

SUPPLEMENTAL REPORTS & COMMUNICATIONS I
Office of the City Clerk

City Council of the City of Napa
Regular Meeting

November 5, 2019

FOR THE CITY COUNCIL OF THE CITY OF NAPA:

AFTERNOON SESSION:

3. PUBLIC COMMENT:

- Email from Jarvis Peay dated October 16, 2019.

5. ADMINISTRATIVE REPORTS:

5.A. Fiscal Year 2018/19 End of Year Report.

- PowerPoint Presentation by City Staff.

5.B. License Agreement for Use of Stage at Oxbow Commons by Mad Dog Presents, LLC.

- PowerPoint Presentation by City Staff.

5.C. Proposed Greenwood Mansion Café and Winery Project at 499 Devlin Road, in the Unincorporated South County Industrial Area.

- PowerPoint Presentation by City Staff.

6. CONSENT HEARINGS:

6.A. Preservation of Qualified Historical Property at 1130 First Street.

- Attachment 1 to Staff Report – Correction on Page 3 regarding owner's name and address redline version and final version
- Attachment 3 to Staff Report – Correction in wording from "residential" to "retail/office redline version and final version.

6.B. SB 235 Agreement for Reporting Affordable Housing Production on the Napa Pipe Property.

- PowerPoint Presentation by City Staff.
- Memo dated November 4, 2019 from Vin Smith, Community Development Director, to City Council with ATCH 1 Summary of Terms Discussed by City, Council, and Developer and ATCH 2 MOA Between City of Napa and Napa County Regarding Regional Housing Needs Allocations for Future Housing Element Planning Periods.

From: King Jarvis

Sent: Wednesday, October 16, 2019 10:27 AM

To: Clerk <clerk@cityofnapa.org>; Potter, Steve <spotter@cityofnapa.org>; Barrett, Michael <mbarrett@cityofnapa.org>; Lee Reynolds; Manzer, Pat <PManzer@cityofnapa.org>; Haag, Chase <CHaag@cityofnapa.org>; Techel, Jill <jtechel@cityofnapa.org>

Subject: Re: PUBLIC COMMENT BELOW

[EXTERNAL]

10/14/19 MANIFESTO INTRO The most of us are tired of hearing about: His Husband and Her Wife. Period, full stop. The most of us are tired of the gullibility of of the American people, in buying this Military/First Responder con job, perpetrated by the oligarchy that has rendered the United States as " The Greatest Country Ever Stolen ". What a PT Barnum masterpiece: Gummint finds suckers to join it's endless warfare partially by preying on the vulnerability of weak minded Diaper Dandies/Snowflakes/Propagandized mental midgets/ Attention whores. Then the American sheeple are further manipulated to fawn over vets and first responders or risk having their patriotism questioned. Fake ass. Vets, and fake ass vets, know full well that all that they have to do is mention their service to the country, and BOOM!!!!!!!!!!!!!! Pregnant pause, and then: aaaaaaaaaahhhhhhhhhh, googogagaaa. Fake ass, straight up. The most of us trace the present pitiful state back to those who prostituted Tony Orlando and Dawn's hit song, Tie a Yellow Ribbon. Must have been the Iranian hostages that garnered a silly assed ribbon on even acorns, back in the day. Now you can't swing a dead cat without running into some ignorant ass ribbon for this, or wrist band for that,..... talk about wearing your heart on your sleeves, when did we become so damn pitiful? Overcoats may soon be sent to the rubbish heap so that EVERYONE can see our hearts on our sleeves, and shoulder to wrist effing heavy metal laden, nymph node straining, unregulated tattoo artist produced arm ink work, that will likely be a muddled mess as soon as the diaper dandies start putting on the weight that everyone in this room knows about. Grown up weight. !!!!!!!!!!!!!!! Bunch of dumbasses..... Long after this monarch has assumed room temperature, and bound to getting his mail from gophers, thy grandneices and nephews will be hanging shingles for 30-40 year old tattoo removal, right next to the cellphone addiction clinic at the strip mall. The most of us are hip to potsy's popo's designated cheese monger/snitches, dave j. ray c., d. slade, charlene h., etc. Word to your mama. The most of us are ashamed and disappointed in harry potsy's weak as water tactic in bringing lil mikey barrett into the conversation. Trying to stifle follks's free speech by flashing the alleged bona fides of your mouthpiece, won't work, bruh, t'aint happening..... Cheese monger..... He/Him/His The Omnipresent and Omnipotent King Jarvis IV and King Reaux-Ga-Reux II

On Thu, Sep 26, 2019 at 6:02 PM King Jarvis > wrote:

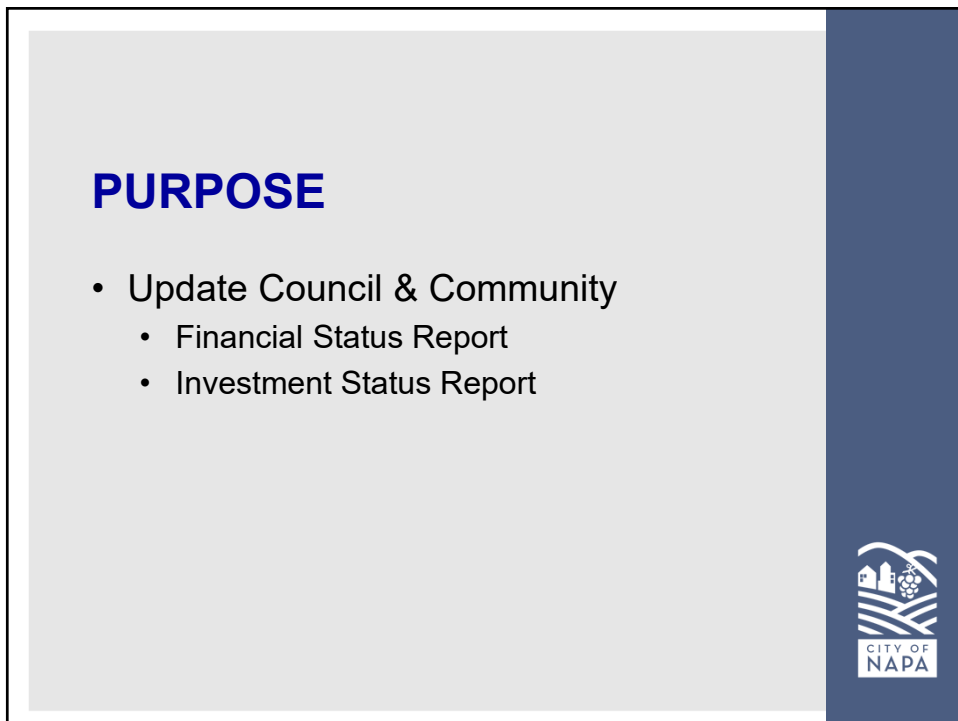
public comment for october: over here trying to figure out why ol' potsy is hiding behind brownny's apron. fake. makes me stronger. all of these double dippers top cop, mayor mildred, potsy, most of em drawing do re mi from dual goment sources.

On Mon, Sep 16, 2019 at 10:27 PM King Jarvis > wrote:

MY KINGDOM, COME



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Financial Status Report



3

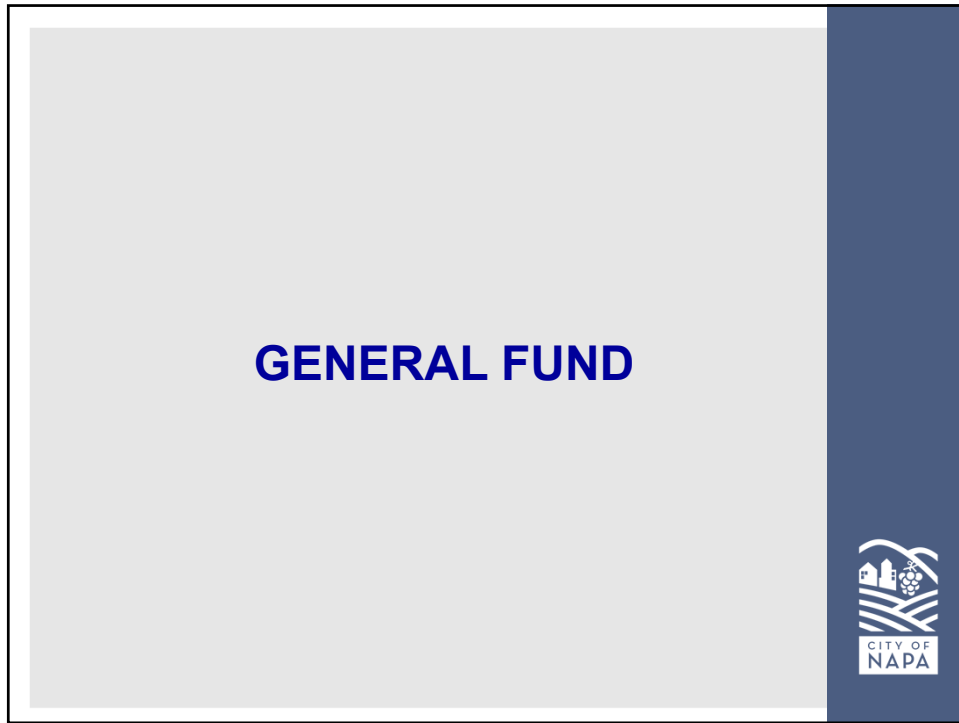
FINANCIAL STATUS

Fiscal Year 2018/19 Unaudited

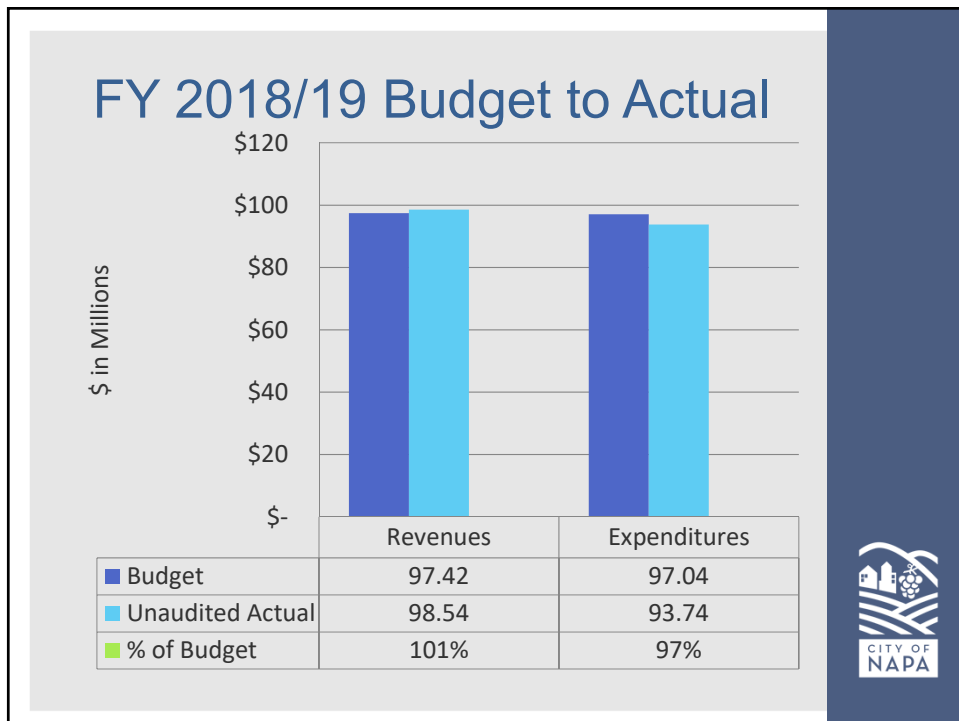
- Fiscal Year Performance
- Projections & Operating Position
- Fund Balance & Reserves
- Recommendation



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FY 2018/19 Revenue

	Budget	Unaudited Actual	YTD %
Property Tax	33.05	34.97	106%
Sales Tax	18.67	19.39	104%
Transient Occupancy Tax	25.22	22.66	90%
Business License Tax	3.66	3.86	106%
Charges for Services	5.47	5.93	108%
Licenses and Permits	3.08	2.33	76%
Other Revenues	8.27	9.40	114%
Total Revenue	97.42	98.54	101%



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FY 2018/19 Expenditures

	Budget	Unaudited Actual	YTD %
Salaries & Wages & Benefits	67.88	67.42	99%
Materials & Supplies & Services	21.93	19.04	87%
Other Expenditures (Includes Transfers to CIP Reserves)	7.24	7.29	101%
Total Operating Expenditures	97.04	93.74	97%
Set-Aside for Civic Center Termination Payment	2.60	-	0%



