



**City Council
Regular Meeting
AGENDA**

Civic Center Council Chamber ♦ 300 Seminary Avenue ♦ Ukiah, CA 95482

Register for Ukiah City Council Regular Meeting at: <https://attendee.gotowebinar.com/rt/9199312935703156493>

If you prefer to call in, the number is: 632-379-998

After registering, you will receive a confirmation email containing information about joining the webinar. Alternatively, you may view the meeting (without participating) by clicking on the name of the meeting at www.cityofukiah.com/meetings.

October 6, 2021 - 6:00 PM

1. ROLL CALL

2. PLEDGE OF ALLEGIANCE

3. PROCLAMATIONS/INTRODUCTIONS/PRESENTATIONS

- 3.a. Proclamation: Recognizing October 2021 as National Disability Employment Awareness Month in the City of Ukiah.

Recommended Action: Issue a proclamation of the Ukiah City Council recognizing National Disability Employment Awareness Month in the City of Ukiah.

Attachments:

1. Disability Employment Awareness Month

- 3.b. Resolution and Proclamation: Recognizing the Second Monday of October Each Year, as Indigenous Peoples' Day in the City of Ukiah.

Recommended Action: Adopt a resolution recognizing the second Monday in October each year as Indigenous Peoples' Day in the City of Ukiah and directing City staff to take the steps necessary to designate the second Monday in October as an official City holiday and issue a proclamation of the Ukiah City Council recognizing the second Monday in October each year, as Indigenous Peoples' Day in the City of Ukiah.

Attachments:

1. Resolution_ Indigenous Peoples' Day_101621
2. Proclamation_ Indigenous Peoples' Day

4. PETITIONS AND COMMUNICATIONS

5. APPROVAL OF MINUTES

- 5.a. Approval of the Minutes for the September 15, 2021, Regular Meeting.
Recommended Action: Approve the Minutes of September 15, 2021, a Regular Meeting, as submitted.

Attachments:

1. 2021-09-15 Draft Minutes

- 5.b. Approval of the Minutes for the September 21, 2021, Special Meeting.
Recommended Action: Approve the Minutes of September 21, 2021, a Special Meeting, as submitted.

Attachments:

1. 2021-09-21 Draft Minutes - Special Meeting

6. RIGHT TO APPEAL DECISION

Persons who are dissatisfied with a decision of the City Council may have the right to a review of that decision by a court. The City has adopted Section 1094.6 of the California Code of Civil Procedure, which generally limits to ninety days (90) the time within which the decision of the City Boards and Agencies may be judicially challenged.

7. CONSENT CALENDAR

The following items listed are considered routine and will be enacted by a single motion and roll call vote by the City Council. Items may be removed from the Consent Calendar upon request of a Councilmember or a citizen in which event the item will be considered at the completion of all other items on the agenda. The motion by the City Council on the Consent Calendar will approve and make findings in accordance with Administrative Staff and/or Planning Commission recommendations.

- 7.a. Council will Consider Awarding a Contract in the Amount of \$37,339.12 for Bi-Weekly Maintenance for the SCADA and Instrumentation at the Water Treatment Plant to JM Integration of Vacaville, CA.
Recommended Action: Award contract in the amount of \$37,339.12 for bi-weekly maintenance for the SCADA and Instrumentation at the Water Treatment Plant to JM Integration of Vacaville, CA.

Attachments:

1. JM Integration Quote

- 7.b. Adoption of an Ordinance to Prezone Certain Parcels in Association with the Western Hills Open Land Acquisition and Limited Development Agreement Project.
Recommended Action: Adopt ordinance amending the official zoning map for the City of Ukiah, and pre-zoning certain parcels in association with the Western Hills Open Land Acquisition and Limited Development Agreement Project.

Attachments:

1. Ordinance for Prezoning_Western Hills Open Land Acquisition Limited DA.docx

- 7.c. Notification to City Council of Purchase Order #47467 to Family Tree Service for the Removal of Ten(10) Trees and One Stump in the Amount of \$18,350.
Recommended Action: Receive report on Purchase Order #47467 to Family Tree Service for the removal of ten(10) trees and one stump in the amount of \$18,350

Attachments:

1. Tree Maintenance Guidelines
2. Purchase Order 47467-00

- 7.d. Request a Budget Amendment to the Park Development Fund Open Space Supplies Account in an Amount of \$2,530.25 from the Park Development Reserve Fund to Cover the Cost of the Filing Fee for the Initial Study and Mitigated Negative Declaration to the County of Mendocino for the Ukiah Western Hills Open Land Acquisition & Limited Development Agreement Project.
Recommended Action: Approve a Budget Amendment to the Park Development Fund Open Space supplies account in the amount of \$2,530.25 from the Park Development Reserve Fund to cover the cost of the filing fee for the Initial Study and Mitigated Negative Declaration to the County of Mendocino for the Ukiah Western Hills Open Land Acquisition & Limited Development Agreement Project.
Attachments: None
- 7.e. Adoption of Resolution Ratifying an Emergency Order of the City Manager Authorizing Temporary Use of the Property at 1240 Airport Park Boulevard as a Disaster Resources Facility to Assist Those Affected by the Hopkins Fire.
Recommended Action: Adopt Resolution ratifying an emergency order of the City Manager authorizing temporary use of the property at 1240 Airport Park Boulevard as a disaster resources facility to assist those affected by the Hopkins fire.
Attachments:
1. Resolution with Exhibit A - Ratifying Declaration of Local Emergency
- 7.f. Authorize City Manager to Negotiate and Execute a Contract with North Coast Opportunities in the Amount of \$152,000 to Provide Project Support for the CNRA Funded Urban Greening Grant to Build Phase 4 of the Great Redwood Trail.
Recommended Action: Authorize the City Manager to negotiate and execute a contract with North Coast Opportunities in the amount of \$152,000, to provide project support for the CNRA Funded Urban Greening Grant to build Phase 4 of the Great Redwood Trail.
Attachments:
1. NCO Project Manager Scope of Work 1
 2. Professional Services Contract NCO_UkiahSoUL
- 7.g. Adoption of an Ordinance Amending Division 1, Chapter 4, Article 4B of the City Code Regarding the Procedure for Filling Vacancies on the Design Review Board.
Recommended Action: Adopt Ordinance amending Division 1, Chapter 4, Article 4B of the City Code regarding the procedure for filling vacancies on the Design Review Board.
Attachments:
1. Proposed Ordinance - Redline
 2. Proposed Ordinance - Clean
 3. Design Review Board Application
 4. Design Review Board Roster
- 7.h. Notification to the City Council of Purchase Order #47493 Issued to Arrow Fencing to Replace Fencing Lost in the Highway Fire at the Water Treatment Plant (WTP) in the Amount of \$25,200.
Recommended Action: Council will receive a report on Purchase Order #47493 issued to Arrow Fencing for fence replacement at the Water Treatment Plant (WTP) in the amount of \$25,200.
Attachments:
1. Arrow Fencing Proposal 0927

- 7.i. Request Approval to Amend the Contract with Utility Design Services to Increase Design and Engineering Contract Funding for Electric Capital Improvement Projects in the amount of \$260,000.
Recommended Action: Approve an amendment to the contract with Utility Design Services to increase design and engineering contract funding for Electric capital improvement projects in the amount of \$260,000.
Attachments:
1. COU# 1314-213
- 7.j. Adoption of a Resolution of the City of Ukiah, Adopting the City of Ukiah Social Media Policy.
Recommended Action: Adopt resolution adopting the City of Ukiah Social Media Policy.
Attachments:
1. Resolution with Exhibit A - Policy Social Media
- 7.k. Consider Approval of Annual Allocation of Funds, in the Amount of \$68,750, to the Ukiah Valley Basin Groundwater Sustainability Agency, for Agency Administration and Implementation of the Groundwater Sustainability Plan, until Such a Time that a Regulatory Fee or Other Funding Mechanism is Implemented; and a One-Time Contribution of \$4,000 to Perform Additional Groundwater Monitoring to Study the Effects of the Current Drought Emergency on the Groundwater Levels in the Ukiah Valley Basin.
Recommended Action: Approve Annual Allocation of Funds, in the Amount of \$68,750, to the Ukiah Valley Basin Groundwater Sustainability Agency, for Agency Administration and Implementation of the Groundwater Sustainability Plan, until Such a Time that a Regulatory Fee or Other Funding Mechanism is Implemented; and an additional one-time contribution of \$4,000 to perform additional groundwater monitoring to study the effects of the current drought emergency on the groundwater levels in the Ukiah Valley Basin.
Attachments: None
- 7.l. Report of a Revised Final Purchase Price of the Seasonal Ice Rink in the Amount of \$198,259.16, and Approve Corresponding Budget Amendment.
Recommended Action: Receive report of a revised final purchase price of the seasonal ice rink in the amount of \$198,259.16, and approve corresponding budget amendment.
Attachments:
1. ASR
 2. Original Proposal
 3. Revised Proposal
- 7.m. Report of Revised Vendor for the Purchase of LED Lighting System for the Galleries at the Grace Hudson Museum.
Recommended Action: Receive a report regarding the revised vendor used for the purchase of the LED Lighting System for the Galleries at the Grace Hudson Museum.
Attachments:
1. Original ASR
 2. Original PO
 3. Revised PO

- 7.n. Council will Consider Approving the Purchase of One (1) 2022 Ford F250XL 4X4 Pickup Truck in the Amount of \$47,012.87 from Redwood Ford.

