utility layout, design and costs associated with any necessary facilities upgrades, revisions, relocations and/or extensions. The Applicant shall relocate and underground any overhead utilities that conflict with the new improvements.

42. PRIOR TO APPROVAL OF IMPROVEMENT PLANS - The Applicant shall submit documentation to the Public Works Development Engineering Division for review and approval that indicates that the following items have been addressed:

- a. The Applicant shall submit all required water connection fees to the Public Works Department - Development Engineering Division at 1600 First Street, Napa CA. 94559.
- b. The Applicant shall pay off all current account balances based on the rate in effect at the time of the permit issuance.
- c. Complete the lot merger processes between the properties encumbered by this Project for both Parcel 1 and Parcel 2.

- (1) Furnish proof of the payment of the mapping service fee as required by Napa County Board of Supervisors Resolution No. 92-119.
- d. The Applicant shall pay a \$5,000 deposit and a minimum monthly balance of \$1,500 for inspection fees for Public Improvements.
- e. Any entry onto neighboring properties to perform work for the Project shall be done in accordance with temporary construction easements from the impacted neighbor(s). The easements shall be obtained with copies submitted to the Public Works Development Engineering Division for review prior to the approval of the improvement plans.
- f. The Applicant shall furnish proof satisfactory in form to the City Attorney of the acquisition of all rights of entry, permits, easements, etc., necessary to construct the Project or to satisfy required Project mitigation measures and/or conditions prior to occupancy.
- g. The Applicant shall execute a reciprocal access and maintenance agreement for all parcels, which share use of private access, drives, etc. The agreement shall be approved as to substance by the Public Works Director and approved as to form by the City Attorney and shall be recorded prior to the approval of the improvement plans.
- h. Any modifications to any of the existing retaining walls or handrails within City of Napa right-of-way, located along the Parcel 2 frontage shall be approved by the City of Napa Public Works Director.
- i. The Applicant shall furnish proof satisfactory in substance to the Public Works Director and in form to the City Attorney that the existing slope easement) (or portions thereof) adjacent to First Street and Soscol Avenue that encroach into the proposed building(s) footprint subject to construction of foundation retaining walls has been quitclaimed to the Applicant by the Napa County Flood Control and Water Conservation District.
- j. The Applicant shall submit to the Public Works Department Development Engineering Division a Soils Investigation/Geotechnical Report in accordance with NMC Section 16.36.200 with the first improvement plan submittal. The improvement plans shall incorporate all design and construction criteria specified in the report. The geotechnical engineer shall sign the improvement plans and approve them as conforming to their recommendations prior to improvement plan approval. The geotechnical engineer shall also assume responsibility for inspection of the work and prior to acceptance of the work shall certify to the City that the work performed is adequate and complies with their recommendations. Additional soils information may be required by the Chief Building Inspector during the plan check of building plans in accordance with NMC Title 15.
- k. Establish and record Conditions, Covenants, & Restrictions (CC&R) that are satisfactory to the City Engineer to provide long-term maintenance of the Private Improvements identified above.
- l. Provide acknowledgement by the District Engineer that the design of the sanitary sewer system design is approved by the Napa Sanitation District.
- m. A State Department Fish and Game 1601 Streambed Alteration Agreement, a Regional Water Quality Control Board 401 permit, and/or a Corps of Engineer 404 permit may be required for work done on rivers, creeks, and other waterways.

The Applicant shall provide copies of these agreement or permits to the Public Works Department Development Engineering Division prior to approval of the Improvement Plans.

43. **PRIOR TO COMMENCING ANY ACTIVITIES ON-SITE** – Prior to commencing any ground disturbing activities on-site, the Applicant shall:

- a. Submit a copy of the Notice of Intent (NOI) for coverage under the State Water Resources Control Board's General Construction Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities (Order 2009-0009-DWQ).
- b. Conduct a pre-construction meeting with representatives of the City whereby the Applicant and their Contractor provides the following:
 - (1) (6) full-size bond copies of the approved Improvement Plans for the City's use.
 - (2) (1) job-site copy of the latest edition of the City of Napa Public Works Department Standard Specifications and Standard Plans for their use.
 - (3) (1) job-site copy of the approved SWPPP for their use.
- c. The Applicant shall have obtained approval of the Improvement Plans from the Public Works Development Engineering Division.

44. **PRIOR TO ISSUANCE OF A BUILDING PERMIT** - Prior to issuance of the building permit for the project the Applicant shall submit documentation to the Building Division for review and approval that indicates that the following items have been addressed:

- a. The Applicant shall furnish proof satisfactory in substance to the Public Works Director and in form to the City Attorney of the acquisition of all rights of entry, permits, easements, or other property interests, necessary to construct the Project or to satisfy required Project mitigation measures and/or conditions prior to issuance of a building permit.
- b. The Applicant shall furnish proof satisfactory in substance to the Public Works Director and in form to the City Attorney that the Applicant has acquired the 12' portion of Lawrence Street along the train tracks from the Napa County Flood Control and Water Conservation District.
- c. Submit any remaining water fees to the City of Napa Utilities Department - Water Division at 1700 Second Street, Suite 100, Napa, 94559.
- d. **STREET IMPROVEMENT FEE** - In accordance with NMC Chapter 15.84 and implementing resolutions, the Applicant shall pay the Street Improvement Fee prior to issuance of any building permit for the Project. The fee is required to mitigate the cumulative impact of the traffic generated by the Project on the City's arterial and collector street system. Such fee shall be payable at the rate in effect at the time of payment. The findings set forth in the ordinance and implementing resolutions are incorporated herein. The City further finds that the calculation of

the fees in accordance with the trip generation capacity of the Project demonstrates there is a reasonable relationship between the amount of the fees imposed and the cost of the street improvements attributable to this Project.

- e. The Applicant shall pay Street Improvement Fees in accordance with the Master Schedule of City Fees, Fines and Charges effective January 2020 as may be amended. The current rates for the Street Improvement Fee for this Project are as follows:

	Land Use	Unit	Street Component Rate	Utility Underground Rate	Street Component Fee	Utility Underground Fee
New Use	Hotel	68*	\$1,787/room	\$119/room	\$121,516	\$8,092
	Moderate Service Commercial	6.294	\$4,109/KSF	\$273/KSF	\$25,862	\$1,718
Existing Use (credit)	Single Family Detached Housing		\$2,465/DU	\$2,258/DU	(\$2,465)	(\$2,258)
	Moderate Service Commercial		\$4,109/KSF	\$273/KSF	(\$5,149)	(\$342)
					\$139,764	\$7,210

*Note: Current design is for a 68-room hotel, but allowance for up to 74 rooms is being requested. If additional hotel rooms are constructed, the Applicant shall pay the Street Component and the Utility Underground Component of the Street Improvement Fee at the rate in effect at the issuance of building permit for each additional hotel room.

- f. The above fee amounts are provided based on the current rates.
- g. City fee amounts are updated periodically. The Applicant shall pay the fees based on the rate in effect at the time of payment.

45. PRIOR TO ISSUANCE OF CERTIFICATE OF OCCUPANCY OF THE FIRST UNIT - Prior to issuance of a certificate of occupancy for the first unit the Applicant shall submit documentation to the Building Division for review and approval that indicates that the following items have been completed as reviewed and approved by the Public Works Department Development Engineering Division:

- a. The Applicant shall comply with the conditions of the abandonment of Water Street set forth in the City Council resolution approving the abandonment of a portion of Water Street.
- b. Construct all the improvements (public and private) for Parcel 1 and Parcel 2 as shown on the Improvement Plans.
- c. Construct a public path between First Street and Water Street adjacent to Parcel 2 and the railroad tracks that provides for a minimum of 12-feet clear space or the minimum width required by the Napa County Flood Control and Water Conservation District for their maintenance access, whichever is greater. A public

access easement shall be dedicated to the City for the entirety of the public pathway.

- d. Construct an ADA accessible sidewalk connection along the south side of Water Street (private Water Street) that connects McKinstry Street to the public pathway adjacent to the railroad tracks and Parcel 2. A public access easement shall be dedicated to the City for the entirety of this sidewalk.
- e. Construct all water improvements as shown on the approved improvement plans, the City of Napa Public Works Department Standard Specifications and the special conditions listed above.
- f. Submit certification that all backflow devices have been installed and tested by an AWWA certified tester (a list of testers is provided by the City of Napa) to the City of Napa Utilities Department - Water Division. The test results shall be submitted by the Applicant to the Utilities Department - Water Division.
- g. Submit a record drawing outlining as-built conditions of the completed water system improvements in both electronic and print copy formats.
- h. The Applicant shall complete the water demand mitigation requirements of this Project as specified by the City of Napa - Water Division. The Applicant will be contacted by the City of Napa Water Division after obtaining a building permit specifying the requirements for the proposed Project.
- i. Submit any remaining meter set and/or hot-tap fees to the Utilities Department - Water Division at 1700 Second Street, Suite 100, Napa, 94559.
- j. The Applicant shall provide the Water Division with written documentation identifying all water meter boxes with the appropriate street address (Note: applies to water meters installed in groups of two or more – addresses to be provided by the City of Napa), APN of the parcel, building connections, points of service, and the new water service account numbers specific to the addresses and/or parcels being served.
- k. The improvements identified on the Public Street Repair Plan shall be completed.
- l. All road surfaces shall be restored to pre-Project conditions after completion of any Project-related pipeline/utility installation activities.
- m. The Applicant shall replace any damaged curb and gutter along street frontages in accordance with the City of Napa Standard Specifications and Standard Plans prior to occupancy.
- n. All onsite and offsite improvements shall be installed to the satisfaction of the City Engineer prior to occupancy.
- o. Submit an inspector's punch list indicating that all of the "Public & Private Improvements" are constructed to the satisfaction of the City Engineer.
- p. Submit a certification by the Geotechnical Engineer of Record that all the work has been completed in substantial conformance with the recommendations in Soils Investigation/Geotechnical Report.