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FY 2018/19 Reserves

- Operating Reserve: \$4.66 million
– 5% of budgeted expenditures
- Emergency Reserve: \$13.05 million
– 14% of budgeted expenditures
- Contingency Reserve: \$0.93 million
– 1% of budgeted expenditures



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FY 2018/19 Operating Position

	FY 2018/19 Adjusted Budget	FY 2018/19 Unaudited Actual
General Fund (\$ in millions)		
Revenues	97.42	98.54
Operating Expenditures	(91.68)	(88.29)
Contributions to CIP Reserves	(5.36)	(5.45)
Contributions to General Fund Reserves	(0.80)	(0.89)
Projected Surplus / (Deficit)	(0.42)	3.90
Closing Adjustments to Fund Balance	-	(0.65)
Projected Available Fund Balance	(0.42)	3.25



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General Fund Recommendation

- Estimated final unassigned fund balance is \$3.25 million
- Transfer \$2 million to IT Replacement Fund for future appropriation for software replacement projects
- Transfer remaining unassigned fund balance to the Non-Recurring General Fund, per fiscal policy



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CIP PROJECT FUND



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FY 2018/19 CIP Reserves

- CIP Facilities Reserve

	As of 6/30/19
Reserve Balance	4.64
Approved Project Budgets	4.25
Available Reserve Balance	0.39

- CIP General Reserve

	As of 6/30/19
Reserve Balance	7.33
Approved Project Budgets	6.62
Available Reserve Balance	0.71



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PENSION & POST-EMPLOYMENT BENEFITS FUND



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Section 115 Trust

- Created to fund pension obligations
- Balance at 6/30/19: \$3.5 million
- FY 2018/19 contribution to Trust: \$978k



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ENTERPRISE FUNDS



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Enterprise Funds - MDF

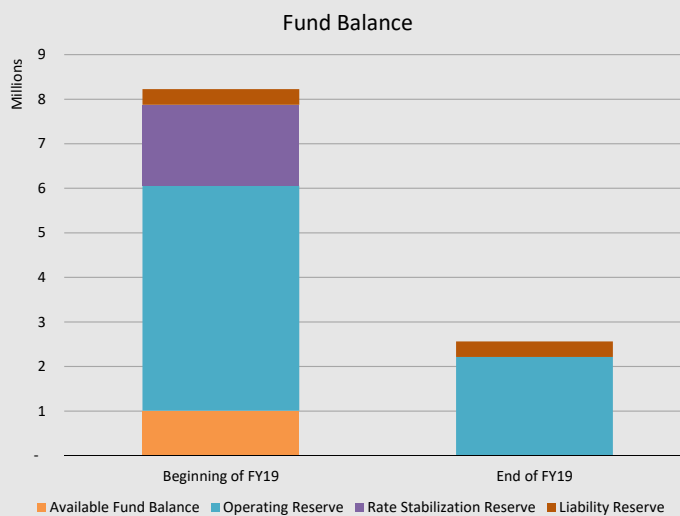
Solid Waste / MDF	Budget	Unaudited YTD	%
Operating Revenues	29.54	29.11	99%
Operating Expenditures	30.89	29.72	96%
Operating Surplus / (Deficit)	(1.35)	(0.61)	
Non-Recurring/Capital Revenues	0.57	-	0%
Non-Recurring/Capital Expenditures*	10.75	0.80	7%
Transfer to Street Resurfacing	1.96	1.96	100%
Debt Service Expenditures	0.87	0.20	23%
Total Surplus / (Deficit)	(14.36)	(3.57)	

* actuals do not include the \$6.79 million of expenditures that were capitalized as assets or construction in progress in FY19



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Enterprise Funds - MDF



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Enterprise Funds – Water

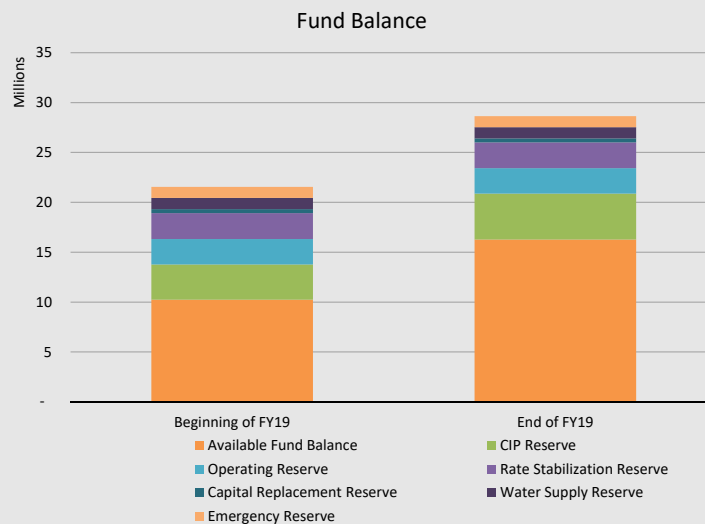
Water	Budget	Unaudited YTD	%
Operating Revenues	30.43	33.53	110%
Operating Expenditures	23.56	22.33	95%
Operating Surplus / (Deficit)	6.86	11.20	
Non-Recurring/Capital Revenues	4.23	3.57	85%
Non-Recurring/Capital Expenditures*	16.27	6.74	41%
Disaster Project Revenues	4.31	3.74	87%
Disaster Project Expenditures	5.16	0.76	15%
Debt Service Expenditures	3.42	1.55	45%
Water Interfund Transfer Revenue	2.17	2.17	100%
Water Interfund Transfer Exp	2.17	2.17	100%
Total Surplus / (Deficit)	(9.45)	9.47	

* actuals do not include the \$2.25 million of expenditures that were capitalized as assets or construction in progress in FY19



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Enterprise Funds – Water



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INVESTMENT STATUS REPORT



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INVESTMENT STATUS

- Investment Approach
- Current Market Conditions
- Portfolio Information



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Investment Approach

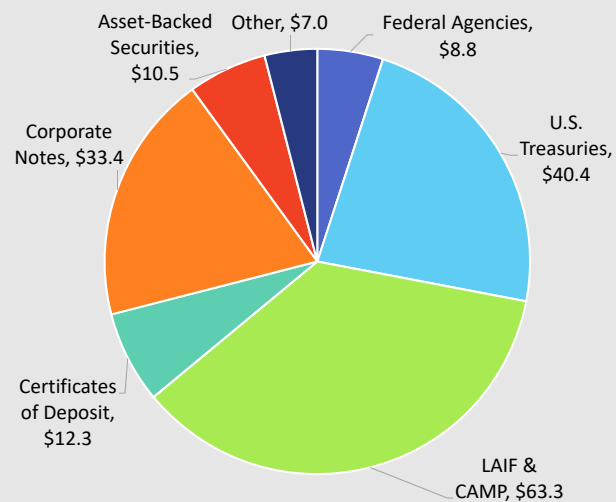
- Goals are Safety, Liquidity, Yield
- Compliance with approved Investment Policy
 - Approved by City Council in June 2019



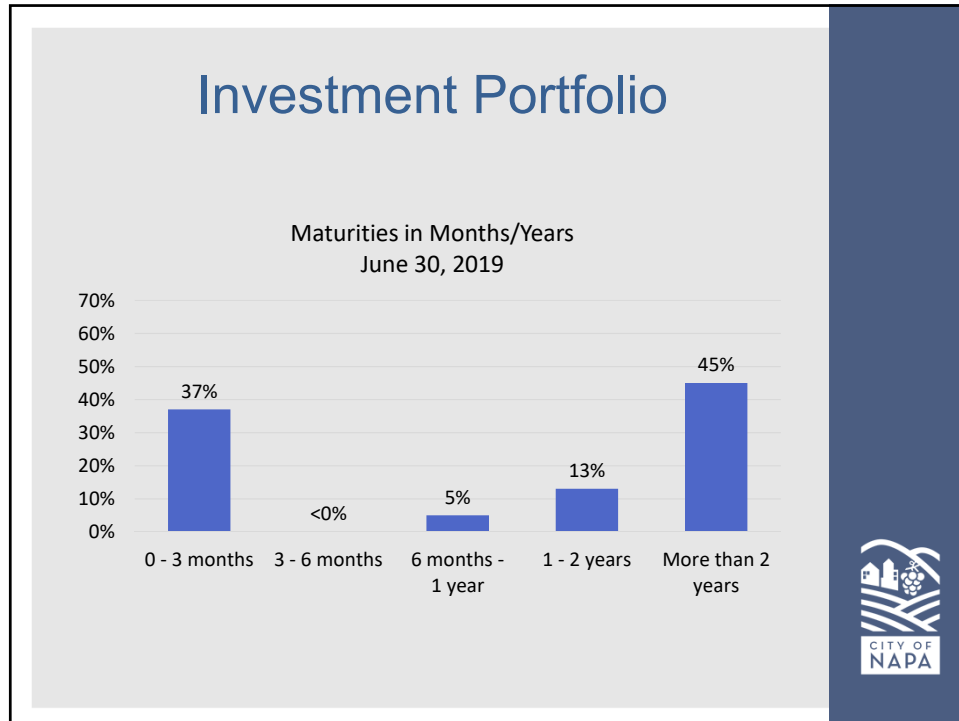
23

Investment Portfolio

As of June 30, 2019 invested funds totaled \$175,810,424



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Investment Report

Total Return Comparison
Periods Ending June 30, 2019

	Past Quarter	Past Year	Past 3 Years	Past 5 Years
City of Napa	1.83%	5.23%	1.73%	1.81%
BofA Merrill Lynch 1-5 Year Government Index	1.81%	4.87%	1.32%	1.54%
LAIF Yield	0.63%	2.42%	1.52%	1.05%



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Investment Report

- Conclusion
 - All funds invested in accordance with adopted investment policy
 - Continue close monitoring of investment portfolio
 - Avoid risk
 - Respond to changes in market conditions
 - Analyze liquid balances/cash flow needs and invest excess pooled cash



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Requested Action

Move to:

- Receive and file the City's End of Year Financial Report
- Approve the transfer of \$2 million from General Fund undesignated fund balance to the IT Replacement Fund
- Approve the transfer of the remaining General Fund undesignated fund balance to the Non-Recurring General Fund, once the City completes its year-end closing process, as per current fiscal policy



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License Agreement

- Build and maintain a stage on a 60' x 60' area at Oxbow Commons
- June 1st through October 31st
- Produce up to 15 ticketed music concerts and a minimum of 5 free public music concerts
- Due to shorter season, reduced the requirement for free concerts from five to one free concert for every three paid concerts produced



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2019 Concerts

- Sunday, Aug 25th – Steve Miller Band and Marty Stuart
- Saturday, Sept 21st – Bob Weir and the Wolf Brothers
- Friday, Oct 11th – The Roots and Royal Jelly Jive
- Sunday, Oct 13th – Free community concert featuring Sean Hayes, Sandy's, The Sam Chase and Jealous Zelig
- Saturday, Oct 26th – The B-52's and The English Beat
- Sunday, Oct 27th – Free community concert featuring Illegals and The Purple Ones (cancelled due to high winds)





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1) Licensee shall comply with all terms and conditions of this Agreement and of any Special Event Permit issued by City for the Event Series.

- Received Special Event Permit
- Extensive Event Operations Plan
- County Health Permit
- ABC permit
- Parking and Street Closure Plans
- Fire & Security Plans
- Numerous meetings and adjustments to meet city requirements
- All fees associated with these permits have been paid

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2) Licensee shall timely pay the License Fees to City.

Month	Monthly License Fee	Attendance	% of Ticket Revenue	% of F&B
June	\$1,500	-	-	-
July	\$1,500	-	-	-
August	\$1,500	2327	\$5,730	-
September	\$1,500	1914	\$5,077	-
October	\$1,500	1923	\$ 4,306	-
		500	-	\$225
		2000*	\$5,000*	-
Subtotal	\$7,500	8,664	\$20,113	\$225
Grand Total				\$27,838*

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3) Licensee shall resolve any conflicts or issues related to use of the Stage in a timely and reasonable manner.

- Mailer sent to 3,900 impacted businesses and residents
- Numerous in person stakeholder meetings with nearby business owners
- Town hall public meeting on August 21, 2019
- Hotline available for the public if there were any noise or parking complaints
- Complaints
 - 3 noise - Oct 11th concert
 - 1 noise – Oct 26th concert
 - 1 parking complaint for Lot X (old Cinedome lot) - Oct 26th



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4) Licensee shall achieve attendance goals mutually agreed to by the parties for the Event Series.