Recommended Action: Award the bid for one (1) 2022 Ford F250XL 4X4 Pickup Truck to Redwood Ford in the amount of \$47,012.87

Attachments:

1. Justification Form
2. Request for Bid
3. Bid Tab

- 7.o. Approve City of Ukiah's Coordinated Responses to Grand Jury Reports: "Homelessness in Mendocino County is a Community Concern", "Meeting Mendocino County's Needs for Housing Requires Coordination and Planning", and "The Orr Street Bridge--Twelve Years of Delay."

Recommended Action: Approve City of Ukiah Coordinated Responses to Grand Jury Reports: "Homelessness in Mendocino County is a Community Concern", "Meeting Mendocino County's Needs for Housing Requires Coordination and Planning", and "The Orr Street Bridge--Twelve Years of Delay."

Attachments:

1. Report-Homelessness_in_Mendocino_County_is_a_Community_Concern_06162021
2. Report-Mendocino_Countys_Needs_for Housing 2021
3. Report-The_Orr_Street_Bridge--Twelve_Years_of_Delay_07162021
4. PC_933.5
5. Cover_Homelessness_City Council
6. Cover_Homelessness_City Manager
7. Cover_Homelessness_Police Dept
8. Grand Jury Responses 2021 - Homelessness_Final
9. Cover_Housing
10. Grand Jury Response 2021 - Mendocino County Housing_Final
11. Cover_Orr Street Bridge_City Council
12. Cover_Orr Street Bridge_City Manager
13. Cover_Orr Street Bridge_CD Director
14. Cover_Orr Street Bridge_PW Director
15. Grand Jury Response 2021 - Orr Street Bridge_Final

8. AUDIENCE COMMENTS ON NON-AGENDA ITEMS

The City Council welcomes input from the audience. If there is a matter of business on the agenda that you are interested in, you may address the Council when this matter is considered. If you wish to speak on a matter that is not on this agenda, you may do so at this time. In order for everyone to be heard, please limit your comments to three (3) minutes per person and not more than ten (10) minutes per subject. The Brown Act regulations do not allow action to be taken on audience comments in which the subject is not listed on the agenda.

9. COUNCIL REPORTS

10. CITY MANAGER/CITY CLERK REPORTS

11. PUBLIC HEARINGS (6:15 PM)

- 11.a. Conduct a Public Hearing; Adopt Resolution Establishing the State Street Underground District No. 6 from Norton Street to Henry Street and from Mill Street to Gobbi Street, Including the Boundaries and Proposed Schedule; and Approve the Community Development Director's Determination that the Project Qualifies for a CEQA Exemption.

Recommended Action: Adopt Resolution establishing State Street Underground District No. 6, approve boundaries and timeline, and approve the Community Director's Determination that the Project qualifies for a CEQA exemption.

Attachments:

1. Boundary Maps North and South
2. Boundary Descriptions
3. Timeline
4. 2021-10-06 Resolution State Street UG District No. 6

12. UNFINISHED BUSINESS

- 12.a. Receive and File Fourth Quarter Financial Report.

Recommended Action: Receive and file report.

Attachments: None

- 12.b. Receive Report Regarding Annual Review of Ordinance for the Regulation of Shopping Cart Containment and Retrieval, and Provide Direction as Necessary.

Recommended Action:

Receive report from Staff, provide policy direction, and direct staff to return with a revised ordinance to improve efficiency and effectiveness of the shopping cart containment program.

Alternate Action: Reconstitute a council ad hoc if more direct guidance is desired for the ordinance revision process.

Attachments:

1. Ordinance No. 1187 Shopping Cart Containment and Retrieval
2. Ordinance No. 1191 Amending Shopping Cart Containment and Retrieval Ordinance

- 12.c. Receive Report Regarding Review of Ordinance for Development of Operating Standards for Community Gardens, Live Entertainment, Outdoor Dining, Sidewalk Cafes, and Specialty Food and Beverage Sales with Tasting; and Provide Direction to Staff as Necessary.

Recommended Action: Receive report and provide direction to Staff as necessary.

Attachments:

1. Ordinance No. 1167
2. Ordinance No. 1210

13. NEW BUSINESS

- 13.a. Adopt a Resolution to enter into the Third Phase Agreement for Power Purchase Agreement with South Feather Water and Power Agency and Authorize the City Manager to Execute the Agreement.