- q. Submit a certification by the Engineer of Record that all work has been completed in substantial conformance with the approved Improvement Plans and Stormwater Control Plan.
- r. The Applicant shall complete the Final Stormwater Inspection Sign Off form as specified in the Stormwater Control Plan and include the contractors and engineer of records signature verifying all post-construction BMPs have been installed and inspected as designed per the approved plans. A copy of the form may be requested from the Public Works Development Engineering Division – Stormwater Program.
- s. Identify all on-site post-construction stormwater quality BMPs and along the Project frontage with the appropriate street address (addresses to be provided by City) and GIS coordinates.
- t. Prior to Final Stormwater Sign off, all disturbed areas shall be installed with final permanent stabilization measures to insure no sediment laden water discharges from the Site.
- u. The Applicant shall complete, certify, and submit the Floodproofing Certificate, submitted with the first Improvement Plan submittal, to the Public Works Department Development Engineering Division.
- v. The Applicant shall submit the FEMA Elevation Certificate based on Finished Construction.
- w. An approved Flood Emergency Operation Plan and an Inspection and Maintenance Plan shall be required prior to building sign-off.
- x. Installation of street paving by the Applicant shall be completed and shall include reconstruction of the existing pavement section as required to provide adequate conforms. The limits of such reconstruction shall be reviewed by the Public Works Development Engineering Division and approved by the City Engineer as part of the construction plan review. Any necessary pavement conforms shall be installed prior to occupancy.
- y. Within sixty (60) days of the final inspection, the Applicant shall submit documentation (weight tags for the Project debris), signed and certified under penalty of perjury, to the Compliance Official that the diversion requirement for the Project per the approved WRRP has been met. Sign-off from Materials Diversion for a certificate of occupancy shall not occur until the weight tag documentation is approved. Non-compliance with the plan and City requirements may result in a fine.
- z. The Applicant shall submit to the Public Works Department Development Engineering Division all improvement plans in digital auto-cad format, compatible with the City's current version, and tied to the City's coordinate system for all storm drain facilities, water lines, lot lines, sanitary sewer lines, sidewalks and streets. Auto-cad files shall be updated for as-built information and submitted to and approved as complete by the Public Works Department Development Engineering Division prior to occupancy.

FIRE PREVENTION DIVISION:

46. In accordance with the standard mitigation measures and conditions of approval set forth by the City of Napa, the Applicant shall pay the Fire Impact Fees (see current Standard Fees and Charges adopted by resolution), prior to the issuance of any building permits.

47. New buildings and additions to existing buildings shall conform to requirements set forth in the currently adopted editions of the California Building Code, California Fire Code, City of Napa standards and Nationally Recognized Standards.

48. There shall be no deferred submittals for fire protection equipment and related utilities. Fire protection plans shall not be attached to or bound with the building plan submittal package. This includes but is not limited to Automatic Fire Sprinkler, Fire Alarm, Fixed Fire Protection and Civil plans.

49. All Fire related underground piping and fire appurtenances shall be shown on the Civil plan submittal. In addition to the Civil plan submittal, (3) plan sets under separate cover shall be submitted detailing all underground piping and related fire appurtenances including but not limited to underground piping, underground sweep detail, underground trench details showing depth of burial, type of backfill, manufacturer's specifications of piping, valves joints, fittings and calculated size and locations of thrust blocks, hydrants locations (designate public or private), gate shut-off valves, PIV's, FDC's, fire pumps, fire pump and/or riser rooms.

50. Underground utility contractor, architect and fire sprinkler contractor shall coordinate the location of risers and control valves prior to the issuance of a building permit.

51. Fire Department plan review shall be based on the information submitted at the time of permit application. Any changes to the approved/permitted scope of work including additions, alterations, demolition, repair or a change in occupancy/use may impact the Project requirements, including but not limited to the installation of additional fire protection systems or components.

52. An approved water supply capable of supplying the required fire flow for fire protection systems shall be provided to all premises upon which facilities or buildings are hereby constructed or moved into or within the City. Required fire flow and hydrant distribution shall be in accordance with Appendix B and C of the California Fire Code.

53. Fire Protection systems shall be installed in accordance with provisions set forth in NMC Chapter 15.04 and the applicable National Fire Protection Association Standard.

54. The fire protection equipment shall be installed in accordance with provisions set forth in NMC Chapter 15.04 and the applicable National Fire Protection Association Standard.

55. The fire protection equipment shall be located within an interior room having an approved exterior access door or in an exterior enclosure attached to the building, specifically, for the purpose of housing such equipment.

56. Prior to building permit issuance, through the use of AutoTurn or comparable software provide a fire department circulation plan using the City's largest apparatus (ladder truck) and demonstrate clear turning movements into and out of the Project. The plan shall include a legend that demonstrates the apparatus specifications used. The final design of fire department access components shall be reviewed and approved by the Fire Marshal prior to installation.

57. Fire Apparatus Access Roads shall be designed in accordance with provisions set forth in NMC Chapter 15.04 and the applicable Public Works Standard.

58. Fire apparatus access roads shall have an unobstructed minimum width of 20 feet (curb to curb) and a minimum unobstructed vertical clearance of 13' 6". They shall have an all-weather paved surface capable of supporting a GVW of 71,000 pounds.

59. Access roads shall be completed with all-weather surfaces prior to the stockpiling of combustible materials or beginning combustible construction. Fire apparatus access shall be provided to within 150 feet of the most remote portions of all building from an approved exterior route. If this cannot be achieved fire apparatus turn arounds will be needed.

60. Fire apparatus access roads shall not be obstructed in any manner, including the parking of vehicles. Vertical traffic calming in the form of speed bumps, humps or dips are prohibited along fire access roads without prior approval of the fire Code Official. The minimum width and clearances established in NMC Chapter 15.04 shall be maintained at all times.

61. When required by the Fire Chief, fire apparatus access roads shall be designated as Fire Lanes and appropriate signs and/or markings installed in accordance with the California Vehicle Code and approved City standards.

62. Where applicable improvement plan submittals for permit shall include locations of fire lane red curbing and fire lane signage. Please refer to and include City Public Works Standard FP-2A & 2B with plan submittals for permitting.

63. When fire sprinkler systems are required in buildings of undetermined use, they shall be designed and installed to have a sprinkler density of not less than that required for an Extra Hazard Group II use with a minimum design area of 2,500 square feet.

64. When fire sprinkler systems are required in buildings of undetermined use, they shall be designed and installed to have a sprinkler density of not less than that

required for an Extra Hazard Group II use with a minimum design area of 2,500 square feet.

65. A fire hydrant shall be in service within 250 feet of the furthest point of construction prior to the stockpiling of combustible materials for the beginning of construction.

66. Fire Department Connections (FDC) shall be located not more than 100 ft. from the nearest fire hydrant.

CITY GENERAL CONDITIONS:

67. Unless otherwise specifically provided in this resolution or the Development Agreement, each condition of this approval shall be satisfied prior to the first to occur of: (a) approval of a final map (if this resolution includes the approval of a tentative subdivision map or tentative parcel map), (b) issuance of a building permit, or (c) commencement of any use of land that is authorized by this resolution. An improvement agreement between the City and the Applicant (and landowner, if different) that obligates the Applicant to complete specified conditions of approval will be deemed to be a satisfaction of those specified conditions if: (i) the agreement is accompanied by required security for faithful performance and labor and materials, and (ii) the agreement is approved as to substance by the City Engineer, and approved as to form by the City Attorney.

68. Applicant shall pay all applicable fees and charges at the required time and at the rate in effect at time of payment (in accordance with the City's Master Fee Schedule; see individual departments regarding the timing of fee payment requirements).

69. Applicant shall design and construct all improvements and facilities shown on any approved tentative map, site plan, or other documents submitted for permit approval, and with the plans and specifications submitted to and approved by City, to comply with the General Plan, any applicable Specific Plan, the Napa Municipal Code (NMC), City ordinances and resolutions, the "Standard Specifications" of the Public Works and Fire Departments, as well as any approved tentative map, site plan or other documents submitted for permit approval and with the plans and specifications submitted to and approved by City.

70. The time limit within which to commence any lawsuit or legal challenge to any quasi-adjudicative decision made by the City is governed by Section 1094.6 of the Code of Civil Procedure, unless a shorter limitations period is specified by any other provision. Under Section 1094.6, any lawsuit or legal challenge to any quasi-adjudicative decision made by the City must be filed no later than the 90th day following the date on which such decision becomes final. Any lawsuit or legal challenge, which is not filed within that 90-day period, will be barred.

71. To the full extent permitted by law, the Applicant shall indemnify, defend, release and hold City, its agents, officers, and employees from and against any claims, suits, liabilities, actions, damages, penalties or causes of action by any person, including Applicant, for any injury (including death) or damage to person or property or to set aside, attack, void or annul any actions of City, its agents, officers and employees, from any cause whatsoever in whole or in part arising out of or in connection with (1) the processing, conditioning or approval of the subject property; (2) any failure to comply with all applicable laws and regulations; or (3) the design, installation or operation of Project improvements and regardless whether the actions or omissions are alleged to be caused by City or Applicant so long as City promptly notifies Applicant of any such claim, etc., and the City cooperates in the defense of same.

72. If the Applicant is not the owner of the subject property, all agreements required to be executed by the City must be executed by the Owner(s) as well as the Applicant.

73. Applicant must comply with all conditions of approval set forth in this Resolution. Violation of any term, condition, mitigation measure or Project description relating to this Resolution is unlawful, prohibited and a violation of the NMC and is grounds for revocation or modification of this approval and/or the institution of civil and/or criminal enforcement and/or abatement proceedings.