- City was pleased with the attendance at the concerts for the inaugural season
- Encourage Mad Dog Presents to do additional promotion for the free community concerts next season



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5) Licensee shall maintain the Stage and the Premises in good condition and repair.

Mad Dog Presents has adhered to the city requirements for Oxbow Commons and the stage and premises have been maintained in good order.

6) Licensee shall ensure the safety of the Stage and Premises and of the persons who attend the Events on the Premises.

Mad Dog Presents has ensured adequate security for attendees at the events and for the property at and between concerts.




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Recommended Action

Determine that Mad Dog Presents LLC has provided a Progress Report to the City that documents compliance with the requirements of the License Agreement for use of the stage at Oxbow Commons for the term of June 1, 2019, through October 31, 2019; authorize the City Manager to provide written notice to allow Mad Dog Presents LLC to exercise its option to extend the term of the License Agreement for the term of June 1, 2020 through October 31, 2020; and determine that the actions authorized by this item are exempt from CEQA under the Agreement.








Greenwood Mansion Café and Winery Project

November 5, 2019

1

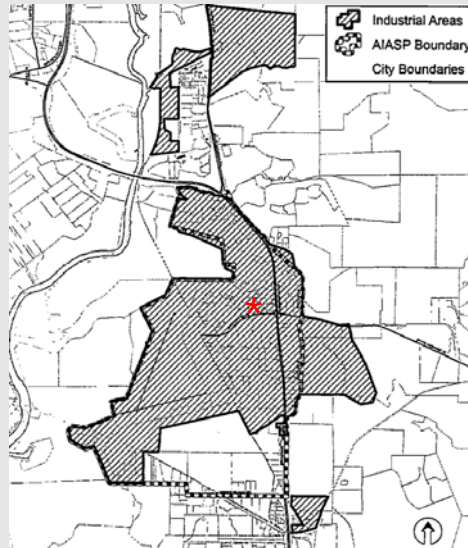
Project Location





2

South County Industrial Areas



3

Project Description

Convert Greenwood Mansion to café, wine production facility, tasting room, and offices

Proposed restaurant (café) use requires Specific Plan Amendment



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Background

- Napa Pipe Memorandum of Agreement (2015)
 - City accepts 80% of County's RHNA beginning in 2023 and in perpetuity
 - Land uses in County's Airport Industrial Area do not change unless City and County agree
- May 21, 2019: City Council considered initial proposal
 - Key consideration: whether restaurant use is appropriate



5

Recommendation

- Authorize the City Manager to send a letter to Napa County agreeing that the proposed development is consistent with the terms of the 2015 RHNA Sharing Agreement



6

Questions



ATTACHMENT 1

RECORDING REQUESTED BY
CITY OF NAPA
Exempt from Recording Fees
Government Code 27383

**City Council Meeting
11/5/19
Supplemental I - 6.A. - Redline Version
From: City Staff**

WHEN RECORDED MAIL TO:

CITY CLERK
CITY OF NAPA
P.O. Box 660
Napa, CA 94558

SPACE ABOVE THIS LINE FOR RECORDER'S USE

APN: 003-166-004

"MILLS ACT" HISTORICAL PROPERTY PRESERVATION AGREEMENT
(Government Code Sections 50280 et seq.)

The Gordon Building (1130 First Street)

THIS AGREEMENT, dated _____, 2019, is by and between Gordon Venture, LLC ("Owners"), and the City of Napa, a California charter city ("City"), and provides as follows:

RECITALS

WHEREAS, Owners own certain real property, together with associated historic structures and improvements thereon, located at 1130 First Street, in the City of Napa, Napa County ("the Property"), more particularly described in Exhibit "A", attached hereto and made a part hereof; and

WHEREAS, the Property, historically referenced as the Gordon Building, is a "qualified historical property" as defined in California Government Code Section 50280.1; and

WHEREAS, both Owners and City desire to protect and preserve the Property so as to retain its characteristics of historical significance;

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises, declarations, covenants and agreements of the parties set forth herein, and the substantial public benefit derived therefrom, the parties agree as follows:

1. Authority. This Agreement is made under authority of Government Code Sections 50280 et seq. ("Historical Property Contracts").
2. Term of Agreement. This Agreement shall be effective commencing on the date it is signed by the City Clerk below, attesting to full execution of the Agreement by both parties ("Effective Date"), and shall remain in effect for a minimum period of ten years therefrom. Each year on the anniversary of the Effective Date, the term will automatically be extended by a year as provided in Paragraph 5 of this Agreement.
3. Limitations on Land Use. During the term of this Agreement, the Property shall be subject to the following provisions, requirements, and restrictions:

ATTACHMENT 1

(a) Owners shall preserve and maintain the Property, as a qualified historic property, in no less than equal to the condition of the Property as of the date hereof.

(i.) A Site Plan of the location of all buildings on the Property is detailed in Exhibit "B" attached hereto and incorporated herein by reference. Any proposed work to be performed on the Property, including any restoration, rehabilitation or preservation, must be reviewed and processed by the City in compliance with Napa Municipal Code Chapter 15.52, "Historic Preservation."

(ii.) Owners shall, when necessary, restore and rehabilitate the Property to conform to the rules and regulations of the Office of Historic Preservation of the Department of Parks and Recreation, the United States Secretary of the Interior's Standards for Rehabilitation and the State Historical Building Code as articulated in the Attached *Rehabilitation, Restoration and Preservation Plan* (Exhibit "C") or as confirmed through a Certificate of Appropriateness approved by the City in accordance with Napa Municipal Code Chapter 15.52. Additionally, Owners shall provide whatever information shall be required by City to determine the Property's continuing eligibility as a qualified historic property.

(b) All buildings, structures, yards and other improvements shall be maintained in a manner which does not detract from the appearance of the immediate neighborhood. The following conditions are prohibited:

(i.) Dilapidated, deteriorating, or unrepaired structures and components, such as fences, roof, doors, walls and windows;

(ii.) Scrap lumber, junk, trash or debris;

(iii.) Abandoned, discarded or unused objects or equipment, such as automobiles, automobile parts, furniture, stoves, refrigerators, can containers, or similar items;

(iv.) Stagnant water or excavations, including in pools or spas; and

(v.) Any device, decoration, design, structure or vegetation which is unsightly by reason of its height, condition, or its inappropriate location.

(c) Owners shall provide for the periodic examinations of the interior and exterior of the premises by the Office of the Napa County Assessor, the Department of Parks and Recreation, the State Board of Equalization, and the City, as may be necessary to determine the Owner's compliance with this Agreement.

4. Successors in interest. The Owner hereby voluntarily subjects the Property to the covenants, conditions and restrictions set forth in this Agreement. City and Owner hereby declare their specific intent that the covenants, conditions and restrictions as set forth herein shall be deemed covenants running with the land and shall be binding upon and inure to the benefit of, all successors and assigns in title or interest of the Owner. A successor in interest shall have the same rights and obligations under this Agreement as the original Owner who entered into this Agreement.

Each and every contract, deed or other instrument hereinafter executed, covering or conveying the Property, or any portion thereof, shall conclusively be held to have been executed, delivered and accepted subject to the covenants, conditions and restrictions expressed in this Agreement whether or not such covenant, conditions and restrictions are set forth in such contract, deed or other instrument.

ATTACHMENT 1

5. Renewal.

(a) Each year on the anniversary of the Effective Date of this Agreement one year shall automatically be added to the term of this Agreement, unless notice of non-renewal is given as provided in this paragraph. After five years, and every five years thereafter, the Owners shall arrange with the City to inspect the interior and exterior of the Property to determine the Owner's continued compliance with this Agreement. If Owners or City desire in any year not to renew this Agreement, that party shall serve written notice of non-renewal of this Agreement on the other party in advance of the annual renewal date of this Agreement. Unless the notice is served by the Owners at least 90 days prior to the renewal date, or by the City at least 60 days prior to the renewal date, one year shall automatically be added to the term of this Agreement.

(b) Upon receipt by the Owners of a notice from City of non-renewal, the Owner may make a written protest of the notice of non-renewal. City may, at any time prior to the renewal date, withdraw the notice of non-renewal.

(c) If City or Owners serve a notice of intent in any year not to renew this Agreement, this Agreement shall remain in effect for the balance of the period remaining since the original execution or the last renewal of this Agreement, as the case may be.

6. Cancellation for Breach. Following a noticed public hearing as required by Government Code Section 50285, City may cancel this Agreement if it determines that Owner has breached any of the conditions of this Agreement, or has allowed the Property to deteriorate to the point that it no longer meets the standard for a qualified historic property. City may also cancel this Agreement if it determines that Owner has failed to restore or rehabilitate the Property in the manner specified in this Agreement. If the City determines that performance of this Agreement has become infeasible due to damage to the Property caused by force majeure (such as flood, tornado, lightening, or earthquake), this Agreement may be cancelled upon the Owner's application without payment of the cancellation fee, to the extent that non-payment is permitted by law.

7. Cancellation Fee. If this Agreement is cancelled pursuant to paragraph 6 above, Owner shall pay a cancellation fee equal to 12 ½ % of the current fair market value of the Property, as determined by the Office of the Napa County Assessor as though the Property were free of the restrictions set forth in this Agreement. The cancellation fee shall be paid to the Office of the Napa County Auditor ("County Auditor"), at the time and in the manner that the County Auditor shall prescribe, and shall be allocated by the County Auditor to each jurisdiction in the tax rate area in which the Property is located in the same manner as the auditor allocates the annual tax increment in that tax rate area in that fiscal year.

8. Notice and Recordation.

(a) All notices required or contemplated by this Agreement shall be in writing and shall be delivered to the respective party as set forth in this section. Communications shall be deemed to be effective upon the first to occur of: (a) actual receipt by a party's Authorized Representative, or (b) actual receipt at the address designated below, or (c) three working days following deposit in the United States Mail of registered or certified mail sent to the address designated below. The Authorized Representative of either party may modify their respective contact information identified in this section by providing notice to the other party.

To: City of Napa
Building
Attn: Community Development Director
City of Napa
P.O. Box 660
Napa, CA 94559

To: Owners, Joseph Schuppert HouseGordon
Attn: Robin & Meghan ShayGordon Venture
4043 Vallejo1339 Pearl Street, Ste 201
Napa, CA 94559

(b) No later than 20 days after City enters into this Agreement with Owner, the City Clerk shall record a copy of this Agreement with the Office of the Napa County Recorder, which shall describe the Property. From and after the time of the recordation, this Agreement shall impart a notice thereof to all persons as is afforded by the recording laws of the State of California.

ATTACHMENT 1

(c) Owners shall provide written notice of this Agreement to the Office of Historic Preservation within six months of entering into this Agreement and attention to:

Julianne Polanco, State Historic Preservation Officer
State of California Office of Historic Preservation
1725-23rd Street, Suite 100
Sacramento, CA 95816

9. Prevailing Party. The prevailing party in any action to interpret or enforce this Agreement shall be entitled to recover its reasonable attorney's fees.

10. Amendments. This Agreement may be amended, in whole or in part, only by a written recorded instrument executed by the parties hereto.

11. Signatures. The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity, and authority to enter into and execute this Agreement on behalf of the respective legal entities of the Owners and the City. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

12. Indemnification. To the full extent permitted by law, Owner will indemnify, hold harmless, release, and defend the City (including its officers, elected or appointed officials, employees, volunteers, and agents) from and against any and all liability or claims (including actions, demands, damages, injuries, settlements, losses, or costs [including legal costs and attorney's fees]) (collectively, "Liability") of any nature, arising out of, pertaining to, or relating to Owner's acts or omissions under this Agreement. Consistent with Civil Code Section 2782, Owner will not be obligated to indemnify City for the proportionate share of the Liability caused by the City's active negligence, sole negligence, or willful misconduct. Owner's indemnification obligations under this Agreement are not limited by any limitations of any insurance held by Owner, including, but not limited to, workers' compensation insurance.

13. Severability. If any term of this Agreement (including any phrase, provision, covenant, or condition) is held by a court of competent jurisdiction to be invalid or unenforceable, the Agreement will be construed as not containing that term, and the remainder of this Agreement will remain in full force and effect; provided, however, this section will not be applied to the extent that it would result in a frustration of the parties' intent under this Agreement.