Recommended Action: Adopt Resolution authorizing the City of Ukiah to enter into the Third Phase Agreement for Power Purchase Agreement with South Feather Water and Power Agency (Third Phase Agreement), including any non-substantial modifications to the Third Phase Agreement recommended and approved by the Member counsel and authorize the City Manager to execute the agreement.

Attachments:

1. SFWPA_NCPA_PPA_FINAL
2. SFWPA_Third_Phase_Agreement_FINAL
3. Resolution - SFWPA Third Phase Agreement

- 13.b. Receive Updates on City Council Committee and Ad Hoc Assignments, and, if Necessary, Consider Modifications to Assignments and/or the Creation/Elimination of Ad Hoc(s).

Recommended Action: Receive report(s). The Council will consider modifications to committee and ad hoc assignments along with the creation/elimination ad hoc(s).

Attachments:

1. 2021 City Council Special Assignments

14. CLOSED SESSION - CLOSED SESSION MAY BE HELD AT ANY TIME DURING THE MEETING

- 14.a. **Conference with Legal Counsel—Anticipated Litigation**

(Government Code Section 54956.9(d)(2)or(4))

Significant exposure to litigation pursuant to paragraph (2) or (4) of subdivision (d) of Section 54956.9. Consideration of potential litigation arising from emergency drought declaration.

(Government Code Section 54956.9(e)(2)): (Number of potential cases: 1)

Recommended Action: Confer in Closed Session

Attachments: None

- 14.b. **Conference with Legal Counsel—Anticipated Litigation**

(Government Code Section 54956.9(d)(2)or(3))

Significant exposure to litigation pursuant to paragraph (2) or (3) of subdivision (d) of Section 54956.9: (Number of potential cases: 1)

Recommended Action: Confer in Closed Session

Attachments: None

- 14.c. **Conference with Legal Counsel—Anticipated Litigation**

(Government Code Section 54956.9(d)(2)or(3))

Significant exposure to litigation pursuant to paragraph (2) or (3) of subdivision (d) of Section 54956.9: (1 potential case, involving possible termination of construction contract for cause)

Recommended Action: Confer in Closed Session

Attachments: None

- 14.d. **Conference with Legal Counsel – Existing Litigation**
(Government Code Section 54956.9(d)(1))
Name of case: Vichy Springs Resort v. City of Ukiah, Et Al; Case No. SCU-K-CVPT-2018-70200
Recommended Action: Confer in Closed Session
Attachments: None
- 14.e. **Conference with Legal Counsel – Existing Litigation**
(Government Code Section 54956.9(d)(1))
Name of case: Vichy Springs Resort v. City of Ukiah, Et Al; Case No. SCU-K-CVPT-20-74612
Recommended Action: Confer in Closed Session
Attachments: None
- 14.f. **Conference with Legal Counsel – Existing Litigation**
(Cal. Gov't Code Section 54956.9(d)(1))
Name of case: City of Ukiah v. Questex, LTD, et al, Mendocino County Superior Court, Case No. SCU-K- CVPT-15-66036
Recommended Action: Confer in Closed Session
Attachments: None
- 14.g. **Conference with Legal Counsel – Existing Litigation**
(Cal. Gov't Code Section 54956.9(d)(1))
Name of case: Siderakis v. Ukiah, et al, Mendocino County Superior Court, Case No. 21CV00603
Recommended Action: Confer in Closed Session
Attachments: None
- 14.h. **Conference with Real Property Negotiators**
(Cal. Gov't Code Section 54956.8)
Property: APN Nos: 003-500-19; 003-190-08; 057-050-12; 157-050-11; 157-060-003; 001-040-83; 157-050-03, 157-060-02, 157-050-04, 157-050-03, 157-030-02, 157-050-01, 157-050-02, 157-050-10, 157-050-09, 157-070-01, 157-070-02, 003-190-01; 003-181-01; 003-582-38
Negotiator: Sage Sangiacomo, City Manager;
Negotiating Parties: Dave Hull and Ric Piffero
Under Negotiation: Price & Terms of Payment
Recommended Action: Confer in Closed Session
Attachments: None
- 14.i. **Conference with Labor Negotiator (54957.6)**
Agency Representative: Sage Sangiacomo, City Manager
Employee Organizations: All Bargaining Units
Recommended Action: Confer in Closed Session
Attachments: None

15. **ADJOURNMENT**

Please be advised that the City needs to be notified 72 hours in advance of a meeting if any specific accommodations or interpreter services are needed in order for you to attend. The City complies with ADA requirements and will attempt to reasonably accommodate individuals with disabilities upon request. Materials related to an item on this Agenda submitted to the City Council after distribution of the agenda packet are available for public inspection at the front counter at the Ukiah Civic Center, 300 Seminary Avenue, Ukiah, CA 95482, during normal business hours, Monday through

Friday, 8:00 am to 5:00 pm.