74. Project approval would not have been granted but for the applicability and validity of each and every one of the specified mitigations and conditions, and if any one or more of such conditions and mitigations is found to be invalid by a court of law, this Project approval would not have been granted without requiring other valid conditions and/or mitigations consistent with achieving the purpose and intent of such approval.

75. Approval of the Use Permit, Design Review Permit and Alternative Equivalent shall not become effective unless and until the City Council approves the requested abandonment of a portion of Water Street.

76. This resolution shall become effective immediately upon adoption.

I HEREBY CERTIFY that the foregoing Resolution was duly adopted by the City Council of the City of Napa at a public meeting of said City Council held on the 17th day of November 2020, by the following vote:

AYES: Alessio, Sedgley, Gentry

NOES: Luros, Techel

ABSENT: None

ABSTAIN: None

ATTEST:



Tiffany Carranza
City Clerk

Approved as to form:



Michael W. Barrett
City Attorney

EXHIBIT "A"

CHAPTER 6**Mitigation Monitoring and Reporting Program****A. Introduction**

When approving projects with Environmental Impact Reports (EIRs) that identify significant impacts, the California Environmental Quality Act (CEQA) requires public agencies to adopt monitoring and reporting programs or conditions of project approval to mitigate or avoid the identified significant effects (Public Resources Code Section 21081.6(a)(1)). A public agency is required to ensure that the measures are fully enforceable, through permit conditions, agreements, or other means (Public Resources Code Section 21081.6(b)). The mitigation measures required by a public agency to reduce or avoid significant project impacts not incorporated into the design or program for the project may be made conditions of project approval as set forth in a Mitigation Monitoring and Reporting Program (MMRP). The program must be designed to ensure project compliance with mitigation measures during project implementation.

The MMRP includes the mitigation measures identified in the EIR required to address the significant impacts associated with the proposed project. The required mitigation measures are summarized in this program; the full text of the impact analysis and mitigation measures is presented in the Draft EIR in Chapter 2, Summary, except as revised in this Final EIR. The mitigation revisions in the Final EIR include revisions to Mitigation Measures 4.B-2, 4.B-3, 4.C-1a, and 4.D-1, as presented in Chapter 2 of this document. The revisions to these mitigation measures were made to reflect required implementation procedures in the Mitigation Monitoring and Reporting Program.

B. Format

The MMRP is organized in a table format (see **Table 6-1**), keyed to each significant impact and each EIR mitigation measure. Only mitigation measures adopted to address significant impacts are included in this program. Each mitigation measure is set out in full, followed by a tabular summary of monitoring requirements. The column headings in the tables are defined as follows:

- **Mitigation Measures adopted as Conditions of Approval:** This column presents the mitigation measure identified in the EIR.
- **Implementation Procedures:** This column identifies the procedures associated with implementation of the migration measure.

EXHIBIT "A"

6. Mitigation Monitoring and Reporting Program

- **Monitoring Responsibility:** This column contains an assignment of responsibility for the monitoring and reporting tasks.
- **Monitoring and Reporting Action:** This column refers the outcome from implementing the mitigation measure.
- **Mitigation Schedule:** The general schedule for conducting each mitigation task, identifying where appropriate both the timing and the frequency of the action.
- **Verification of Compliance:** This column may be used by the lead agency to document the person who verified the implementation of the mitigation measure and the date on which this verification occurred.

C. Enforcement

If the Specific Plan is adopted, the MMRP would be incorporated as a condition of approval for all future projects in the Planning Area. As such, all mitigation measures for significant impacts must be carried out in order to fulfill the requirements of approval. A number of the mitigation measures would be implemented during the course of the development review process for future projects in Downtown. These measures would be referenced on architectural, development and similar plans, in technical reports, and in the field prior to construction. Most of the remaining mitigation measures would be implemented during the construction or project implementation phase.

EXHIBIT "A"

6. Mitigation Monitoring and Reporting Program

**TABLE 6-1
MITIGATION MONITORING AND REPORTING PROGRAM**

Mitigation Measures	Implementation Procedures ¹	Monitoring Responsibility	Monitoring and Reporting Action	Monitoring Schedule	Verification of Compliance
B. Air Quality and Greenhouse Gases					
Mitigation Measure 4.B-1: In order to be consistent with the MSM A-1 and MSM A-2 transportation control measures (TCMs) listed in Table 4.B-4, the City shall require that the following measures be included as potential Transportation Demand Management (TDM) strategies to be implemented by individual project applicants, where feasible and appropriate: <ul style="list-style-type: none"> Install charging units for electric vehicles at residences and businesses. Develop incentives for businesses to include preferential parking for electric and/or hybrid vehicles. (As required by the 2010 California Green Building Standards Code, Chapter 5, Section 5.106.5.2) 	<p>A project applicant, as appropriate for a proposed project, will hire a qualified consultant, approved by the City of Napa, to prepare a Transportation Demand Management Plan (to be implemented by the project applicant) that adheres to all specifications in this measure.</p> <p>The TDM will verify in writing that the plan adheres to all of BAAQMD's guidance which is applicable to the project.</p>	City of Napa Public Works Traffic Engineer; Economic Development, Building Official	Review of TDM plan. Verify inclusion of TDM strategies in applicable construction plans and specifications.	During permit processing.	Ongoing
Mitigation Measure 4.B-2: The City shall ensure that all projects in the Planning Area incorporate the following measures to reduce or avoid exposure of sensitive receptors to TACs: <p>For construction activities, measures may include, but are not limited to, the following:</p> <ul style="list-style-type: none"> Minimize idling time either by shutting equipment off when not in use or reducing the time of idling to 5 minutes (as required by the state airborne toxics control measure [Title 13, Section 2485 of the California Code of Regulations]). Provide clear signage that posts this requirement for workers at the entrances to the site. Use new diesel engines that are designed to minimize DPM emissions (usually through the use of catalyzed particulate filters in the exhaust), or retrofitting older engines with catalyzed particulate filters which would reduce up to 85 percent of DPM emissions. <p>For operational activities, in order to comply with the <i>Air Quality and Land Use Handbook: A Community Health Perspective</i> (ARB 2005) and achieve an acceptable interior air quality level for sensitive receptors, appropriate measures, shall be incorporated into residential building design. For projects to be developed under the Specific Plan that include residential receptors within 1,000 feet of a source of TACs (stationary or CNR railroad), the appropriate measures shall include one of the following methods (As required</p>	<p>Prior to approval of projects within the Planning Area, ensure that each project's specifications will incorporate measures to reduce or avoid exposure to TACs, as feasible.</p>	<p>City of Napa Community Development Department; planner assigned to project.</p> <p>Building Official; Field Inspector</p>	<p>Verify incorporation of specifications into construction plans and project design.</p>	<p>Prior to approval of demolition permit or grading permit.</p> <p>and</p> <p>During construction through to issuance of occupancy permit.</p>	Ongoing

¹ In this Mitigation Monitoring and Reporting Program table, every subsequent development project undertaken pursuant to the Specific Plan would be required to adhere to each mitigation measure.

EXHIBIT "A"

6. Mitigation Monitoring and Reporting Program

TABLE 6-1 (Continued)
MITIGATION MONITORING AND REPORTING PROGRAM

Mitigation Measures	Implementation Procedures ¹	Monitoring Responsibility	Monitoring and Reporting Action	Monitoring Schedule	Verification of Compliance
B. Air Quality and Greenhouse Gases (continued)					
<p>by the 2010 California Green Building Standards Code, Chapter 5, Section 5.106.5.2):</p> <p>1. The project applicant shall retain a qualified air quality consultant to prepare a health risk assessment (HRA) in accordance with the ARB and the Office of Environmental Health and Hazard Assessment requirements to determine the exposure of project residents to TACs prior to issuance of a demolition, grading, or building permit. The HRA shall be submitted to the Planning Division for review and approval. The applicant shall implement the approved HRA recommendations, if any. If the HRA concludes that the air quality risks from nearby sources are at or below acceptable levels, then additional measures are not required.</p> <p>2. The project applicant shall implement the following features that have been found to reduce the air quality risk to sensitive receptors and shall be included in the project construction plans. These shall be submitted to the Planning Division and the Building Division for review and approval prior to the issuance of a demolition, grading, or building permit and ongoing.</p> <p>a. Do not locate sensitive receptors near distribution center's entry and exit points.</p> <p>b. Do not locate sensitive receptors in the same building as a perchloroethylene dry cleaning facility.</p> <p>c. Maintain a 50' buffer from a typical gas dispensing facility (under 3.6 million gallons of gas per year).</p> <p>d. Install, operate and maintain in good working order a central heating and ventilation (HV) system or other air take system in the building, or in each individual residential unit, that meets the efficiency standard of the MERV 13. The HV system shall include the following features: Installation of a high efficiency filter and/or carbon filter to filter particulates and other chemical matter from entering the building. Either HEPA filters or ASHRAE 85% supply filters shall be used.</p> <p>e. Retain a qualified HV consultant or HERS rater during the design phase of the project to locate the HV system based on exposure modeling from the mobile and/or stationary pollutant sources.</p>					

EXHIBIT "A"