14. Governing Law, Jurisdiction, and Venue. The interpretation, validity, and enforcement of this Agreement will be governed and interpreted in accordance with the laws of the State of California. Any suit, claim, or legal proceeding of any kind related to this Agreement will be filed and heard in a court of competent jurisdiction in the County of Napa.

15. Counterparts. This Agreement may be executed in counterparts, each one of which is deemed an original, but all of which together constitute a single instrument.

16. Entire Agreement. This Agreement, including all documents incorporated herein by reference, comprises the entire integrated understanding between the parties concerning the subject matter hereof. This Agreement supersedes all prior negotiations, agreements, and understandings regarding this matter, whether written or oral. The documents incorporated by reference into this Agreement are complementary; what is called for in one is binding as if called for in all. If any provision in any document attached or incorporated into this Agreement conflicts or is inconsistent with a provision in the body of this Agreement, the provisions in the body of this Agreement will control over any such conflicting or inconsistent provisions.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first above written.

ATTACHMENT 1

CITY OF NAPA:

Steve Potter, City Manager

ATTEST:

(Signature)

Tiffany Carranza, City Clerk

(Type name and title)

COUNTERSIGNED:

(Signature)

Desiree Brun, City Auditor

(Type name and title)

OWNER:

Gordon Venture, LLC

By: _____

(Signature)

(Print name and title)

By: _____

(Signature)

(Print name and title)

Address: _____

APPROVED AS TO FORM:

(Signature)

Michael W. Barrett, City Attorney

(Type name and title)

BUDGET CODE: _____

*Corporation, partnership, limited liability corporation, sole proprietorship, etc. Unless corporate resolution delegates an individual to sign contracts, an agreement with a corporation shall be signed by the President or Vice President **and** the Secretary or Treasurer of the corporation. A general partner shall sign on behalf of a general partnership. The managing member, if authorized, may sign on behalf of a limited liability corporation.

SIGNATURES MUST BE NOTARIZED

ATTACHMENT 1

**City Council Meeting
11/5/19
Supplemental I - 6.A. - Final Version
From: City Staff**

RECORDING REQUESTED BY
CITY OF NAPA
Exempt from Recording Fees
Government Code 27383

WHEN RECORDED MAIL TO:

CITY CLERK
CITY OF NAPA
P.O. Box 660
Napa, CA 94558

SPACE ABOVE THIS LINE FOR RECORDER'S USE

APN: 003-166-004

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(Government Code Sections 50280 et seq.)

The Gordon Building (1130 First Street)

THIS AGREEMENT, dated _____, 2019, is by and between Gordon Venture, LLC ("Owners"), and the City of Napa, a California charter city ("City"), and provides as follows:

RECITALS

WHEREAS, Owners own certain real property, together with associated historic structures and improvements thereon, located at 1130 First Street, in the City of Napa, Napa County ("the Property"), more particularly described in Exhibit "A", attached hereto and made a part hereof; and

WHEREAS, the Property, historically referenced as the Gordon Building, is a "qualified historical property" as defined in California Government Code Section 50280.1; and

WHEREAS, both Owners and City desire to protect and preserve the Property so as to retain its characteristics of historical significance;

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises, declarations, covenants and agreements of the parties set forth herein, and the substantial public benefit derived therefrom, the parties agree as follows:

1. Authority. This Agreement is made under authority of Government Code Sections 50280 et seq. ("Historical Property Contracts").

2. Term of Agreement. This Agreement shall be effective commencing on the date it is signed by the City Clerk below, attesting to full execution of the Agreement by both parties ("Effective Date"), and shall remain in effect for a minimum period of ten years therefrom. Each year on the anniversary of the Effective Date, the term will automatically be extended by a year as provided in Paragraph 5 of this Agreement.

3. Limitations on Land Use. During the term of this Agreement, the Property shall be subject to the following provisions, requirements, and restrictions:

ATTACHMENT 1

(a) Owners shall preserve and maintain the Property, as a qualified historic property, in no less than equal to the condition of the Property as of the date hereof.

(i.) A Site Plan of the location of all buildings on the Property is detailed in Exhibit "B" attached hereto and incorporated herein by reference. Any proposed work to be performed on the Property, including any restoration, rehabilitation or preservation, must be reviewed and processed by the City in compliance with Napa Municipal Code Chapter 15.52, "Historic Preservation."

(ii.) Owners shall, when necessary, restore and rehabilitate the Property to conform to the rules and regulations of the Office of Historic Preservation of the Department of Parks and Recreation, the United States Secretary of the Interior's Standards for Rehabilitation and the State Historical Building Code as articulated in the Attached *Rehabilitation, Restoration and Preservation Plan* (Exhibit "C") or as confirmed through a Certificate of Appropriateness approved by the City in accordance with Napa Municipal Code Chapter 15.52. Additionally, Owners shall provide whatever information shall be required by City to determine the Property's continuing eligibility as a qualified historic property.

(b) All buildings, structures, yards and other improvements shall be maintained in a manner which does not detract from the appearance of the immediate neighborhood. The following conditions are prohibited:

(i.) Dilapidated, deteriorating, or unrepaired structures and components, such as fences, roof, doors, walls and windows;

(ii.) Scrap lumber, junk, trash or debris;

(iii.) Abandoned, discarded or unused objects or equipment, such as automobiles, automobile parts, furniture, stoves, refrigerators, can containers, or similar items;

(iv.) Stagnant water or excavations, including in pools or spas; and

(v.) Any device, decoration, design, structure or vegetation which is unsightly by reason of its height, condition, or its inappropriate location.

(c) Owners shall provide for the periodic examinations of the interior and exterior of the premises by the Office of the Napa County Assessor, the Department of Parks and Recreation, the State Board of Equalization, and the City, as may be necessary to determine the Owner's compliance with this Agreement.

4. Successors in interest. The Owner hereby voluntarily subjects the Property to the covenants, conditions and restrictions set forth in this Agreement. City and Owner hereby declare their specific intent that the covenants, conditions and restrictions as set forth herein shall be deemed covenants running with the land and shall be binding upon and inure to the benefit of, all successors and assigns in title or interest of the Owner. A successor in interest shall have the same rights and obligations under this Agreement as the original Owner who entered into this Agreement.

Each and every contract, deed or other instrument hereinafter executed, covering or conveying the Property, or any portion thereof, shall conclusively be held to have been executed, delivered and accepted subject to the covenants, conditions and restrictions expressed in this Agreement whether or not such covenant, conditions and restrictions are set forth in such contract, deed or other instrument.

ATTACHMENT 1

5. Renewal.

(a) Each year on the anniversary of the Effective Date of this Agreement one year shall automatically be added to the term of this Agreement, unless notice of non-renewal is given as provided in this paragraph. After five years, and every five years thereafter, the Owners shall arrange with the City to inspect the interior and exterior of the Property to determine the Owner's continued compliance with this Agreement. If Owners or City desire in any year not to renew this Agreement, that party shall serve written notice of non-renewal of this Agreement on the other party in advance of the annual renewal date of this Agreement. Unless the notice is served by the Owners at least 90 days prior to the renewal date, or by the City at least 60 days prior to the renewal date, one year shall automatically be added to the term of this Agreement.

(b) Upon receipt by the Owners of a notice from City of non-renewal, the Owner may make a written protest of the notice of non-renewal. City may, at any time prior to the renewal date, withdraw the notice of non-renewal.

(c) If City or Owners serve a notice of intent in any year not to renew this Agreement, this Agreement shall remain in effect for the balance of the period remaining since the original execution or the last renewal of this Agreement, as the case may be.

6. Cancellation for Breach. Following a noticed public hearing as required by Government Code Section 50285, City may cancel this Agreement if it determines that Owner has breached any of the conditions of this Agreement, or has allowed the Property to deteriorate to the point that it no longer meets the standard for a qualified historic property. City may also cancel this Agreement if it determines that Owner has failed to restore or rehabilitate the Property in the manner specified in this Agreement. If the City determines that performance of this Agreement has become infeasible due to damage to the Property caused by force majeure (such as flood, tornado, lightening, or earthquake), this Agreement may be cancelled upon the Owner's application without payment of the cancellation fee, to the extent that non-payment is permitted by law.

7. Cancellation Fee. If this Agreement is cancelled pursuant to paragraph 6 above, Owner shall pay a cancellation fee equal to 12 ½ % of the current fair market value of the Property, as determined by the Office of the Napa County Assessor as though the Property were free of the restrictions set forth in this Agreement. The cancellation fee shall be paid to the Office of the Napa County Auditor ("County Auditor"), at the time and in the manner that the County Auditor shall prescribe, and shall be allocated by the County Auditor to each jurisdiction in the tax rate area in which the Property is located in the same manner as the auditor allocates the annual tax increment in that tax rate area in that fiscal year.

8. Notice and Recordation.

(a) All notices required or contemplated by this Agreement shall be in writing and shall be delivered to the respective party as set forth in this section. Communications shall be deemed to be effective upon the first to occur of: (a) actual receipt by a party's Authorized Representative, or (b) actual receipt at the address designated below, or (c) three working days following deposit in the United States Mail of registered or certified mail sent to the address designated below. The Authorized Representative of either party may modify their respective contact information identified in this section by providing notice to the other party.

To: City of Napa
Attn: Community Development Director
City of Napa P.O.
Box 660
Napa, CA 94559

To: Owners, Gordon Building
Attn: Gordon Venture
1339 Pearl Street, Ste 201
Napa, CA 94559

(b) No later than 20 days after City enters into this Agreement with Owner, the City Clerk shall record a copy of this Agreement with the Office of the Napa County Recorder, which shall describe the Property. From and after the time of the recordation, this Agreement shall impart a notice thereof to all persons as is afforded by the recording laws of the State of California.

ATTACHMENT 1

(c) Owners shall provide written notice of this Agreement to the Office of Historic Preservation within six months of entering into this Agreement and attention to:

Julianne Polanco, State Historic Preservation Officer
State of California Office of Historic Preservation
1725-23rd Street, Suite 100
Sacramento, CA 95816

9. Prevailing Party. The prevailing party in any action to interpret or enforce this Agreement shall be entitled to recover its reasonable attorney's fees.

10. Amendments. This Agreement may be amended, in whole or in part, only by a written recorded instrument executed by the parties hereto.

11. Signatures. The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity, and authority to enter into and execute this Agreement on behalf of the respective legal entities of the Owners and the City. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

12. Indemnification. To the full extent permitted by law, Owner will indemnify, hold harmless, release, and defend the City (including its officers, elected or appointed officials, employees, volunteers, and agents) from and against any and all liability or claims (including actions, demands, damages, injuries, settlements, losses, or costs [including legal costs and attorney's fees]) (collectively, "Liability") of any nature, arising out of, pertaining to, or relating to Owner's acts or omissions under this Agreement. Consistent with Civil Code Section 2782, Owner will not be obligated to indemnify City for the proportionate share of the Liability caused by the City's active negligence, sole negligence, or willful misconduct. Owner's indemnification obligations under this Agreement are not limited by any limitations of any insurance held by Owner, including, but not limited to, workers' compensation insurance.

13. Severability. If any term of this Agreement (including any phrase, provision, covenant, or condition) is held by a court of competent jurisdiction to be invalid or unenforceable, the Agreement will be construed as not containing that term, and the remainder of this Agreement will remain in full force and effect; provided, however, this section will not be applied to the extent that it would result in a frustration of the parties' intent under this Agreement.

14. Governing Law, Jurisdiction, and Venue. The interpretation, validity, and enforcement of this Agreement will be governed and interpreted in accordance with the laws of the State of California. Any suit, claim, or legal proceeding of any kind related to this Agreement will be filed and heard in a court of competent jurisdiction in the County of Napa.

15. Counterparts. This Agreement may be executed in counterparts, each one of which is deemed an original, but all of which together constitute a single instrument.

16. Entire Agreement. This Agreement, including all documents incorporated herein by reference, comprises the entire integrated understanding between the parties concerning the subject matter hereof. This Agreement supersedes all prior negotiations, agreements, and understandings regarding this matter, whether written or oral. The documents incorporated by reference into this Agreement are complementary; what is called for in one is binding as if called for in all. If any provision in any document attached or incorporated into this Agreement conflicts or is inconsistent with a provision in the body of this Agreement, the provisions in the body of this Agreement will control over any such conflicting or inconsistent provisions.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first above written.