I hereby certify under penalty of perjury under the laws of the State of California that the foregoing agenda was posted on the bulletin board at the main entrance of the City of Ukiah City Hall, located at 300 Seminary Avenue, Ukiah, California, not less than 72 hours prior to the meeting set forth on this agenda.

Kristine Lawler, CMC/City Clerk
Dated: 10/1/21



AGENDA SUMMARY REPORT

SUBJECT: Proclamation: Recognizing October 2021 as National Disability Employment Awareness Month in the City of Ukiah.

DEPARTMENT: City Manager /
Admin

PREPARED BY: Traci Boyl, Management Analyst

PRESENTER: Mayor Orozco

ATTACHMENTS:

1. Disability Employment Awareness Month

Summary: The City Council will issue a proclamation recognizing October 2021 as National Disability Employment Awareness Month in the City of Ukiah.

Background: The City continues to recognize the need to educate the community about disability employment issues and to celebrate the many and varied contributions of America's workers with disabilities by issuing a proclamation (Attachment 1).

Discussion: Council will issue the proclamation recognizing National Disability Employment Awareness Month in the City of Ukiah.

Recommended Action: Issue a proclamation of the Ukiah City Council recognizing National Disability Employment Awareness Month in the City of Ukiah.

BUDGET AMENDMENT REQUIRED: N/A

CURRENT BUDGET AMOUNT: N/A

PROPOSED BUDGET AMOUNT: N/A

FINANCING SOURCE: N/A

PREVIOUS CONTRACT/PURCHASE ORDER NO.: N/A

COORDINATED WITH: N/A

Approved: 
Sage Sangiacomo, City Manager

P R O C L A M A T I O N

C I T Y O F U K I A H

**RECOGNIZING OCTOBER 2021, AS “NATIONAL
DISABILITY EMPLOYMENT AWARENESS MONTH” IN THE
CITY OF UKIAH**

WHEREAS, October 2021 marks the 76th anniversary of *National Disability Employment Awareness Month*; and

WHEREAS, The purpose of *National Disability Employment Awareness Month* is to educate about disability employment issues and celebrate the many and varied contributions of America's workers with disabilities; and

WHEREAS, Workplaces welcoming of the talents of all people, including people with disabilities, are a critical part of our efforts to build an inclusive community and strong economy; and

WHEREAS, Activities during this month will reinforce the value and talent people with disabilities add to our workplaces and communities and affirm Ukiah's commitment to an inclusive community that increases access and opportunities to all, including individuals with disabilities; and

WHEREAS, We encourage employers, schools and other community organizations in Ukiah to observe this month with appropriate programs and activities, and to advance its important message that people with disabilities add value and talent to our workplaces and communities.

NOW, THEREFORE BE IT RESOLVED that the City Council of the City of Ukiah, hereby proclaims October 2021, as *National Disability Employment Awareness Month in the City of Ukiah*.

National Disability Employment Awareness Month in the City of Ukiah

*Signed and sealed, this 6th day of October
in the year Two Thousand and Twenty-One.*

*Juan V. Orozco
City Council, Mayor*



AGENDA SUMMARY REPORT

SUBJECT: Resolution and Proclamation: Recognizing the Second Monday of October Each Year, as Indigenous Peoples' Day in the City of Ukiah.

DEPARTMENT: City Manager /
Admin

PREPARED BY: Traci Boyl, Management Analyst

PRESENTER: Traci Boyl, Management Analyst to the City
Manager's Office and Mayor Orozco

ATTACHMENTS:

1. Resolution_ Indigenous Peoples' Day_101621
2. Proclamation_Indigenous Peoples' Day

Summary: The City Council will Adopt a resolution of the City of Ukiah recognizing the second Monday in October each year as *Indigenous Peoples' Day* in the City of Ukiah as an official City holiday. Additionally, the City Council will issue a proclamation recognizing the second Monday of October each year, as *Indigenous Peoples' Day* in the City of Ukiah.

Background: In 2020, the City of Ukiah approved a resolution establishing an 11-member Equity and Diversity Standing Committee to continue the forward progress as an inclusive agency and to represent the diverse demographic groups of the community. The Equity and Diversity Committee includes a designated seat representing the Native American Tribes and Communities in Mendocino County. The City of Ukiah acknowledges the ongoing and interconnected struggles of all Indigenous communities and is committed to protecting the dignity of all people who live, work and visit Ukiah.

Columbus Day, observed on the second Monday in October, is recognized as a Federal holiday but is only observed by approximately half of the States. The City of Ukiah currently recognizes the second Monday in October as Columbus Day and includes it on the list of City recognized holidays.