6. Mitigation Monitoring and Reporting Program

TABLE 6-1 (Continued)
MITIGATION MONITORING AND REPORTING PROGRAM

Mitigation Measures	Implementation Procedures ¹	Monitoring Responsibility	Monitoring and Reporting Action	Monitoring Schedule	Verification of Compliance
B. Air Quality and Greenhouse Gases (continued)					
<p>f. Maintain positive pressure within the building.</p> <p>g. Achieve a performance standard of at least one air exchange per hour of fresh outside filtered air.</p> <p>h. Achieve a performance standard of at least 4 air exchanges per hour of recirculation</p> <p>i. Achieve a performance standard of 0.25 air exchanges per hour of in unfiltered infiltration if the building is not positively pressurized.</p> <p>j. Project applicant shall maintain, repair and/or replace HV system or prepare an Operation and Maintenance Manual for the HV system and the filter. The manual shall include the operating instructions and maintenance and replacement schedule. This manual shall be included in the CC&R's for residential projects and distributed to the building maintenance staff. In addition, the applicant shall prepare a separate Homeowners Manual. The manual shall contain the operating instructions and maintenance and replacement schedule for the HV system and the filters. It shall also include a disclosure to the buyers of the air quality analysis findings.</p>					
<p>Mitigation Measure 4.B-3: The City shall ensure that individual project applicants incorporate the following measures to reduce or avoid exposure of sensitive receptors to odors during development under the Specific Plan:</p> <ul style="list-style-type: none"> Consider the odor-producing potential of land uses when the exact type of facility that would occupy areas zoned for commercial or mixed-use land uses is determined. Facilities that have the potential to emit objectionable odors would be located with appropriate buffers from existing and proposed sensitive receptors. <p>Identify odor control devices within building permit applications to mitigate the exposure of receptors to objectionable odors if a potential odor-producing source is to occupy the Planning Area. The identified odor control devices would be installed before the issuance of certificates of occupancy for the potentially odor-producing use.</p>	<p>Prior to approval of individual projects within the Planning Area, ensure that each project's specifications comply with this measure.</p>	<p>City of Napa Community Development Department; planner assigned to the project, building official, and building plan checker</p>	<p>Verify incorporation of specifications into project design.</p>	<p>Prior to issuance of building permits and Prior to issuance of occupancy permits.</p>	<p>Ongoing</p>

EXHIBIT "A"

6. Mitigation Monitoring and Reporting Program

TABLE 6-1 (Continued)
MITIGATION MONITORING AND REPORTING PROGRAM

Mitigation Measures	Implementation Procedures ¹	Monitoring Responsibility	Monitoring and Reporting Action	Monitoring Schedule	Verification of Compliance
B. Air Quality and Greenhouse Gases (continued)					
Mitigation Measure B-4: Implement Mitigation Measure 4.B-1 to ensure consistency with the BAAQMD TCMs to promote clean, fuel efficient and zero emission vehicles.	See Mitigation Measure 4.B-1.				
Mitigation Measure 4.B-5: The City shall ensure that applicant(s) for individual projects to be developed under the Specific Plan would incorporate Green Building and Development Measures as listed in Appendix C (AIR-2). Each increment of new development under the Specific Plan requiring a discretionary approval from the City (e.g., proposed tentative subdivision map, conditional use permit), would demonstrate that GHG emissions from operation would be reduced by 30 percent from business-as-usual 2020 emissions levels, in order to achieve 1990 levels by 2020.	Incorporate Green Building and Development Measures into project design and demonstrate GHG emissions from operations would adhere to reduction goals set by the City.	City of Napa Community Development Department, planner assigned to project and building plan checker	Ensure compliance of individual project applications with Green Building and Development Measures.	During permit processing.	Ongoing
Mitigation Measure B-6: Implement Mitigation Measure 4.B-5 to reduce GHGs.					
C. Biological Resources					
Mitigation Measure 4.C-1a: The City shall ensure that subsequent projects in the Planning Area incorporate the following measures to reduce or avoid impacts to fish species: <ul style="list-style-type: none"> Avoid, reduce, or compensate for indirect impacts to fish species; for example, removal of riparian vegetation would require compensatory shade plantings. Design creek and river crossings so as to maintain connectivity and allow for unimpeded flow of water, and if at all possible avoid building piers or footings within the channel. 	Incorporate all specifications of this measure into project design and development to reduce or avoid impacts to fish species.	City of Napa Community Development Department; planner assigned to the project.	Ensure incorporation of all specifications of these measures into project design and development.	Prior to construction permits.	Ongoing
Mitigation Measure 4.C-1b: Pre-Construction Special-Status Avian Surveys. No more than two weeks in advance of any tree or shrub pruning, removal, or ground-disturbing activity that will commence during the breeding season (February 1 through August 31), a qualified wildlife biologist will conduct pre-construction surveys of all potential special-status bird nesting habitat in the vicinity of the planned activity. Pre-construction surveys are not required for construction activities scheduled to occur during the non-breeding season (August 31 through January 31). Construction activities commencing during the non-breeding season and continuing into the breeding season do not require surveys (as it is assumed that any breeding birds taking up nests would be acclimated to project-	The project applicant will prepare construction plans that incorporate pre-construction surveys and buffer zones. If required, avoidance procedures will be implemented. The project applicant will hire a qualified biologist and the project applicant and its contractor(s) will engage the qualified biologist to conduct pre-construction surveys as described.	City of Napa Community Development Department; planner assigned to the project.	Approve a qualified biologist. Review pre-construction survey reports. If active nests are found, inspect construction site to confirm buffer zones.	No more than 14 days before start or restart of construction during the months of February to August.	Ongoing

EXHIBIT "A"

6. Mitigation Monitoring and Reporting Program

TABLE 6-1 (Continued)
MITIGATION MONITORING AND REPORTING PROGRAM

Mitigation Measures	Implementation Procedures ¹	Monitoring Responsibility	Monitoring and Reporting Action	Monitoring Schedule	Verification of Compliance
C. Biological Resources (cont.)					
related activities already under way). Nests initiated during construction activities would be presumed to be unaffected by the activity, and a buffer zone around such nests would not be necessary. However, a nest initiated during construction cannot be moved or altered. <i>If pre-construction surveys indicate that no nests of special-status birds are present or that nests are inactive or potential habitat is unoccupied: no further mitigation is required.</i> <i>If active nests of special-status birds are found during the surveys: implement Mitigation Measure 4.C-1c.</i>					
Mitigation Measure 4.C-1c: Avoidance of active nests. If active nests of special-status birds or other birds are found during surveys, the results of the surveys would be discussed with the California Department of Fish and Game and avoidance procedures will be adopted, if necessary, on a case-by-case basis. In the event that a special-status bird or protected nest is found, construction would be stopped until either the bird leaves the area or avoidance measures are adopted. Avoidance measures can include construction buffer areas (up to several hundred feet in the case of raptors), relocation of birds, or seasonal avoidance. If buffers are created, a no disturbance zone will be created around active nests during the breeding season or until a qualified biologist determines that all young have fledged. The size of the buffer zones and types of construction activities restricted will take into account factors such as the following: 1. Noise and human disturbance levels at the Plan area and the nesting site at the time of the survey and the noise and disturbance expected during the construction activity; 2. Distance and amount of vegetation or other screening between the Plan area and the nest; and sensitivity of individual nesting species and behaviors of the nesting birds.	Incorporate all specifications of this measure into project design and development to reduce or avoid impacts to active nests of special-status birds or other birds found during the surveys.	City of Napa Community Development Department; planner assigned to the project.	Ensure incorporation of all specifications of these measures into project design and development.	Prior to construction permits.	Ongoing
D. Cultural Resources					
Mitigation Measure 4.D-1: The City shall require that any future development under the Specific Plan meets the intent and goals of the City of Napa Downtown Historic Design Guidelines. This includes any project that would alter historic resources or would be constructed adjacent to a historic resource.	Ensure that each subsequent project in the Planning Area complies with the Downtown Historic Design Guidelines.	City of Napa Community Development Department; planner assigned to the project.	Ensure compliance of individual project applications with City of Napa Downtown Historic Design Guidelines.	Prior to project approval.	Ongoing

EXHIBIT "A"

6. Mitigation Monitoring and Reporting Program

TABLE 6-1 (Continued)
MITIGATION MONITORING AND REPORTING PROGRAM

Mitigation Measures	Implementation Procedures ¹	Monitoring Responsibility	Monitoring and Reporting Action	Monitoring Schedule	Verification of Compliance
D. Cultural Resources (cont.)					
Mitigation Measure 4.D-2a: When specific projects are proposed under the Specific Plan that involves ground-disturbing activity into native soils, the City's "Pastfinder" archaeological database shall be consulted. Recommendations provided by the "Pastfinder" database shall be implemented based on a parcel's archaeological sensitivity. In those cases where a site-specific cultural resources study is necessary, it shall be performed by qualified cultural resources professional. The study will include an updated records search, pedestrian survey of the project area, development of a historic context, sensitivity assessment for buried prehistoric and historic-period deposits, and preparation of a technical report that meets federal and state requirements. If significant resources are identified and cannot be avoided, treatment plans will be developed in consultation with the City and Native American representatives to mitigate potential impacts to less than significant.	<p>The project applicant will hire a qualified cultural resources professional to conduct an evaluation, and if necessary, will prepare a site-specific cultural resources study in accordance with the specifications of this measure.</p> <p>If necessary, treatment plans will be developed in consultation with the City and Native American representatives.</p>	City of Napa Community Development Department; planner assigned to project.	<p>Review and approval of the cultural resources professional's technical report(s).</p> <p>If significant resources are identified and cannot be avoided, review and approval of treatment plans in consultation with Native American representatives.</p>	Prior to project approval.	Ongoing
Mitigation Measure 4.D-2b: Should any archaeological artifacts be found during construction in the Planning Area, all construction activities within 50 feet shall immediately halt and the City must be notified. A qualified archaeologist shall inspect the findings within 24 hours of the discovery. If the site is determined to contain significant cultural resources, funding will be provided to identify, record, report, evaluate, and recover the resources as necessary. Construction within the area of the find shall not recommence until impacts on the historical or unique archaeological resource are mitigated. Additionally, Public Resources Code § 5097.993 stipulates that a project sponsor must inform project personnel that collection of any Native American artifact is prohibited by law.	<p>The project applicant will provide documentation to the City that project personnel were given training regarding the illegality of collecting Native American artifacts.</p> <p>If archaeological artifacts are found, project applicant and its contractor(s) will halt all construction activities within 50 feet and notify the City. Qualified archaeologist will inspect the findings within 24 hours of the discovery. Identify record, report, evaluate, and recover the resources as necessary. Upon full mitigation City will give approval for recommencement of construction within the area.</p>	Community Development Department; planner assigned to project, building official, and building plan checker	<p>Review and approve documentation that project personnel have been trained regarding the illegality of collecting Native American artifacts.</p> <p>Ensure construction within 50 feet of found archaeological artifacts halted; ensure notification of City has occurred; review and approve selection of qualified archaeologist; review and approve archaeologist's report of recovery. Upon full mitigation of historical or unique archaeological resource(s), give approval for recommencement of construction within the area.</p>	Prior to demolition or grading permit (whichever occurs first); ongoing during demolition, grading, and construction.	Ongoing