ATTACHMENT 1

CITY OF NAPA:

Steve Potter, City Manager

ATTEST:

(Signature)

Tiffany Carranza, City Clerk

(Type name and title)

COUNTERSIGNED:

(Signature)

Desiree Brun, City Auditor

(Type name and title)

OWNER:

Gordon Venture, LLC

By:

(Signature)

(Print name and title)

By:

(Signature)

(Print name and title)

Address:

APPROVED AS TO FORM:

(Signature)

Michael W. Barrett, City Attorney

(Type name and title)

BUDGET CODE: _____

*Corporation, partnership, limited liability corporation, sole proprietorship, etc. Unless corporate resolution delegates an individual to sign contracts, an agreement with a corporation shall be signed by the President or Vice President **and** the Secretary or Treasurer of the corporation. A general partner shall sign on behalf of a general partnership. The managing member, if authorized, may sign on behalf of a limited liability corporation.

SIGNATURES MUST BE NOTARIZED

EXHIBIT A
END OF DOCUMENT

EXHIBIT A

Legal Description

The land referred to below is situated in the City and County of Napa, State of California, and is described as follows:

PARCEL ONE

Commencing at a point formed by the intersection of the northern line of First Street with the eastern line of Coombs Street; and running thence Easterly, along said northern line of First Street, 90 feet to the western line of the lot of land heretofore conveyed to The Savings Bank of St. Helena, a corporation to Jos. A. Migliavacca by instrument recorded December 30, 1902, in Book 74 of Deed at page 42, Napa County Records; thence at right angles northerly 110 feet to the southern line of the lot of land heretofore conveyed by John Hayes to the G. Migliavacca Investment Company, a corporation, by instrument dated January 18, 1904, in Book 75 of Deeds at page 247, said Napa County Records; thence at right angles westerly and along the southern boundary line of said lands conveyed to the G. Migliavacca Investment Company, a corporation, 90 feet to the aforesaid eastern line of Coombs Street; and thence southerly along said last mentioned line, 110 feet to the point of commencement.

Being a portion of Lot 4, in Block 18, as the same is laid down and delineated upon a certain map entitled, "Plan of Napa City," recorded November 28, 1853, in Volume B of Deeds at page 433, Napa County Records.

APN: 003-166-004

PARCEL TWO:

A right-of-way over a 10-foot private alleyway, as more particularly described and granted in the deed to John Hayes recorded January 18, 1904, in Book 77 of Deeds at page 271.

PARCEL THREE:

The right, reserved by John Hayes in the deed recorded January 18, 1904, in Book 75 of Deeds at page 247, to use for private road purposes the real property more particularly described as follows:

Commencing at a point on the Easterly line of Coombs Street, 110 feet Northerly from the Northeasterly corner of First and Coombs Streets; then Easterly at right angles with Coombs Street 90 feet more or less to the Westerly line of the land of Joe Migliavacca; thence Northerly at right angles 5 feet to the Southerly line of an alley; thence Westerly along said line of said alley 90 feet, more or less, to Coombs Street; thence at right angles Southerly to the point of beginning.



Napa Design
Partners

[illegible]

Stephen R. Cuddy
AIA, LEED AP, and CEM

AIA, L.L.P., CHRS
0-85114-000-0 N.Y.N. 922-67-0000
$$\frac{d}{dt} \left(\frac{1}{\rho} \right) = - \frac{1}{\rho^2} \frac{d\rho}{dt}$$
[illegible]

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The drawings or pictures included herein constitute the original and unpublished work of the inventor. Reproduction, use or transfer in any form is strictly prohibited without

the written consent of Halsey Design Partners.

OWNER:

Napa Gordon LLC

339 Pearl Street, Ste. 201
Napa, Ca 94559

SECRET

PROJECT:

Building Shell For

Building Shell Earth Repair and Resc

**for Historic
Gordon Building**

4430 Faint Green

1130 First Street Napa,
CA 94559

APN: 003-166-004

EXHIBIT B

SITE PLAN

ARCHITECTS STAMP:

PRINT DATE: March 27, 2019

DATE: July 6, 2018

REVISION:

Bid Set - July 30, 2018
November 19, 2018

OWNER REVISION
December 21, 2018
PLAN CHECK SET B14

PUNCHSET B16.

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Journal of Management Education 36(8) 970-987

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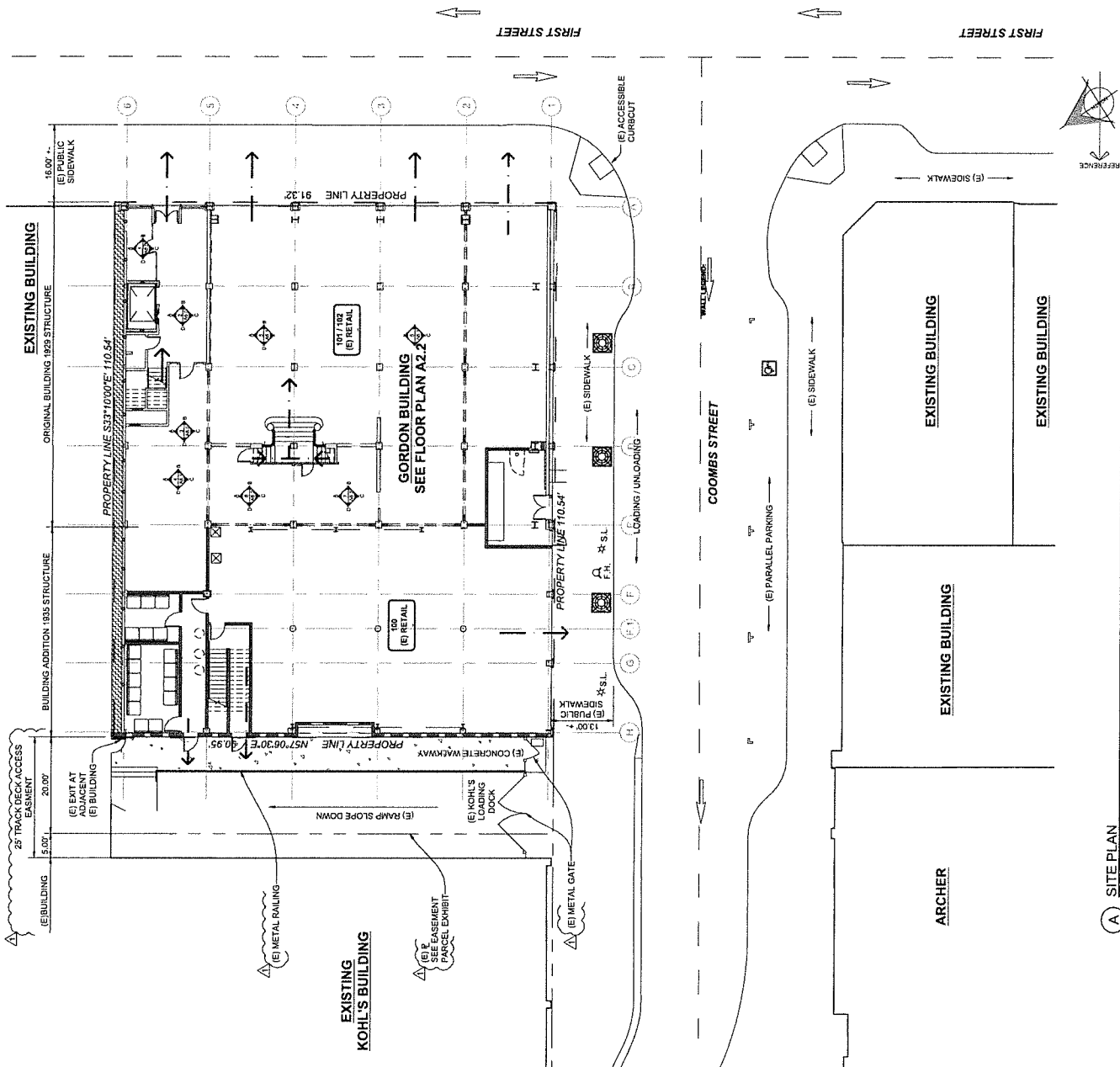


EXHIBIT C



MILLS ACT CONTRACT Application Form

Mailing Address:
PO Box 660
Napa, CA 94559

Planning Division
1600 First Street
707.257.9530

Mills Act Applications are accepted through August 31 of each year.

PROPERTY INFORMATION

Property Address: 1130 First St. (1142, 1146 First 1614 Coombs)
Assessor's Parcel Number (APN): 003-166-004-00
Historic Resources Inventory (HRI) Designation: _____
Landmark or Potential Historic District (if applicable): _____
General Plan Designation: _____ Zoning: _____

CONTACT INFORMATION - type or print

Applicant Gordon Venture, LLC
Address 1339 Pearl St Ste. 201
City Napa State CA ZIP 94559
Phone 707 257 6800 Email KMOORE@ZAPOLSKIRE.COM
Authorized Agent _____
Address _____
City _____ State _____ ZIP _____
Phone _____ Email _____
Property Owner SAA
Address _____
City _____ State _____ ZIP _____
Phone _____ Email _____

Planning Division Use Only

Project Number PL19-0107
Project Name 1130 First Mills Act
Project Planner Cortez

Date Stamp
RECEIVED

AUG 26 2019

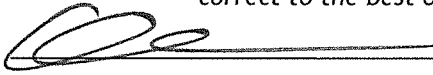
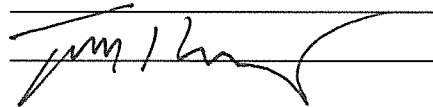
COMMUNITY DEVELOPMENT
DEPARTMENT

EXHIBIT C

CONDITIONS OF APPLICATION

1. All materials and representations submitted in conjunction with this form shall be considered a part of this application.
2. The Applicant shall inform the Planning Division in writing of any changes.
3. **Indemnification.** The Applicant(s) agree(s) to defend, indemnify and hold the City, its agents, officers, and employees harmless from any claim, action or proceeding to attack, set aside, void or annul an approval of the City concerning the project, as long as the City promptly notifies the applicant of any such claim, action or proceedings and the City cooperates fully in the defense.
4. **Fees.** The Applicant(s) hereby agree(s) that he/they shall be jointly and severally liable for the payment of any and all processing fees imposed by the Napa Municipal Code Chapter 15.92, "Development Project Processing Fees", and Policy Resolution 16. The applicant(s) hereby represent(s) and warrant(s) that he/they understand that fees include but are not limited to: staff time billed at an hourly rate; production or reproduction of materials and exhibits; and postage. Failure to pay all accumulated fees by the time of public hearing will result in a continuance.
5. I hereby authorize employees of the City of Napa to enter upon the subject property, as necessary, to inspect the premises and process this application.

I have read and agree with all of the above. The above information and attached documents are true and correct to the best of my knowledge.

Applicant		Date	_____
Authorized Agent	_____	Date	_____
Property Owner*		Date	_____
Property Owner*	_____	Date	_____

*All property owners holding a title interest must sign the application form. If there are more than two, list name, address, phone number, and signature on a separate sheet.

CONTACT INFORMATION INSTRUCTIONS

An "Applicant" is any person, firm, partnership, association, joint venture, corporation or any entity, combination of entities or consortium who seeks approval of a City permit or other Project entitlement for the use of property. The **Applicant** shall be the primary billing contact for all processing and development fees associated with the application. The **Applicant** may additionally identify an "Authorized Agent." An **Authorized Agent** is any person, firm, partnership, association, joint venture, corporation or any entity, combination of entities or consortium authorized by the **Applicant** to represent and act on behalf of the **Applicant**. If identified in this application, the **Authorized Agent** shall receive all written correspondence from the City regarding the application and any hearings or proceedings scheduled before the Planning Commission, City Council or other appointive City Boards and Commissions, but shall not be responsible for the payment of development or processing fees. The **Applicant** shall receive all billing invoices for the project, and under the "Conditions" set forth below, shall be liable for the payment of all development and processing fees associated with the application.

The "Property Owner" of property means a person, persons or corporation holding fee title to the real property within the City as shown on the most recent assessor's roll in the County of Napa upon which the Project is proposed. **Property Owner** and **Applicant** may be the same person or legal entity, or may be different. For example, in the case of a person or entity holding an option on the land, or other contractual relationship with the property owner, the fee owner(s) of the property would be the **Property Owner**, and the person or entity seeking the approvals or permits and holding an option to purchase the property would be the **Applicant**. If **Applicant** and **Property Owner** are the same person or entity, please enter "Same as Applicant" in the area provided for **Property Owner** information. In the event that **Applicant** and **Property Owner** are different, all **Property Owners** must sign on the following page to authorize the **Applicant** to file an Application for the City permit or Project entitlement on his or her property.