The City of Ukiah is home to numerous individuals who identify themselves as being either wholly or partly of Native American descent. Additionally, Mendocino County is home to numerous tribes.

Through adoption of the resolution (Attachment 1) and issuing a proclamation (Attachment 2) the City of Ukiah can take further steps toward the process of acknowledging past injustices, recognizing the past and current contributions that Indigenous Peoples have made to our community and expressing a desire to improve relationships and create equity and diversity within the City.

Discussion: In support of the City Council's priority to reflect the diversity of the community we serve, to integrate equitable public service, and promote opportunity for all individuals and groups, staff recommends the adoption of a resolution recognizing the second Monday in October each year as Indigenous Peoples' Day in the City of Ukiah.

There is no fiscal impact associated with the proposed resolution. If the resolution is approved by City Council, Indigenous Peoples' Day will replace Columbus Day as an official City holiday and Staff will begin

implementation immediately.

Recommended Action: Adopt a resolution recognizing the second Monday in October each year as Indigenous Peoples' Day in the City of Ukiah and directing City staff to take the steps necessary to designate the second Monday in October as an official City holiday and issue a proclamation of the Ukiah City Council recognizing the second Monday in October each year, as Indigenous Peoples' Day in the City of Ukiah.

BUDGET AMENDMENT REQUIRED: N/A

CURRENT BUDGET AMOUNT: N/A

PROPOSED BUDGET AMOUNT: N/A

FINANCING SOURCE: N/A

PREVIOUS CONTRACT/PURCHASE ORDER NO.: N/A

COORDINATED WITH: N/A

Approved: 
Sage Sangiacomo, City Manager

RESOLUTION NO. 2021-**RESOLUTION OF THE CITY OF UKIAH, RECOGNIZING THE SECOND MONDAY IN OCTOBER EACH YEAR AS INDIGENOUS PEOPLES' DAY IN THE CITY OF UKIAH AND DIRECTING CITY STAFF TO REPLACE COLUMBUS DAY WITH INDIGENOUS PEOPLES' DAY AS AN OFFICIAL CITY HOLIDAY**

WHEREAS, the holiday known as Columbus Day is observed as a Federal Holiday on the second Monday in October; and

WHEREAS, the City of Ukiah currently recognizes the second Monday in October as Columbus Day and includes it on the list of City recognized holidays; and

WHEREAS, the City of Ukiah recognizes that the Indigenous Peoples of the lands (later known as the Americas) have lived on these lands since time immemorial; and

WHEREAS, Indigenous People's Day was first proposed in 1977 by a delegation of Native Nations to the United Nations during an international conference on discrimination against Indigenous populations in the Americas; and

WHEREAS, the community of Ukiah and the County of Mendocino where the City is located is built upon the traditional homelands of the Cahto, Pomo, Wailaki and Yuki Peoples; and

WHEREAS, there has been a nationwide call to recognize Indigenous Peoples' Day on the Second Monday in October, in commitment to creating a more inclusive future; and

WHEREAS, the City of Ukiah has made a commitment to prioritize representation of the diversity of the community we serve, to integrate equitable public service, and promote opportunity for all individuals and groups; and

NOW, THEREFORE BE IT RESOLVED, that the Council of the City of Ukiah hereby adopts the Second Monday in October each Year as Indigenous Peoples' Day in the City of Ukiah and Directs City Staff to replace Columbus Day with Indigenous Peoples' Day as an official City holiday.

PASSED, ADOPTED and APPROVED this 6th day of October 2021 by the following vote on roll call vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Juan V. Orozco, Mayor

ATTEST:

Kristine Lawler, City Clerk

P ROCLAMATION

CITY OF UKIAH

RECOGNIZING THE SECOND MONDAY IN OCTOBER OF EACH YEAR AS INDIGENOUS PEOPLES' DAY IN THE CITY OF UKIAH

WHEREAS, the City Council of the City of Ukiah recognizes that the Indigenous Peoples of the lands (later known as the Americas) have lived on these lands since time immemorial; and

WHEREAS, the City Council honors the fact that the community of Ukiah and the County of Mendocino where the City is located is built upon the traditional homelands of the Cahto, Pomo, Wailaki and Yuki Peoples; and

WHEREAS, Indigenous Peoples' Day was first proposed in 1977 by a delegation of Native Nations to the United Nations sponsored International Conference on Discrimination Against Indigenous populations in the Americas; and

WHEREAS, the City of Ukiah recognizes the important contributions of Indigenous People, the dignity and diversity of their cultures, traditions, histories and aspirations, and their role in shaping our country as the first inhabitants of the Americas; and

WHEREAS, while no Indian reservations exist within the limits of the City, many are located in close proximity to the City and the citizens of this Country's, State's and County's Indian nations, live, work and visit Ukiah every day; and

WHEREAS, the City of Ukiah desires to foster a policy of cooperation and collaborative relationship with the Indian nations of the County and recognizes that the first step towards that process is acknowledging past injustices, recognizing the past and current contributions that Indigenous Peoples have made to our community and expressing a desire to cultivate relationships, and create equity and diversity within the City.