EXHIBIT "A"

6. Mitigation Monitoring and Reporting Program

TABLE 6-1 (Continued)
MITIGATION MONITORING AND REPORTING PROGRAM

Mitigation Measures	Implementation Procedures ¹	Monitoring Responsibility	Monitoring and Reporting Action	Monitoring Schedule	Verification of Compliance
D. Cultural Resources (cont.)					
Mitigation Measure 4.D-3: Prior to the start of any subsurface excavations that would extend beyond previously disturbed soils, all construction forepersons and field supervisors shall receive training by a qualified professional paleontologist, as defined by the Society of Vertebrate Paleontology (SVP), who is experienced in teaching non-specialists, to ensure they can recognize fossil materials and will follow proper notification procedures in the event any are uncovered during construction. Procedures to be conveyed to workers include halting construction within 50 feet of any potential fossil find and notifying a qualified paleontologist, who will evaluate its significance. Training on paleontological resources will also be provided to all other construction workers, but may involve using a videotape of the initial training and/or written materials rather than in-person training by a paleontologist. If a fossil is determined to be significant and avoidance is not feasible, the paleontologist will develop and implement an excavation and salvage plan in accordance with SVP standards.	<p>All construction forepersons, field supervisors, and construction workers shall receive training by a qualified professional paleontologist; the training shall conform to all specifications of this measure. Project sponsor will provide documentation of such trainings to the City.</p> <p>The paleontologist will develop and implement an excavation and salvage plan in accordance with the specifications of this measure.</p>	City of Napa Community Development Department; planner assigned to project and building official.	<p>Review and approve project sponsor's documentation of trainings of forepersons, field supervisors and all construction workers.</p> <p>Review and approve paleontologist's excavation and salvage plan.</p>	Prior to demolition or grading permit (whichever occurs first); prior to the start of any subsurface excavations.	Ongoing
Mitigation Measure 4.D-4: The treatment of any human remains and associated or unassociated funerary objects discovered during soil-disturbing activities shall comply with applicable state laws. Such treatment would include immediate notification of the Napa County Coroner. In the event of the coroner's determination that the human remains are Native American, the coroner shall notify of the Native American Heritage Commission, which would appoint a Most Likely Descendant (MLD) (PRC § 5097.98). The archaeological consultant, the Event Authority, and MLD shall make all reasonable efforts to develop an agreement for the treatment, with appropriate dignity, of any human remains and associated or unassociated funerary objects (CEQA Guidelines § 15064.5[d]). The agreement would take into consideration the appropriate excavation, removal, recordation, analysis, custodianship, curation, and final disposition of the human remains and associated or unassociated funerary objects. The PRC allows 48 hours to reach agreement on these matters. If the MLD and the other parties could not agree on the reburial method, the Event Authority shall follow Section 5097.98(b) of the PRC, which states that "the landowner or his or her authorized representative shall reinter the human remains and items associated with Native American burials with appropriate dignity on the property in a location not subject to further subsurface disturbance."	<p>Upon discovery of human remains and associated or unassociated funerary objects, the project applicant will immediately notify Napa County Coroner and City of Napa project planner. After such notification, the archaeological consultant, project applicant, Native Heritage Commission, and Most Likely Descendant (MLD) will develop an agreement in accordance with the specifications of this measure and state law.</p> <p>If the MLD and the other parties could not, applicant will reinter the human remains in accordance with the specifications of this measure and state law.</p> <p>The project applicant will incorporate the specifications of this measure into project specifications and grading and construction plans.</p>	City of Napa Community Development Department; planner assigned to project and field inspector.	<p>Ensure prompt notification of Napa County Coroner; if remains are determined to be Native American, review Coroner's report to Native American Heritage Commission.</p> <p>Facilitate consultation between archaeological consultant, project applicant, Native Heritage Commission and Most Likely Descendant over the allowed 48 hours.</p> <p>If agreement is reached, review report(s) by archaeological consultant and project applicant of actions taken and final disposition of human remains and associated or unassociated funerary objects. Ensure that report(s) are provided to Most Likely</p>	Ongoing during grading and construction of individual projects.	Ongoing

EXHIBIT "A"

6. Mitigation Monitoring and Reporting Program

TABLE 6-1 (Continued)
MITIGATION MONITORING AND REPORTING PROGRAM

Mitigation Measures	Implementation Procedures ¹	Monitoring Responsibility	Monitoring and Reporting Action	Monitoring Schedule	Verification of Compliance
D. Cultural Resources (cont.)					
Mitigation Measure 4.D-4 (cont.)			Descendant and his or her tribe, as well as to the local information center. If agreement is not reached, review and approve project applicant's reinterment plan and archaeological consultant's report(s) on reinterment. Forward report(s) to Most Likely Descendant and his or her tribe, as well as to the local information center.		
I. Noise					
<p>Mitigation Measure 4.I-1a: Construction contractors for subsequent development projects within the Planning Area shall utilize the best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures, and acoustically-attenuating shields or shrouds, etc.) when within 400 feet of sensitive receptor locations. Additional techniques shall include, but not be limited to the following noise control elements:</p> <ul style="list-style-type: none"> Non-residential construction project activities (Monday through Friday) shall be limited to the hours of 7:00 a.m. to 7:00 p.m. with no start up of machines or equipment prior to 8 a.m. No delivery of materials nor equipment shall occur prior to 7:30 a.m. or after 5:00 p.m. No cleaning of machines or equipment shall occur after 6:00 p.m. No servicing of equipment shall occur past 6:45 p.m. Construction of weekends and holidays shall be limited to the hours of 8:00 a.m. to 4:00 p.m., unless a permit allows otherwise. <p>Impact tools (e.g., jack hammers, pavement breakers, and rock drills) used for construction shall be hydraulically or electrically powered wherever possible to avoid noise associated with compressed air exhaust from pneumatically powered tools. However, where use of pneumatic tools is unavoidable, an exhaust muffler on the compressed air exhaust shall be used;</p>	The project applicant will incorporate the specifications of this measure into project specifications and grading and construction plans.	City of Napa Community Development Department; planner assigned to project, building official, and field inspector.	<p>Review and approve project specifications and grading and construction plans for inclusion of specifications in this measure.</p> <p>Inspect site during construction to ensure compliance with project specifications and grading and construction plans.</p>	<p>Prior to issuance of building and grading permit(s).</p> <p>Field inspections during construction.</p>	Ongoing

EXHIBIT "A"

6. Mitigation Monitoring and Reporting Program

TABLE 6-1 (Continued)
MITIGATION MONITORING AND REPORTING PROGRAM

Mitigation Measures	Implementation Procedures ¹	Monitoring Responsibility	Monitoring and Reporting Action	Monitoring Schedule	Verification of Compliance
I. Noise (cont.)					
<p>this muffler shall achieve lower noise levels from the exhaust by approximately 10 dBA. External jackets on the tools themselves shall be used where feasible in order to achieve a reduction of 5 dBA. Quieter procedures shall be used, such as drills rather than impact equipment, whenever feasible;</p> <ul style="list-style-type: none"> All construction equipment shall not be placed adjacent to developed areas unless said equipment is provided with acoustical shielding. <p>Signs shall be posted at all construction site entrances to the property upon commencement of project construction, for the purposes of informing all contractors and subcontractors, their employees, agents, materialmen, and all other persons at the construction site, of the basic requirements of Mitigation Measures 4.1-a through 4.1-c.</p>					
<p>Mitigation Measure 4.1-1b: Should pile-driving be necessary for a proposed project, the project sponsor would require that the construction contractor limit pile driving activity to the least disturbing hours of the day. To further mitigate pile driving and/or other extreme noise-generating construction impacts, a set of site-specific noise attenuation measures shall be completed under the supervision of a qualified acoustical consultant. No extreme noise-generating activities shall be allowed on weekends and holidays. Techniques included may include but not be limited to the following:</p> <ul style="list-style-type: none"> Erect temporary plywood noise barriers around the construction site; Implement "quiet" pile-driving technology (such as pre-drilling of piles and the use of more than one pile driver to shorten the total pile driving duration), where feasible, in consideration of geotechnical and structural requirements and conditions; Use noise control blankets on building structures as buildings are erected to reduce noise emission from the site; Evaluate the feasibility of noise control at the receivers by temporarily improving the noise reduction capability of adjacent buildings; and <p>Monitor the effectiveness of noise attenuation measures by taking noise measurements.</p>	<p>The project applicant will incorporate the specifications of this measure into project specifications and grading and construction plans.</p>	<p>City of Napa Community Development Department; planner assigned to project, building official, and field inspector</p>	<p>Review and approve project specifications and grading and construction plans for inclusion of specifications in this measure.</p> <p>Inspect site during construction to ensure compliance with project specifications and grading and construction plans.</p>	<p>Prior to issuance of building and grading permit(s).</p> <p>Field inspections during construction.</p>	<p>Ongoing</p>

EXHIBIT "A"