SUBMITTAL REQUIREMENTS

This form must be submitted to the Planning Division with the materials identified in the **Submittal Requirements** handout(s) for the appropriate City permit or Project entitlement. If your application requires multiple permits or entitlements, submit the number of plan sets for the permit or entitlement that requires the largest number of plans sets.



EXHIBIT C

MILLS ACT CONTRACT Ten Year Rehabilitation Plan

Mailing Address:
PO Box 660
Napa, CA 94559

Planning Division
1600 First Street
707.257.9530

TAX YEAR	PROPOSED PROJECT*	ESTIMATED COST
Year 1	Tenant Improvements for Office Users at the Second Floor and Restaurant/Retail Users at the First Floor	\$1,200,000.00
Year 2	Tenant Improvements for Office Users at the Second Floor and Restaurant/Retail Users at the First Floor	\$800,000.00
Year 3	Maintenance and Operations → SHOULD REFER TO A SECTION IN DESCRIPTION. SHOULD REUSE PROJECT DESCRIPTION.	
Year 4	Maintenance and Operations BREAK UP DESCRIPTION TO WRP PLAN + DESCRIPTION COMMISSION / ARL COMMISSION	
Year 5	Maintenance and Operations	
Year 6	Maintenance and Operations	
Year 7	Maintenance and Operations	
Year 8	Maintenance and Operations	
Year 9	Maintenance and Operations	
Year 10	Maintenance and Operations	

* Attach additional sheets if necessary

Ten Year Rehabilitation Plan to be attached to the Mills Act Contract (Exhibit C)

All projects that affect the exterior of the residence will be subject to compliance with the City's Historic Preservation Ordinance in NMC Chapter 15.52. Work must meet all City requirements and Secretary of Interior's Standards for Rehabilitation of Historic Properties. You must retain copies of all receipts and permits for submittal with the required annual reports. Photograph the before and after condition of each project for submittal with the annual reports.

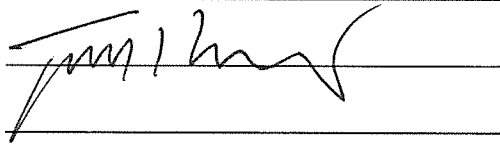
EXHIBIT C

Would you like to revise your Ten Year Plan? _____ (If yes, attach a revised Ten Year Plan)

PROPERTY OWNER CERTIFICATION

I certify that the above information is true and accurate to the best of my ability. I acknowledge and agree that an annual inspection, to be completed by City Staff, may be necessary to certify compliance.

Property Owner*



Date

Property Owner*

Date

*All property owners holding a title interest must sign the Annual Report form. If there are more than two, list name, address, phone number, and signature on a separate sheet.

SUBMITTAL REQUIREMENTS

Submit one (1) copy of the Mills Act Annual Report on 8 ½" x 11" paper. Return form and required attachments by the last business day of July to:

City of Napa
Planning Division
1600 First Street
Napa, CA 94559

Gordon Building
1130 First Street Mills Act Request

TABLE 1 – ESTIMATED FISCAL IMPACT OF MILLS ACT

Property Type: Retail/Office

Tax Assessor's Parcel Number: 003-166-004

Base Year Value (Market): \$3,846,209 (land and structure) Current assessed value.

Estimated Annual Property Tax (1%): \$38,462.00

City Share of Annual Property Tax (22%): \$8,462

EST. LOSS IN ANNUAL PROPERTY TAX REVENUE: A formal calculation will be conducted at the time a Contract is awarded. Reduction in tax for this ~~residential~~ retail/office property would be approximately 40-70% from the base year value, then calculated based on estimated tax and related City share.

40% Reduction:

Base Year Value (Reduced Market Value): \$2,307,725

Estimated Annual Property Tax (1%): \$23,077

City Share of Annual Property Tax (22%): \$5,077

70% Reduction:

Base Year Value (Reduced Market Value): \$1,153,863

Estimated Annual Property Tax (1%): \$11,539

City Share of Annual Property Tax (22%): \$2,538

A strict averaging of these figures would indicate a reduced City Share of Annual Tax from the existing figure of \$8,462 per year down to approximately \$2,538 per year.

Gordon Building
1130 First Street Mills Act Request

TABLE 1 – ESTIMATED FISCAL IMPACT OF MILLS ACT

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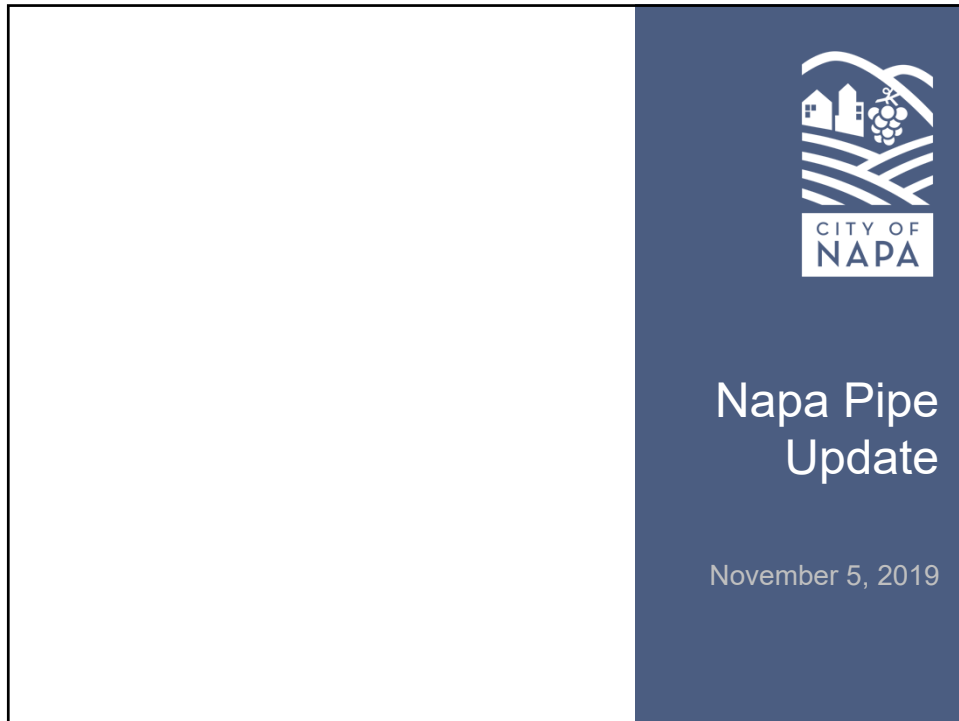
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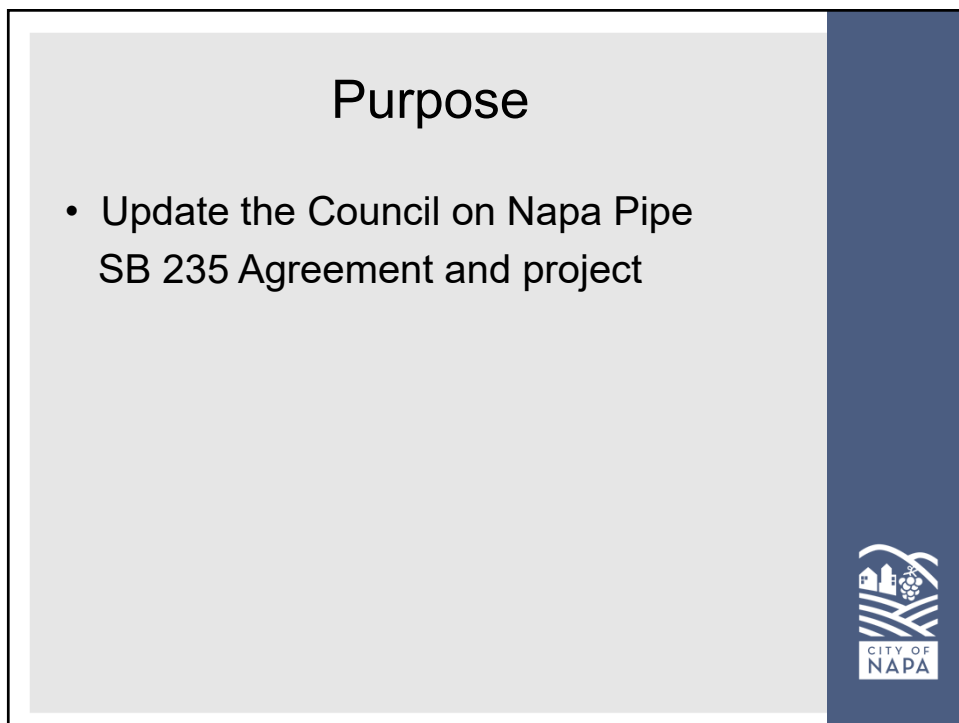
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City Share of Annual Property Tax (22%): \$2,538

A strict averaging of these figures would indicate a reduced City Share of Annual Tax from the existing figure of \$8,462 per year down to approximately \$2,538 per year.



1



2

Project Milestones

- June 7, 2019 – Developer filed applications with City of Napa
- August 6, 2019 – Council endorsed early annexation
- Environmental review underway
- Annexation scheduled for November 18
- Project tentatively scheduled for Planning Commission on December 5



3

SB 235

- Recognizes unique circumstances in Napa County.
- Allows City to share credit with County for issuance of building permits at Napa Pipe.
- Law was anticipated to expedite housing production.



4

SB 235 Milestones

- April 2019 – Bill cleared the Senate
- August 2019 – Bill cleared Assembly
- October 2019 – Governor signed law
- January 2020 – Law goes into effect



5

SB 235 Agreement

- June 17, 2019 & July 9, 2019 – City and County staff discussed agreement terms
- August 11, 2019 – City staff shared latest proposal with County staff
- August to October – City and County staff negotiated conceptual terms
- October 15, October 26, November 1 – additional considerations identified



6

Draft SB 235 Agreement

- All housing impact fees for nonresidential development within the Napa Pipe Project fund the affordable apartment projects.
- \$1MIL workforce housing funds to City to administer County-type program



7

Draft SB 235 Agreement

- County would commit to using a significant portion of the County's Affordable Housing Fund to facilitate production of 140 affordable apartments.
- The City and County would agree on a methodology and collaborative process for reporting housing units to HCD.



8

Draft SB 235 Agreement

- County authorized to report 100% of low- and very low-income housing units constructed in the first phase of development (Site 23). *Estimated 84 units*
- County authorized to report 100% of the low- and very low-income housing units constructed in the second phase of development (Site 1), if building permits are issued before December 31, 2022. *Estimated 56 units*



9

Draft SB 235 Agreement

- County authorized to report 90% of the low- and very-low income housing units constructed in the second phase of development (Site 1), if building permits are issued on or after January 1, 2023.
- City would report to HCD all deed restricted moderate-income units and all market rate units. *Estimated 44-50 moderate income units, up to 755 market rate units*



10

Draft SB 235 Agreement

- If City provides funding or vouchers to assist in the construction of the very low- and low-income apartments, the City would be authorized to report to HCD for a portion of the units proportionate to the City's contribution.