NOW, THEREFORE BE IT RESOLVED that the City Council of the City of Ukiah, hereby proclaims the second Monday of October of each year as "Indigenous Peoples' Day in the City of Ukiah, and encourages all residents, businesses, organizations, and public institutions to acknowledge, honor, value and celebrate Indigenous Peoples' historic and current contributions locally and beyond, while also recognizing the ongoing and interconnected struggles of Indigenous communities - locally and beyond.

***Signed and sealed, this 6th day of October
in the year Two Thousand and Twenty-One.***

*Juan V. Orozco
City Council, Mayor*

**CITY OF UKIAH
CITY COUNCIL MINUTES
Regular Meeting**

Virtual Meeting Link: <https://attendee.gotowebinar.com/rt/3862698010362077965>

**Ukiah, CA 95482
September 15, 2021
6:00 p.m.**

1. ROLL CALL

Ukiah City Council met at a Regular Meeting on September 10, 2021, having been legally noticed on September 15, 2021. The meeting was held virtually at the following link: <https://attendee.gotowebinar.com/rt/3862698010362077965>. Mayor Orozco called the meeting to order at 6:03 p.m. Roll was taken with the following **Councilmembers Present:** Mari Rodin, Josefina Dueñas, Jim O. Brown (*arriving at 6:05 p.m.*), and Juan V. Orozco. **Councilmembers Absent by Prearrangement:** Douglas F. Crane. **Staff Present:** Sage Sangiacomo, City Manager; David Rapport, City Attorney; and Kristine Lawler, City Clerk.

MAYOR OROZCO PRESIDING.

2. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Orozco.

3. PROCLAMATIONS/INTRODUCTIONS/PRESENTATIONS

a. Introduction of Neil Davis, Director of Community Services.

Presenter: Shannon Riley, Deputy City Manager.

Staff Comment: Neil Davis, Director of Community Services.

Introduction was received.

URGENCY ITEM

a. Approve the Sole Source Purchase of a 2020 F-150 Police Responder XL Truck in the Amount of \$57,030.46 from Redwood Ford.

Presenter: Sage Sangiacomo, City Manager.

Motion/Second: Rodin/Duenas to approve urgency item due to timelines and place as agenda item 13d. Motion **carried** by the following roll call votes: AYES: Rodin, Dueñas, Brown, and Orozco. NOES: None. ABSENT: Crane. ABSTAIN: None.

4. PETITIONS AND COMMUNICATIONS

Clerk stated that all communications had been distributed.

5. APPROVAL OF MINUTES

a. Approval of the Minutes for the August 30, 2021, Special Meeting.

Motion/Second: Rodin/Duenas to approve Minutes of August 30, 2021, a special meeting, as submitted. Motion **carried** by the following roll call votes: AYES: Crane, Rodin, Dueñas, Brown, and Orozco. NOES: None. ABSENT: None. ABSTAIN: None.

b. Approval of the Minutes for the September 1, 2021, Regular Meeting.

Motion/Second: Rodin/Duenas to approve Minutes of September 1, 2021, a regular meeting, as submitted. Motion **carried** by the following roll call votes: AYES: Rodin, Dueñas, Brown, and Orozco. NOES: None. ABSENT: Crane. ABSTAIN: None.