6. Mitigation Monitoring and Reporting Program

TABLE 6-1 (Continued)
MITIGATION MONITORING AND REPORTING PROGRAM

Mitigation Measures	Implementation Procedures ¹	Monitoring Responsibility	Monitoring and Reporting Action	Monitoring Schedule	Verification of Compliance
I. Noise (cont.)					
Mitigation Measure 4.I-1c: The City shall condition approval of projects in the Planning Area near receptors sensitive to construction noise, such as residences and schools, such that, in the event of a justified complaint regarding construction noise, the City would have the ability to require changes in the construction practices to address the noise complaints.	Approval of permits for projects adjacent to sensitive receptors will be conditioned upon the City's ability to require changes in the construction practices to address justified noise complaints. Project applicants will post the City's noise complaint procedure in publicly accessible locations at each construction site.	Community Development Department; planner assigned to project and code enforcement officer.	Review all noise complaints received; assess whether noise complaints are justified; alert Project Sponsor of revised construction practices. Inspect site during construction to ensure compliance with revised construction practices.	At approval of project specifications, grading permits and building permits; ongoing during demolition, grading, construction.	Ongoing
Mitigation Measure 4.I-3: Groundborne vibration exposure to proposed Specific Plan residences within 200 feet of the mainline track shall be analyzed in a detailed vibration study by a qualified acoustical engineer to determine if vibration isolation shall be required in building design, such as supporting the new building foundations on elastomer pads similar to bridge bearing pads. The results of each study shall be submitted to the City prior to project approval.	Retain qualified acoustical engineer to determine if vibration isolation shall be required in building design; if so, incorporate such measures into project design. Ensure that each subsequent development projects undertaken pursuant to the Specific Plan that are subject to vibration exposure, adhere to vibration study recommendations, as feasible.	Community Development Department; planner assigned to project and field inspector.	Approve consultant selection and scope of work. Ensure project design incorporates qualified acoustical engineer's recommendations. Review and approve project plans, demolition plans, grading plans and constructions plans for adherence to the Specific Plan's design guidelines.	Prior to project approval. Inspect site during construction to ensure compliance with project specifications and grading and construction plans.	Ongoing
L. Transportation and Traffic					
Mitigation Measure 4.L-1a: The City shall continue to coordinate with Caltrans to install a traffic signal at the intersection of SR 29 Northbound Off-ramp / First Street or identify other acceptable alternatives to the signal. If the signal pursued, the City shall work closely with Caltrans to ensure that the signal timing is properly synchronized with the closely spaced intersection to the east at California Boulevard / First Street.	The City of Napa Public Works Department will contact Caltrans regarding the signal and work with Caltrans to address this issue.	City of Napa Public Works Department, project engineer; City of Napa community Development Department. Caltrans.	Approval of intersection improvements by City Public Works and Caltrans.	Prior to issuance of an encroachment permit.	Ongoing
Mitigation Measure 4.L-2b: The City shall continue to coordinate with Caltrans to install a traffic signal at the intersection of SR 29 Northbound Off-ramp / First Street or identify other acceptable alternatives to the signal. If the signal pursued, the City shall work closely with Caltrans to ensure that the signal timing is properly synchronized with the closely spaced intersection to the east at California Boulevard / First Street.	City of Napa Public Works Department will contact Caltrans about regarding the signal. Private developers will pay a Street Improvement Fee which contributes funds toward the First Street Over-Crossing project.	City of Napa Public Works Department, project engineer; City of Napa community Development Department. Caltrans.	Calculation and receipt of payment.	Prior to issuance of building permits.	Ongoing

EXHIBIT "A"

6. Mitigation Monitoring and Reporting Program

TABLE 6-1 (Continued)
MITIGATION MONITORING AND REPORTING PROGRAM

Mitigation Measures	Implementation Procedures ¹	Monitoring Responsibility	Monitoring and Reporting Action	Monitoring Schedule	Verification of Compliance
L. Transportation and Traffic (cont.)					
<p>Mitigation Measure 4.L-6: This mitigation measure should be applied to developments under the Specific Plan that would generate substantial multi-modal trips crossing at-grade railroad crossings that could substantially increase hazards between incompatible uses (i.e., motor vehicles and trains, or pedestrians and trains);</p> <p>Transportation Impact Studies (TIS) for At-grade Railroad Crossings – The TIS, otherwise required to be prepared for proposed developments under this project, in accordance with standard City policies and practices, must evaluate potential impacts to at-grade railroad crossings resulting from project-related traffic. The TIS should examine whether the proposed project would generate substantial multimodal trips crossing at-grade railroad crossings that could substantially increase hazards between incompatible uses (i.e., motor vehicles and trains, pedestrians and trains), which may include a Diagnostic Review for each railroad crossing.</p> <p>If required, the Diagnostic Review must be completed with all affected properties and Stakeholders, in coordination with the California Public Utilities Commission (CPUC). It will include: roadway and rail descriptions; collision history; traffic volumes for all modes; train volumes; vehicular speeds; train speeds; and existing rail and traffic controls. Based on the Diagnostic Review and the number of projected trips, the TIS will evaluate if the proposed project increases hazards at the crossing. For example, vehicle traffic generated by the proposed project may cause vehicle queuing at intersections resulting in traffic spilling back onto at-grade railroad crossings.</p> <p>Where the TIS identifies substantially hazardous crossing conditions caused by the proposed project, mitigations relative to the project's contribution to the crossing as necessary shall be applied through project redesign and/or incorporation of improvements to reduce potential adverse impacts. Proposed improvements must be coordinated with CPUC and affected railroads and all necessary permits/approvals obtained, including a GO 88-B Request (Authorization to Alter Highway Rail Crossings). These improvements may include:</p> <ul style="list-style-type: none"> • Installation of additional warning signage; 	<p>The project applicant will retain a qualified transportation engineer to prepare a <i>Transportation Impact Study (TIS) for At-grade Railroad Crossings</i> that adheres to all specifications of this measure.</p> <p>Where the TIS identifies substantially hazardous crossing conditions caused by the proposed project, the project applicant will incorporate mitigations (relative to the project's contribution) to the crossing(s) as recommended by the TIS.</p>	<p>Community Development Department; planner assigned to project, in coordination with the Public Works Department; project engineer.</p>	<p>Review and approve selection of qualified transportation engineer.</p> <p>Prior to approval of project plans, ensure incorporation of mitigation to the affected crossing(s) as recommended by the TIS.</p>	<p>During permit processing.</p>	<p>Ongoing</p>

EXHIBIT "A"

6. Mitigation Monitoring and Reporting Program

TABLE 6-1 (Continued)
MITIGATION MONITORING AND REPORTING PROGRAM

Mitigation Measures	Implementation Procedures ¹	Monitoring Responsibility	Monitoring and Reporting Action	Monitoring Schedule	Verification of Compliance
L. Transportation and Traffic (cont.)					
<ul style="list-style-type: none"> • Improvements to warning devices at existing rail crossings; • Installation or improvement to automobiles and/or pedestrian control gates; • Installation of concrete panels to provide a smooth crossing surface; • Reduction in the flangeway gap to improve pedestrian and bicyclist safety; • Installation of median separation to prevent vehicles from driving around railroad crossings; • Improvements to traffic signaling at intersections adjacent to crossings (e.g., signal preemption); • Prohibition of parking within 100 feet of the crossings to improve the visibility of warning devices and approaching trains; • Where soundwalls, landscaping, buildings, etc. would be installed near crossings, maintain the visibility of warning devices and approaching trains; • Elimination of driveways near crossings; • Installation of vandal-resistant fencing or walls to limit the access of pedestrians onto the railroad right-of-way. <p>This mitigation measure would be applied by the City on a development project (case-by-case) basis, as appropriate. The incorporation of improvements identified in this mitigation measure could reduce the project's impact to the at-grade railroad crossing to a less-than-significant level.</p>					

EXHIBIT "B"



April 7, 2020

Planning Director
City of Napa
P.O. Box 660
Napa, CA 94559

SUBJECT: 16-0124 First & Oxbow, REFRL-000630, JB Leamer, 876 Water St (Rosen)

NapaSan has reviewed the above named application, which will be reviewed at an Interdepartmental Staff Meeting.

The owner shall pay to NapaSan the prevailing fees and charges in effect as established by Resolutions and Ordinances before the issuance of a City Building Permit, and shall adhere to the rules and regulations as they apply to the application.

NapaSan has identified the following comments based on the current application. NapaSan reserves the right to modify the following conditions/comments based on changes to future applications or changes to the project site plan.

The proposed project shall be subject to the following conditions of approval:

1. A plan showing the required sanitary sewer improvements, conforming to NapaSan standards, shall be prepared by a registered civil engineer and shall be submitted to NapaSan for approval.
2. The owner shall obtain a demolition permit from NapaSan prior to removal of the existing buildings. Demolition credits shall be valid for a period of two years from the date the demolition permit is issued, unless the owner elects to continue paying sewer service charges after issuance of the demolition permit. Contact NapaSan for more information about demolition credits. The owner will be required to hire a Class A licensed contractor to cut and cap all of the existing laterals at the connection to the main.
3. The sanitary sewer system in First Street may require upgrading. The limits would be determined after further study conducted by the owner. All costs associated with the study and any required upgrades shall be borne by the owner. The owner shall enter into an improvement agreement with NapaSan and post the appropriate bonds covering the sanitary sewer work.