11

Initial Schedule

- November 5 and November 12: City Council and Board to review SB 235 agreement
- November 18, 2019: LAFCO Annexation hearing (postponed from October at request of County)
- December 5, 2019: Napa Pipe at Planning Commission
- January 21, 2020: Napa Pipe at City Council



12

Resolved Issues

- Credit sharing and reporting methodology
- County's interest in achieving at least 20 units per acre in Napa Pipe residential
- Adequacy of affordable housing sites
- Use of 1MIL developer contribution



13

Unresolved Issues

- Potential schedule delays due to lack of agreement on path forward
- County's request to delay annexation to 2020
 - Legal agreements
 - Practical considerations
- County's request to consider updating 2015 RHNA Agreement



14

Next Steps

- Finalize SB 235 agreement and related agreements based on Council and County input
- Annexation date TBD
- Revise project schedule



15

Recommendation

- Provide staff direction regarding SB 235 terms



16

Questions



17

Extra Slides



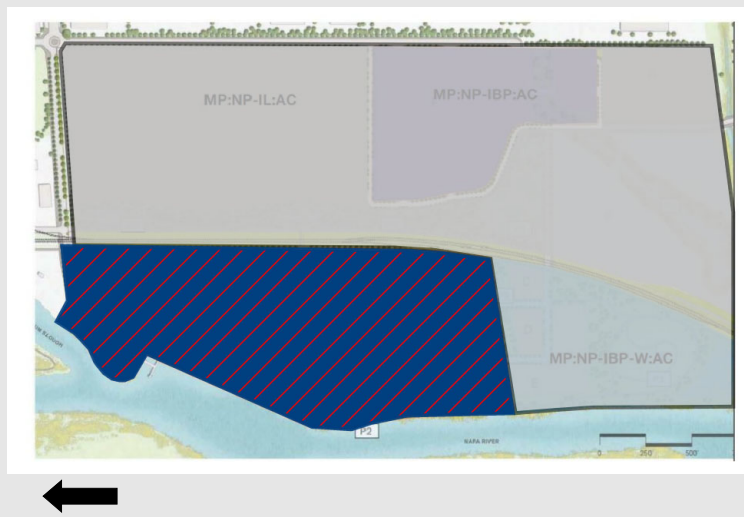
18

Project Location



19

Annexation Area



20

Approved Plan



11/2014 PLAN



21

Revised Plan*



*2018 version



22

Unincorporated County Area (marked with hatch lines)





MEMO

TO: Honorable Mayor and Members of City Council

FROM: Vincent Smith, Community Development Director

PREPARED BY: Erin Morris, Planning Manager

DATE: November 4, 2019

SUBJECT: **Item 6.B.** SB 235 Agreement for Reporting Affordable Housing Production on the Napa Pipe Property – Supplemental Information

As outlined in the Staff Report for Item 6.B., on the agenda for City Council consideration on November 5, 2019, City staff has been meeting extensively with County staff about processing the proposed revisions to the Napa Pipe Project, beginning in 2018 when the developer filed applications with the City of Napa to modify the approved development plans and associated agreements. Work on the SB 235 agreement by City and County staff kicked off in June 2019, with numerous meetings and discussions between respective agency staff.

From the beginning, City staff understood that the County's chief interest was receiving credit for issuance of building permits for deed restricted affordable units within the project, and that the County was not interested in being part of the revised Development Agreement and associated agreements provided that the SB 235 agreement covered the County's interests. City staff was clear that the City's key interest was to facilitate a streamlined development review process to allow the Napa Pipe project to begin construction as soon as feasible, and the best path to achieve that goal was to facilitate an early annexation of the remaining 45 acres of the Napa Pipe Property. The draft agreement that is included as Exhibit A to Attachment 1, which was in progress in the lead up to the November 5 Council meeting, reflected the City's understanding of the County's interests based on meetings and discussions. This work was informed by a "Term Sheet" issued by the County staff on October 15, 2019 and follow up work to modify the agreement to address the issues.

On October 26, 2019, the County sent an email communication identifying additional issues to be resolved. Over the course of the following week, there were meetings and phone calls between City and County staff to try to resolve the additional issues. On November 1, 2019, City staff met with County staff to discuss remaining issues. At the meeting, County staff introduced

a new term sheet with new issues to be addressed, most notably that: (1) the County proposes to delay the annexation of the remaining 45 acres until January 2020, after the revised project and agreements may be approved by the City Council; and (2) the County requests to discuss with the City “other necessary revisions” to the “Napa Pipe RHNA Agreement.” In general, under the Napa Pipe RHNA Agreement, the City agreed to assume 80% of the County’s regional housing needs allocation (“RHNA”) imposed by the California Department of Housing and Community Development (“HCD”) and the Association of Bay Area Governments (“ABAG”); in return for which the County agreed to not modify the land uses in the South County area.

At the November 1 meeting, County staff confirmed that they agree with the substantive aspects of the draft SB 235 agreement—specifically, how the County will receive credit for issuance of building permits for up to 140 deed restricted affordable housing units. City staff confirmed that the terms outlined as key provisions for the Development Agreement and Affordable Housing Plan could generally be found acceptable with some minor amendments.

However, City staff is concerned that the County’s proposal to delay annexation until January 2020, and the request to potentially renegotiate the “Napa Pipe RHNA Agreement” prior to the Napa Pipe project moving forward. These two proposals may delay the development review schedule and ultimately delay project construction. Staff is currently analyzing these requests and the other items in the County’s November 1 transmittal and will provide further updates to the Council as part of the presentation.

While the Council will not be able to act on the draft SB 235 agreement because City and County staff have not reached initial agreement, staff believes that sharing the key terms with the Council provides the Council an opportunity to review the terms and provide staff any necessary direction.

ATCH 1 – Summary of Terms Discussed by City, County, and Developer, received November 1, 2019

ATCH 2 - Memorandum of Agreement Between the City of Napa and Napa County Regarding Regional Housing Needs Allocations for Future Housing Element Planning Periods

Summary of Terms Discussed by City, County, and Developer

Staff and attorneys representing the City of Napa, County of Napa, and the developer have discussed possible terms to be included in the SB 235 Agreement, RHNA Agreement, and the Development Agreement and Affordable Housing Agreement to meet the interests of Napa County.

The terms listed below are primarily those on which there was tentative agreement, subject to concurrence by the Napa City Council and Napa County Board of Supervisors and authorization to proceed with drafting agreements consistent with these concepts. However, no commitment was made by any party to enter into any agreement pending presentation of the actual agreements, and with the understanding that both the Council and the Board might modify, remove, or add terms.

Key Provisions: SB 235 Agreement.

The SB 235 Agreement will be entered into between the City and the County.

- The County may include lower income units developed in Napa Pipe (up to 140 units) on the Annual Progress Report required to be submitted to the state Department of Housing and Community Development (HCD).
- If the City contributes funds or housing vouchers to these 140 lower income units (excluding fees paid by the developer to the City and recycled into the project), the City and County will share the credit and report the units on a proportional basis. For instance, if the City contributes \$1,000,000 and the County contributes \$9,000,000, the City would receive a 10% credit.

Key Provisions: Developer Agreement (DA) and Affordable Housing Agreement (exhibit to the DA)

The DA and the Affordable Housing Agreement will be entered into between the City and the developer.

The County represented to HCD and the Legislature that SB 235 was intended to simply move the approved Napa Pipe development from the County to the City and that the annexation would not result in any decrease in density or reduction of affordable units below that shown in the County's Housing Element. The County's Housing Element shows the following, which were also requirements of the County-developer DA: Actual affordability level: 140 lower income units; 50 moderate income units; the remainder above moderate-income units; Density: 304 units built at a minimum density of 20 units per acre (202 "by right"), with the remaining units built at *up to* 20 units per acre. Additionally, the DA provided the County with \$1 million for its Proximity Housing Program.

The County's interest is in ensuring that these terms remain, to the extent possible, in the DA between the City and the developer. Key proposed terms are these:

- The Development Agreement will be revised to make the County a third party beneficiary with regards to the dedication of land, construction of infrastructure, and other commitments by the developer to accommodate at least 140 low and very low income affordable housing units. Practically, the County should be a third party beneficiary to most of the provisions of the Affordable Housing Agreement.
- The Development Agreement will be revised to make the County a third party beneficiary to ensure that the development plan includes a minimum of 304 units at a minimum density of 20 dwelling units per net acre (as measured within residential blocks), with 202 units permitted by right, consistent with the County's Housing Element and Government Code sections 65583.2(c)(3) and (i). The remaining 641 units may be built at densities up to 20 dwelling units per net acre.
- The Development Agreement will be revised to make the County a third party beneficiary to provisions requiring that 6% of the units in each phase of residential development will be developed for moderate incomes, with a minimum of 44 units, either for sale or for rent. (The County has already met its 50-unit moderate-income obligation.)
- The developer will pay the City \$1 million as a Workforce Housing Contribution. The City will use these amounts solely to assist households that include members who work in the County of Napa to purchase homes developed on the property. Guidelines for use of the funds will be submitted to the County Housing Director, and the City will consider in good faith any additional recommendations regarding the City's use of the Workforce Housing Contribution. This is to ensure that the program serves the same purpose as the County's Proximity Housing Program, which provides *homeownership* opportunities for the County's workforce.
- The annexation will not be heard at a LAFCO meeting until the SB 235 Agreement has been approved by the City and County, and until the DA and Affordable Housing Agreement have been approved by the City and the Developer.

Key Provisions: RHNA Sharing Agreement

- The recitals will be modified to reflect the current facts, and Section 4 will be modified to remove the County's obligation to spend affordable housing fees paid by the project on Napa Pipe affordable housing (since no affordable housing fees will be paid to the County).
- The County also desires to discuss other necessary revisions to the RHNA agreement, specifically related to Section 5, which limits uses on certain properties to those in effect on October 8, 2013 unless mutually agreed to by the City and the County. The City has raised the RHNA agreement terms as a concern and the County will notify the City of issues needing discussion and resolution after November 12th.

Tentative Timeline

- November 12th: County staff presents term sheet to Board of Supervisors
- November 19th: County staff presents term sheet to City Council
- November 1st-November 30th: Attorneys complete draft documents
- December 2019/early January 2020: County staff presents agreements for consideration to Board of Supervisors
- December 5, 2019: City of Napa Planning Commission meeting
- Early December 2019: Airport Land Use Committee
- January 21, 2020: City of Napa City Council meeting
- On or after January 22, 2020: LAFCO hearing on annexation

**MEMORANDUM OF AGREEMENT
 BETWEEN THE CITY OF NAPA AND NAPA COUNTY
 REGARDING REGIONAL HOUSING NEEDS ALLOCATIONS FOR FUTURE
 HOUSING ELEMENT PLANNING PERIODS**

This Memorandum of Agreement ("**Agreement**") between the City of Napa ("**City**") and Napa County ("**County**") is dated August 25, 2015, to reflect the first date upon which it is executed by both the City and the County, as shown by the signatures of their authorized representatives below, and, subject to the terms set forth herein, shall be binding upon the City and County from the date of its complete execution. The City and County each may be referred to herein as a "Party" and together may be referred to herein as the "Parties."

RECITALS

A. The City and County have entered into a Memorandum of Understanding ("**MOU**") regarding the future development of two parcels of land in unincorporated Napa County comprising approximately 154 acres and commonly referred to as the Napa Pipe site (APNs 046-400-030 and 046-412-005, as and hereafter, the "**Property**"). The Property is depicted in greater particularity on Exhibit A hereto.

B. The County Board of Supervisors has adopted various land use approvals for the development of the Property (the "**Project**"), which approvals include Resolution No. 2014-139, approved by the Board of Supervisors on November 25, 2014, approving a Tentative Map for the Project; Ordinance No. 1393, approved by the Board on December 16, 2014, approving a Development Plan for the Napa Pipe Zoning District portion of the Property; Ordinance No. 1394, approved by the Board on December 16, 2014, approving a Development Agreement for the Napa Pipe Zoning District portion of the Property; and Ordinance No. 1397, approved by the Board on February 10, 2015, approving the Design Guidelines for the Napa Pipe Zoning District portion of the Property.

C. The County desires to rely on housing proposed as part of the Project to meet certain affordable housing obligations imposed on the County by state law. Pursuant to Article 10.6 (the "**Housing Element Law**") (Government Code sections 65580 - 65589.8) of Chapter 3 of the Planning And Zoning Law, the Association of Bay Area Governments ("**ABAG**") periodically adopts a Regional Housing Needs Allocation ("**RHNA**") for each county and city in the greater San Francisco Bay Area, including Napa County and the City of Napa. Under the Housing Element Law, each city and county must periodically revise the housing element of its general plan utilizing the latest RHNA adopted by ABAG. The current revision to the housing elements of the City and County is designated as the fifth required revision by Government Code Section 65588, and is identified by ABAG as the 2014-2022 planning period.

D. The MOU between the City and County provides in Section 2.3(e) that the City and County may enter into a RHNA agreement as allowed under Government Code Section 65584.07 or any successor statute ("**Section 65584.07**") providing for the transfer to the City of eighty percent (80%) of the County's RHNA obligation for each housing element planning period commencing with the sixth and subsequent revisions (as defined in Government

ATTACHMENT 2

Code 65588), during such time as the County's Measure P (as approved by the voters in November 2008, and as may be extended by subsequent voter approval) remains in effect, provided that certain requirements of the MOU are satisfied. This Agreement is intended by the County and the City to serve as the RHNA agreement contemplated by Section 2.3(e) of the MOU.

E. Approval of the Project and successful implementation of the MOU will allow the County to meet its RHNA for the 2014-2022 housing element planning period (fifth revision) and obtain a certified housing element. This Agreement provides for RHNA transfers from the County to the City in the sixth and subsequent housing element planning periods, so long as the County's Measure P remains in effect, for the benefit of both the City and the County and in furtherance of City and County policies to preserve agricultural lands in Napa County so as to maintain a viable agriculture-based economy, prevent urban sprawl, direct growth and development into existing cities, and promote infill and smart growth.