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EXHIBIT "B"



4. Napa Sanitation District adopted a Collection System Master Plan (CSMP) in December 2007. The growth projections in the CSMP are consistent with the City of Napa General Plan, the Napa County General Plan, and the General Plan Update in progress at that time. This project is being developed at an intensity greater than was specified in the City of Napa General Plan. The CSMP identified several trunk pipelines in existing collection systems that have capacity deficiencies during wet weather flow conditions directly related to inflow/infiltration (I&I). This project is upstream of pipelines that was identified by the CSMP as lacking sufficient wet weather capacity. Development of this property may increase projected sewer flows. Development of this property may create additional impacts to the downstream trunk pipeline that were not considered in the CSMP. NapaSan will require the project to participate in an I&I reduction project consistent with the requirements of Napa Sanitation District Board Resolution 11-025. Contact NapaSan for additional information.
5. Sanitary sewer facilities are required to have a minimum of 36" of cover at all points within the public right of way. The proposed sanitary sewer facilities shall be designed to meet this requirement.
6. A grease interceptor will be required for any restaurant or food service types of use.
7. Should there be a drain in the trash enclosure, it shall be connected to the grease interceptor serving the building and the trash enclosure shall meet NapaSan standards. Contact NapaSan for more information.
8. The appropriate language shall be included in the CC&R's regarding maintenance of common sanitary sewer laterals serving multiple parcels. A draft set of CC&R's shall be submitted to NapaSan for review and approval. NapaSan reserves the right to require each parcel or condominium unit to be served by a separate sanitary sewer lateral.
9. No floor drains are allowed in the building except in the restroom and food service areas.
10. Discharge lines from the elevator sump pits shall not be connected to the sanitary sewer system.
11. Should there be a drain in the below grade parking area, it shall be connected to a sand and oil separator and shall meet NapaSan standards. The drain shall not be connected to a grease interceptor. The entrance of the parking structure shall be sloped away from the building and stormwater shall not enter the sanitary sewer system. Contact NapaSan for more information.

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EXHIBIT "B"

12. No plumbing from outdoor pool/spa areas or water features shall be connected to the sanitary sewer system.
13. All roof top plumbing fixtures shall be located under a covered area which extends past any open side a distance equal to 1/2 the height of the opening and shall be graded to slope away from the opening. Contact NapaSan staff for more information.
14. NapaSan has Best Management Practices (BMPs) for specific industries/businesses which contain proven practices for reducing pollution in wastewater. Some BMPs are mandatory. The proposed project shall comply with mandatory BMPs. All sewer discharges from the proposed development shall meet the Local Limits for constituents of concern established by NapaSan.
15. Each parcel shall be served by a separate sanitary sewer lateral. Commercial and residential/hotel uses shall be served by separate sanitary sewer laterals extending from the building to the sewer main.
16. Trees shall not be located within 10' of sewer pipes.
17. Bioretention areas shall not be located within 5' of sanitary sewer pipes.
18. There is an existing 4" diameter sewer force main located on the subject parcels. The force main is no longer in service. The owner or developer shall remove or abandon the force main within the extent of the subject parcels per NapaSan requirements.
19. The proposed development would be subject to the following fees, based on the rates in effect at the time they are paid:
 - a. Agreement Fees
 - b. Demolition Permit Fees
 - c. Plan Check Fees
 - d. Inspection Fees
 - e. Capacity Charges (based on use and square footage for commercial space. Outdoor dining and event space is included in the square footage)
 - f. Capacity Charges (per unit for transient occupancy)
20. NapaSan has updated sanitary sewer and recycled water standard specifications and details. The updated specifications and details are available online at NapaSan's website (www.NapaSan.com). NapaSan may revise the standard specifications and details at any time. It is the responsibility of the engineer, contractor, and developer to verify that they are in possession of the current version of the standards prior to design and construction of sanitary sewer and recycled water improvements.

EXHIBIT "B"



The capacity charge for an equivalent dwelling unit currently is \$9,803 and will increase by the Consumer Price Index (CPI) annually in July. Commercial capacity charges are determined per NapaSan Code Section 5.02.030.B. Contact NapaSan Staff at (707) 258-6004 or mlemmon@napasan.com for additional information.

Sincerely,

A handwritten signature in blue ink that reads "Matthew Lemmon".

Matt Lemmon, P.E.
Senior Civil Engineer

April 7, 2020
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EXHIBIT "C"

Foxbow Development, LLC

485 Technology Way
Napa, CA 94558

Julian C.R. Webster | Principal

J.B. Leamer | Principal

Date: November 14, 2020

Via Email: emorris@cityofnapa.org

Erin Morris

City of Napa, Community Development Director
1600 First Street
Napa, CA 94559

Subject: Affordable Housing Alternative Equivalent Proposal

Dear Ms. Morris:

Foxbow Development, LLC. ("Applicant") in efforts to satisfy public comment proposes the following Affordable Housing Equivalent Alternative in lieu of payment of the affordable housing impact fee as part of the First & Oxbow Mixed-Use Project ("Project").

Municipal code section 15.94.070 allows for alternative equivalent proposals where an applicant can further affordable housing opportunities within the City to an equal or greater extent than payment of the fees. In this case, the affordable housing impact fee would be approximately \$735,998. With new affordable housing construction averaging more than \$600,000 per unit, the fee would effectively allow less than two affordable units.

It is our objective to provide affordable housing to a greater extent than the fee payment, and follow the suggested model set by Trinitas we propose the following:

- Prior to occupancy for the First & Oxbow Mixed-Use Project, Applicant shall entitle at least 22 units of housing, placing an affordable housing covenant of deed restriction on a residential site within said project, of not less than 3 units, thereby ensuring the provision of affordable housing.
- The current project is intended to be a mix of housing including at least 3 Affordable units at 80% AMI. The project may also include moderate income or work force housing.

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Having a mix of housing has a more positive impact for the tenants, neighborhoods & community.

Potential Estimated Economic Benefit

- Estimated current land value of \$2,000,000
- Estimated entitlement costs of \$275,000
- Estimated value of affordable deed restriction \$1,125,000
- Total contribution \$3,400,000 or 462% of the required impact fee

We believe this proposal will deliver a more significant impact than paying the required impact fee yet in alignment with our project scope.

Respectfully,

J.B. Leamer
Foxbow Development, LLC

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RECORDING REQUESTED BY:

WHEN RECORDED RETURN TO:

**Off-Site Affordable Housing Agreement
By and Between the City of Napa and Foxbow Development, LLC**

This Off-Site Affordable Housing Agreement ("Agreement") is entered into as of this ____ day of _____, 2020 by and between the City of Napa, a California charter city (the "City") and Foxbow Development, LLC ("Developer"). For purposes of this Agreement, the City and Developer are collectively referred to as the "Parties."

RECITALS

A. On November 17, 2020, the Napa City Council considered and approved the Developer's application for a Design Review Permit and Use Permit for the First and Oxbow Hotel Project (the "Project"), a 184,106-square-foot, 74-room hotel complex consisting of two 4-story buildings on a 0.8-acre site, located at 730 Water St. in the City of Napa (APNs: 003-235-003, 003-235-004, 003-235-005, 003-235-006, 003-235-007, 003-241-003, and 003-241-006).

B. The City adopted its Affordable Housing Impact Fee Program (Mun. Code, § 15.94.010 *et seq.*) to promote the achievement of policy goals identified in the Housing Element of the City's General Plan, and to mitigate the impacts that development projects have on the need for affordable housing, by imposing an affordable housing impact fee on every development project.

C. In connection with its approval of the Project, the City Council approved the Developer's request to mitigate the affordable housing impacts of the Project by either (i) paying an affordable housing mitigation fee greater than what the law requires or (ii) placing an affordable housing covenant or deed restriction on a residential site within the City limits that would require the development of not less than three affordable housing units, as alternatives to payment of the City's standard affordable housing impact fees (the "Alternative Equivalent Proposal").

D. The Developer has identified and has control over a residential site within the City limits, as described in Exhibit A attached hereto (the "Site"), that Developer may elect to entitle for the development of a residential project that will include the three affordable housing units in lieu of paying an affordable housing mitigation fee greater than what the law requires, pursuant to the Alternative Equivalent Proposal.

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E. The City and Developer hereby enter into this Agreement subject to the following terms and conditions, which will further affordable housing opportunities within the City to an equal or greater extent than payment of the affordable housing impact fees for the Project.

NOW, THEREFORE, in consideration of the mutual covenants and undertakings set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the City and Developer agree as follows:

AGREEMENT

1. Alternative Payment Option. Prior to occupancy of the Project, Developer may pay to the City a one-time payment of the established affordable housing impact fee of \$735,998 plus an additional payment in the amount of 20 percent of the \$735,998 fee in the amount of \$147,199.60, for a total of \$883,197.60 ("Alternative Payment").
2. Dedication of Affordable Units. In lieu of making the Alternative Payment pursuant to Section 1 of this Agreement, prior to occupancy of the Project, the Developer shall place an affordable housing covenant or deed restriction on the Site designating no less than three (3) residential units for rent and occupancy by, or sale to, Low Income Households (each, an "Affordable Unit" and collectively, the "Affordable Units").
3. Development of the Site. In the event that the Developer elects to designate the Affordable Units pursuant to Section 2 of this Agreement, the Developer shall seek entitlements from the City for the future development of the Site, which is currently zoned for residential development, for up to twenty two (22) or more residential units, including the designated Affordable Units. Developer shall make good faith efforts to secure the entitlements for the future development of the Site by the time the certificate of occupancy is issued for the Project, and if the City does not approve the entitlements for the future development of the Site by that time, Developer shall pay the Alternative Payment pursuant to Section 1 of this agreement in lieu of designating the Affordable Units at the Site. The development of the Site and construction and occupancy of the Affordable Units shall be subject to the following requirements:
 - a. Size and Phasing. The Affordable Units shall have a comparable square footage as any other residential units developed on the Site. The Affordable Units shall be developed and made available for occupancy either prior to or concurrently with any other residential units developed on the Site.
 - b. Calculation of Rent. If the Affordable Units are offered for rent, the formula for calculating affordable rent shall be as follows:
 - i. Low Income Rent. A Low Income Household shall mean a household whose gross annual household income, adjusted for household size, does not exceed an income equivalent to eighty percent (80%) of the Area Median Income established by the California Department of Housing and Community Development for Napa County. The initial maximum allowable monthly rent payable by a qualified Low Income Household occupying an Affordable Unit shall be the lesser of the following:

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- (1) Thirty percent (30%) of sixty percent (60%) of one-twelfth (1/12th) of the maximum allowable annual income for a Qualified Low Income Household, as adjusted for household size and less the applicable Monthly Utility Allowance; or
 - (2) Thirty percent (30%) of sixty percent (60%) of one-twelfth (1/12th) of the actual gross annual income of the Qualified Low Income Household and less the applicable Monthly Utility Allowance.
- ii. Monthly Utility Allowance. For purposes of calculating affordable rent, the "Monthly Utility Allowance" means the applicable utility allowance established in the Utility Allowance Chart issued and annually updated by the Housing Authority of the City of Napa.
 - iii. Number of Occupants. Affordable rent shall be based on presumed occupancy levels of one person in a studio unit, two persons in a one-bedroom unit, three persons in a two-bedroom unit, and one additional person for each additional bedroom thereafter, or such other standard that applies pursuant to federal rules applicable to project financing.
- c. Calculation of Sale Price. If the Affordable Units are offered for sale, the formula for calculating the sale price of the Affordable Units shall be as follows:
- i. Low Income Sale Price. For a Low Income Household, as defined by Section (3)(b)(ii) of this Agreement, each monthly owner-occupied housing payment (including mortgage, taxes, and insurance) of the Affordable Units shall be the lesser of the following:
 - (1) One-twelfth (1/12) of thirty five percent (35%) of the maximum allowable annual income for a Qualified Low Income Household, as adjusted for household size; or
 - (2) One-twelfth (1/12) of thirty five percent (35%) of the actual gross annual income of the Qualified Low Income Household.
 - ii. Number of Occupants. The affordable sales price shall be based upon presumed occupancy levels of one person in a studio unit, two persons in a one-bedroom unit, three persons in a two-bedroom unit, and one additional person for each additional bedroom thereafter.
- d. Term of Restriction. Each Affordable Unit shall remain affordable to the relevant affordable income level for a minimum of at least 55 years for rental units and for a minimum of 45 years for ownership units.

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- e. Marketing. A marketing plan for the Affordable Units shall be developed prior to the occupancy of the Site.
- f. Eligibility Verification. Occupants of the Affordable Units shall be required to provide documentation prior to the commencement of the occupant's lease, or in the case of a sale prior to the time of purchase, that verifies the occupying household's income. Lessees of the Affordable Units shall be required to provide verification of household income on an annual basis, and the developer of the Site shall submit documentation substantiating ongoing eligibility to the City Manager or the City Manager's designee. All leases for Affordable Units shall contain clauses, among others, wherein each lessee of an Affordable Unit:
 - (1) Certifies the accuracy of the documentation that substantiates the household's income;
 - (2) Agrees that the income requirements shall be deemed substantial and material obligations of the Affordable Unit tenancy;
 - (3) Agrees to a tenant obligation to comply promptly with all requests for information with respect thereto from the Developer and City, including requests for updated income information in conjunction for lease extensions; and
 - (4) Acknowledges that failure to provide accurate information, or refusal to comply with a request for information with respect thereto, shall be deemed a violation of a substantial obligation of the tenancy and shall constitute cause for termination of the lease.

4. Resale Restrictions. Prior to the transfer of any ownership of an Affordable Unit, the new owner shall execute new resale restrictions, deeds of trust, or other documents acceptable to the City's Community Development Director and approved as to form by the City Attorney, and record such resale restrictions, deeds of trust, or other regulatory documents against such unit for a new minimum term of at least 45 years.

5. Lease of Affordable Units After Time of Sale. Affordable Units that are sold to qualifying Low Income Households shall not be rented by the owner without prior written approval from the City's Community Development Director based on substantial hardship including, but not limited to, active military duty and illness, and as consistent with any provisions regarding the lease of the Affordable Units as set forth in this Agreement.

6. Term of Agreement. This Agreement shall become effective upon its execution and delivery. The 55-year obligation to maintain the affordability of the Affordable Units for rental units, and the 45-year obligation to maintain the affordability of the Affordable Units for ownership units, commences with the initial occupancy for an Affordable Unit for rent, or with the sale of an Affordable Unit for ownership.

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7. Agreement to Record. The Developer shall cause this Agreement to be recorded against the Site in the Official Records of Napa County, prior to approval of any final or parcel map, or issuance of any building permit, whichever occurs first.

8. Construction of Agreement. All Parties have been represented by counsel in the preparation and negotiation of this Agreement and this Agreement shall be construed according to the fair meaning of its language. The rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be employed in interpreting this Agreement.

9. Headings. Section headings in this Agreement are for convenience only and are not intended to be used in interpreting or construing the terms, covenants, or conditions of this Agreement.

10. Modification and Termination. This Agreement may be terminated, modified or amended only by mutual written consent of the Parties hereto or their successors in interest or assignees, in a manner consistent with applicable local, state, and federal laws. No modification, amendment or other change to this Agreement or any provision hereof shall be effective for any purpose unless specifically set forth in a writing which refers expressly to this Agreement and is signed by duly authorized representatives of Developer or its successor in interest and the City.

11. Agreement Binding on Successors and Assigns. Except as otherwise more specifically provided in this Agreement, this Agreement and all of its provisions, rights, powers, standards, terms, covenants and obligations, shall be binding upon the Parties and their respective successors (by merger, consolidation, or otherwise) and assigns, and all other persons or entities acquiring the Site, or any interest therein, and shall inure to the benefit of the Parties and their respective successors and assigns.

12. Severability. If any term or provision of this Agreement, or the application of any term or provision of this Agreement to a specific situation, is found to be invalid, or unenforceable, in whole or in part for any reason, the remaining terms and provisions of this Agreement shall continue in full force and effect unless an essential purpose of this Agreement would be defeated by loss of the invalid or unenforceable provisions, in which case any Party may terminate this Agreement by providing written notice thereof to the other Party.

13. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

14. Entire Agreement. This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto, and constitutes the entire understanding of Foxbow Development, LLC and the City with respect to the subject matter hereof, and all prior or contemporaneous oral agreements, understandings, representations and statements, and all prior written agreements, understandings, representations, and statements are terminated and superseded by this Agreement.

15. City Approvals and Actions. Whenever a reference is made herein to an action or approval to be undertaken by City, the City Manager or his or her designee is authorized to act on behalf of City, unless specifically provided otherwise or the context requires otherwise.

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16. No Third Party Beneficiaries. This Agreement is made and entered into for the sole protection and benefit of the parties that are signatories to this Agreement and their successors and assigns. No other person shall have any right of action based upon any provision in this Agreement.

17. Governing State Law. This Agreement shall be construed in accordance with the laws of the State of California, without reference to its choice of law provisions.

18. Effect of New Laws. Developer and City acknowledge and agree that any new ordinances, regulations, rules, official policies, standards and specifications adopted by the City or enacted or imposed by a citizen-sponsored initiative or referendum after the Effective Date of this Agreement ("New City Laws") that (i) prevents or precludes compliance with one or more provisions of the Project conditions of approval or this Agreement, or (ii) has the effect of materially impeding or preventing development and/or operation of the Project in accordance with the project conditions of approval or the Agreement shall not apply to the Project. Specifically, without any limitation on the scope of the foregoing, any New City Laws governing allowable rental rates for residential units shall not be applicable to the Project.

19. Condition Precedent. The obligations of the parties to this Agreement are expressly conditioned upon the City's approval of the Project as currently proposed by the Developer. As currently proposed, the Project consists of a 74-room hotel, including two 4-story buildings on a 0.8-acre site, located at 730 Water St. (APNs: 003-235-003, 003-235-004, 003-235-005, 003-235-006, 003-235-007, 003-241-003, and 003-241-006). For the purposes of this agreement, any City action that authorizes the construction and operation of less than 74 rooms at the Project site shall not constitute an approval.

20. Indemnification. Notwithstanding any other indemnification agreements, and to the fullest extent permitted by law, the City agrees to defend (with legal Counsel selected by Developer), including, without limitation, cost and reasonable fees of litigation, indemnify and hold harmless the Developer, its officers, attorneys, agents, and employees and each of them from and against any and all liability, loss, damage, expense, costs of every nature arising out of or in connection with the Developer's performance under this Agreement or its failure to comply with any of its obligations contained in this Agreement, except such loss or damage which is caused by the negligence or willful misconduct of Developer.

a. General. This obligation to indemnify and defend Developer as set forth herein is binding on the City and shall survive the termination of this Agreement. By execution of this Agreement, City acknowledges and agrees that it has read and understands the provisions hereof and that this Section is a material element of consideration. The Parties agree that if any part of this indemnification is found to conflict with applicable laws, such part shall be unenforceable only insofar as it conflicts with said laws, and that this indemnification shall be judicially interpreted and rewritten to provide the broadest possible indemnification legally allowed and shall be legally binding upon the City.

b. Survival. The City's responsibility for such defense and indemnity obligations shall survive the termination or completion of this Agreement for the full period of time allowed by law.

[Signatures appear on following page]

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IN WITNESS WHEREOF, the City and Developer have executed this Agreement as of the date first written above.

CITY

City of Napa

By: _____
[NAME, TITLE]

Date: _____, 2020

Approved as to form:

By: _____
Michael W. Barrett, City Attorney

Date: _____, 2020

DEVELOPER

Foxbow Development, LLC

By: _____
[NAME, TITLE]

Date: _____, 2020

Consent to record:

OWNERBy: _____
[NAME, TITLE]

Date: _____, 2020

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EXHIBIT A

[Legal Description of the Site]

DRAFT