F. In addition to this Agreement, the City and County have entered into that certain Memorandum of Agreement Between the City of Napa and Napa County Regarding the City of Napa's Sphere of Influence and the Napa Pipe Property (the "**SOI Agreement**"), as provided by California Government Code Section 56428. As described in the SOI Agreement, the City Council has, by resolution dated July 21, 2015, authorized the City Manager to approve, subject to the satisfaction of certain conditions set forth in such resolution, the submittal of an application (the "**LAFCO Application**") to the Napa County Local Agency Formation Commission ("**LAFCO**") to (i) update the City's Sphere of Influence ("**SOI**") boundary to bring the Property within the City's SOI, (ii) extend City services, including water and other required municipal services in accordance with that certain Memorandum of Agreement Between the City of Napa and Napa County Regarding the Provision of Municipal Services for the Napa Pipe Development Project (the "**Municipal Services Agreement**") and that certain Annexation Consent, Protest Waiver and Water Service Agreement By and Between the City of Napa and Napa Redevelopment Partners (the "**Water Agreement**"), and (iii) annex the Property to the City in two steps in accordance with the SOI Agreement.

NOW, THEREFORE, in consideration of the mutual covenants, promises and agreements contained herein, the Parties hereto mutually agree as follows:

TERMS

1. The County has identified the specific portion of the Property zoned NP-MUR-W:AC (the "**Housing Site**"), as an available housing site in its fifth Housing Element revision, and intends to issue, upon application, residential building permits for construction of housing on the Housing Site during the 2014 -2022 housing element cycle, while the Housing Site remains in the County's jurisdiction, in order to satisfy the County's RHNA obligation for the fifth revision.

2. Starting with the sixth revision of the housing element (currently 2023-2030, or as that planning period may be adjusted by ABAG, the Department of Housing and Community Development, or statute) and for all subsequent revisions for the life of the County's Measure P (as approved by the voters in November 2008, and as may be extended by subsequent voter

ATTACHMENT 2

approval), upon ABAG's adoption of a final RHNA, the County and City shall jointly apply to ABAG to reduce the County's RHNA allocation by 80% and to increase the City's RHNA allocation by 80% of the County's original allocation, as provided for and in conformance with the requirements of Government Code section 65584.07. Accordingly, upon ABAG's approval, the City's share of the RHNA will increase by 80% of the County's original allocation and the County's RHNA shall decrease by 80% of the County's original allocation, as allowed under Government Code section 65584.07.

3. ABAG may determine the City and County's RHNA for the sixth and subsequent revisions of the housing element in one of two ways. ABAG may make the determination based on its methodology adopted under Government Code Section 65584.04. Alternatively, the parties and other cities or counties may form a subregional entity under Government Code Section 65584.03 or any successor statute for purposes of allocating the RHNA among members of the subregional entity. If the parties are members of such a subregional entity, the RHNA prepared by the subregional entity and submitted to ABAG shall be made without reference to the contemplated 80% transfer. Upon ABAG's adoption of a final RHNA, the County and City shall jointly apply to ABAG to reduce the County's RHNA allocation by 80% and to increase the City's RHNA allocation by 80% of the County's original allocation as described in Paragraph 2 above.

4. At all times following the transfers of the County's RHNA allocations described in Sections 2 and 3 above, the County shall prioritize eighty (80%) of the County's Non-Residential Affordable Housing Impact Fees and other funds in the County's affordable housing fund generated County-wide to finance affordable housing projects within the City of Napa in recognition of the City's agreement to assume the County's ongoing RHNA obligation. Notwithstanding the foregoing, County's use of Non-Residential Affordable Housing Impact Fees and other funds in the County's affordable housing fund generated from the Project shall be used in accordance with Section 5.3 of the Affordable Housing Plan attached as Exhibit C to that certain Development Agreement entered into between the County and Napa Redevelopment Partners, LLC, dated as of January 13, 2015.

5. At all times while the modifications to the City's and the County's RHNA obligations described herein remain in effect, the County shall limit land uses to governmental uses or uses consistent with applicable zoning in effect on October 8, 2013, as provided in the MOU (unless changes to the zoning and Specific Plan are mutually agreed to by the City and the County) for all properties generally located south of the City of Napa and north of the City of American Canyon, as depicted in the South County Industrial Areas map attached as Exhibit B to the MOU (also attached hereto as Exhibit B), including (a) the Napa County Airport Industrial Area (b) all unincorporated land to the south of the City limits, including but not limited to the Syar Properties, and (c) unincorporated land north of the City of American Canyon generally on the east side of Highway 29 between South Kelly Road and Napa Junction.

ATTACHMENT 2

6. All other provisions of this Agreement to the contrary notwithstanding, this Agreement shall have no force or effect unless and until all of the following conditions have been satisfied:

- a. the City and the NRP shall have executed the Water Agreement described in Recital F above;
- b. the County and NRP shall have executed an amendment to the Development Agreement consistent with the terms of the Water Agreement, as described in Recital F above;
- c. the Napa County LAFCO shall have approved the City's requests to (i) expand its SOI to include the Property, and (ii) extend municipal services to the Property, as set forth in the City's LAFCO Application described in Recital F above; and
- d. at all times since October 8, 2013, the County shall have fully and without exception enforced the limitation on land uses described in Section 5 above.

Provided that the preceding conditions have been satisfied, then upon the effective date of LAFCO's approval of the City's requests to expand its SOI and extend municipal services to the Property, as provided by Government Code section 56428(e), the City and County shall become unconditionally obligated to comply with the terms and conditions of this Agreement.

7. The City and County shall take all steps reasonably necessary to comply with the Government Code section 65584.07 and such other transfer statutes, as applicable, to implement this Agreement, including but not limited to, providing the appropriate documentation to ABAG or any other agency, as required. The parties agree to work together to obtain ABAG and any other approval where required to effectuate this Agreement. City further agrees that it will utilize the revised RHNA that includes the transfer of RHNA contemplated by this Agreement in preparing the City's sixth and subsequent housing element revisions, as applicable.

8. The County shall indemnify, defend, and hold the City and its respective elected and appointed councils, boards, commissions, officers, agents, employees, volunteers, and representatives, harmless from all loss, fines, penalties, forfeitures, costs, damages and other liabilities of any type (whether in contract, tort or strict liability), including but not limited to personal injury, death or property damage (including inverse condemnation) (collectively, "**Liabilities**"), and from any and all claims, demands and actions in law or equity (including attorneys' fees and litigation expenses) directly or indirectly arising out of or alleged to have arisen out of or in any way related to this Agreement (collectively, "**Claims**"), asserted against or incurred by the City to the extent arising from any action of the County or of any employees of the County in their performance of any of the terms, covenants or conditions of this Agreement during the term hereof. The City shall indemnify, defend, and hold the County and its respective elected and appointed councils, boards, commissions, officers, agents, employees, volunteers, and representatives, harmless from any and all Liabilities and Claims (as those terms are defined above) asserted against or incurred by the County to the extent arising from any action of the City or of any employees of the City in their performance of any of the terms, covenants or

ATTACHMENT 2

conditions of this Agreement during the term hereof. The Parties shall cooperate in the defense of any third party legal action challenging this Agreement.

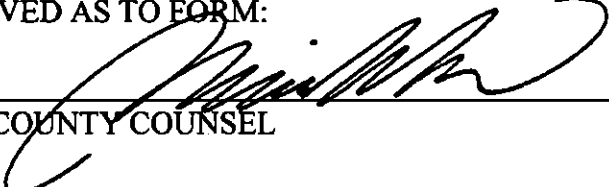
IN WITNESS WHEREOF, this Agreement has been entered into by, and shall be binding upon, the County and the City as of the date it has been executed by both Parties as shown by the signatures below.

COUNTY:
COUNTY OF NAPA

By: 
DIANE DILLON, CHAIR of the BOARD OF SUPERVISORS

On: August 25, 2015

APPROVED AS TO FORM:

By:  8/20/15
MINH TRAN, COUNTY COUNSEL

CITY:
CITY OF NAPA

By: 
CITY MANAGER

On: 8-11-15

APPROVED AS TO FORM:

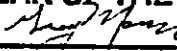
By: 
CITY ATTORNEY

ATTEST:

By: 
Deputy CITY CLERK Lisa Blackmon, Deputy City Clerk

ATTEST: GLADYS I. COIL
Clerk of the Board of Supervisors

By: 

APPROVED 8/25/15
BOARD OF SUPERVISORS
COUNTY OF NAPA
GLADYS I. COIL
CLERK OF THE BOARD
BY  Deputy

MOU re RHNA for Napa Pipe property

EXHIBIT A
(Property Description)

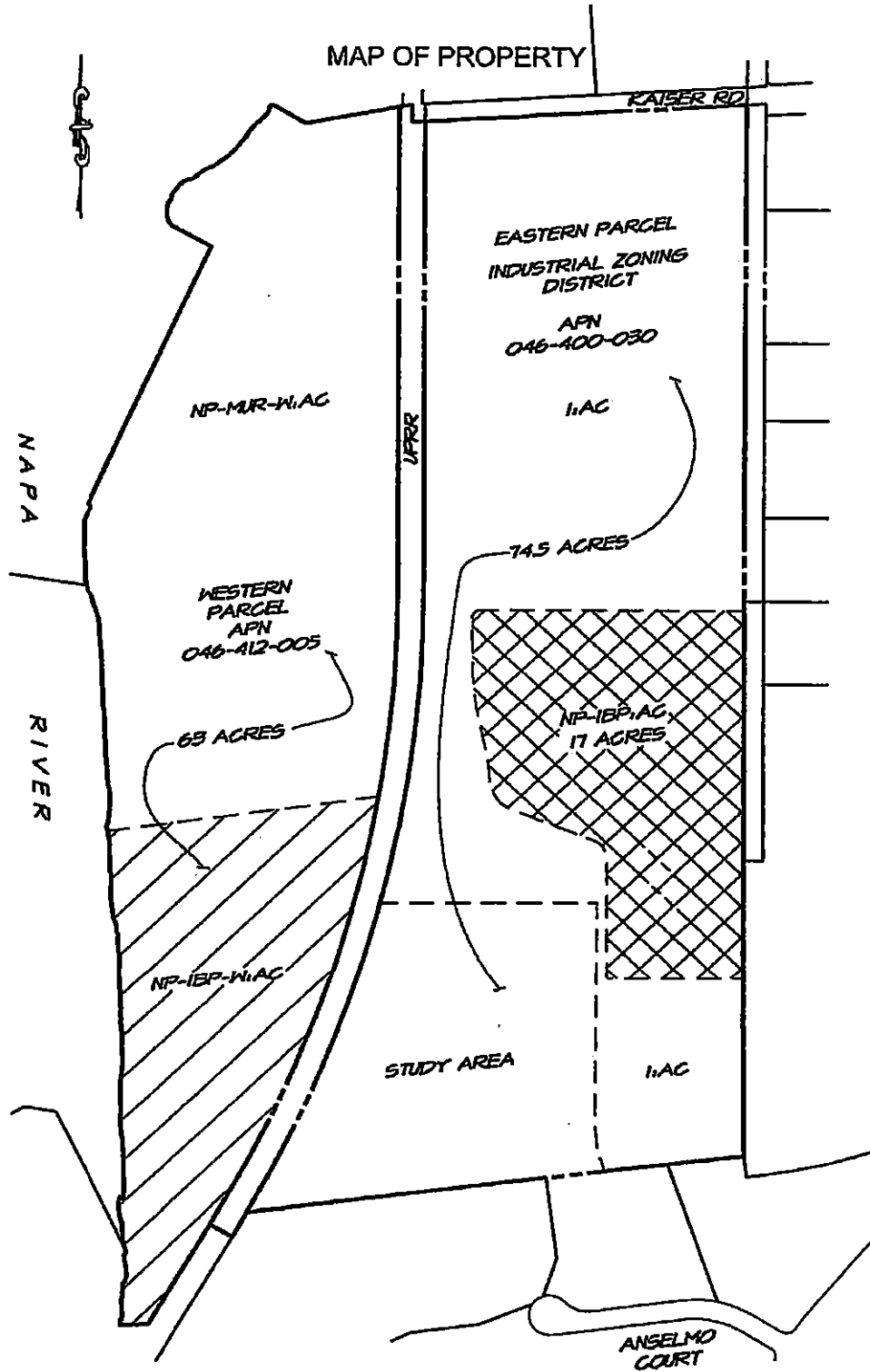


EXHIBIT B
(South County Industrial Areas Map)