6. RIGHT TO APPEAL DECISION

7. CONSENT CALENDAR

- a. Report of Disbursements for the Month of August 2021 – *Finance*.
- b. Report to Council for the Emergency Replacement of a Flow Meter at the Water Treatment Plant (WTP), from JM Integration LLC, (PO No. 47439) in the Amount of \$19,366.39 – *Water Resources*.
- c. Approval of Budget Amendment in the Amount of \$3,000 for CASp Training Expenses for the Chief Building Official – *Finance*.
- d. Adopt Resolution (2021-41) Approving an Initial Study/Negative Declaration and General Plan Amendment No. 21-01 to Allow for Increased Density and Lot Coverage in Compliance with the General Plan Housing Element and State Housing Laws – *Community Development*.
- e. Adoption of Resolution (2021-42) Approving Records Destruction for City Manager's Office – *City Clerk*.
- f. Approval of Budget Amendment in the Amount of \$10,000 for Colantuono, Highsmith & Whatley PC for Specialized Legal Services Related to LAFCo Matters – *Finance*.
- g. Authorize City Manager to Execute an Memorandum of Understanding (MOU) (COU No. 2122-113) to Partner with Ukiah Unified School District to Expand the After School Education and Safety Program – *Community Services*.
- h. Approve Budget Amendment (COU No. 2021-204-A1) in the Amount of \$565,727 for Contract No. 2021-204 with CWS Construction Group for the Electric Service Center Site Work, and Approve the Reset of Staff's 10% Change Order Authority Based on the Revised Contract Amount of \$2,963,326.85 – *Electric Utility*.
- i. Review Landfill Closure Financial Plan Update – *Finance*.
- j. Adoption of Resolution (2021-43) Approving the Application to the CA State Parks Outdoor Equity Grant Program – *Community Services*.
- k. Consideration and Action Regarding Recommendation to Reject All Bids Received for Specification No. E38915 Percolation Ponds 1-3 Scarification for the Waste Water Treatment Plant – *Water Resources*.

Motion/Second: Rodin/Brown to approve Consent Calendar Items 7a-7k, as submitted. Motion **carried** by the following roll call votes: AYES: Rodin, Dueñas, Brown, and Orozco. NOES: None. ABSENT: Crane. ABSTAIN: None.

8. AUDIENCE COMMENTS ON NON-AGENDA ITEMS

No public comment was received.

9. **COUNCIL REPORTS**

Presenters: Councilmembers Rodin and Duenas, and Mayor Orozco.

10. **CITY MANAGER/CITY CLERK REPORTS**

Presenter: Sage Sangiacomo, City Manager.

- **Update of Drought and Water Conditions**

11. **PUBLIC HEARINGS (6:15 PM)**

a. Consideration of the Planning Commission's Recommendation to 1) Adopt an Initial Study and Mitigated Negative Declaration (SCH No.2021040428); 2) Conditionally Approve the Ukiah Western Hills Open Land Acquisition & Limited Development Agreement Project; and 3) Introduce by Title Only an Ordinance to Prezone the Conservation Parcels to "PF" Public Facilities and the Development Parcels to "R1-H" Single Family Residential-Hillside Overlay District. File No.: 20-5915

Presenters: Craig Schlatter, Community Development Director; Michelle Irace, Planning Manager; and Maya Simerson, Project Administrator.

PUBLIC HEARING OPENED AT 7:30 P.M.

No public comment was received.

PUBLIC HEARING CLOSED AT 7:31 P.M.

Motion/Second: Brown/Rodin to adopt the Initial Study and Mitigated Negative Declaration. Motion **carried** by the following roll call votes: AYES: Rodin, Dueñas, Brown, and Orozco. NOES: None. ABSENT: Crane. ABSTAIN: None.

Motion/Second: Brown/Rodin to conditionally approve the Ukiah Western Hills Open Land Acquisition and Limited Development Agreement (COU No. 2122-114) Project including added language that Planning Manager, Michelle Irace added (*see added language below*). Motion carried by the following roll call votes: AYES: Rodin, Dueñas, Brown, and Orozco. NOES: None. ABSENT: Crane. ABSTAIN: None.

Added Language: *Condition of Approval No. 1 - Approval of the Project is contingent upon City Council approval of the Development Agreement, which includes an easement, road access and maintenance agreement.*

Motion/Second: Brown/Rodin to introduce Ordinance by title only. Motion **carried** by the following roll call votes: AYES: Rodin, Dueñas, Brown, and Orozco. NOES: None. ABSENT: Crane. ABSTAIN: None.

City Clerk, Kristine Lawler, read the following title into the record:

UNCODIFIED ORDINANCE OF THE CITY COUNCIL OF THE CITY OF UKIAH TO PREZONE CERTAIN PARCELS IN ASSOCIATION WITH THE WESTERN HILLS OPEN LAND ACQUISITION AND LIMITED DEVELOPMENT PROJECT

Motion/Second: Brown/Rodin to introduce the Ordinance to prezone the conservation parcels to "PF" Public Facilities and the development parcels to "R1-H" Single Family Residential-Hillside Overlay District. Motion **carried** by the following roll call votes: AYES: Rodin, Dueñas, Brown, and Orozco. NOES: None. ABSENT: Crane. ABSTAIN: None.

12. UNFINISHED BUSINESS

- a. Receive Status Report and Consider Any Action or Direction Related to the Novel Coronavirus (COVID-19) Emergency Including Operational Preparedness and Response; Continuity of City Operations and Services; Community and Business Impacts; and Any Other Related Matters.**

Presenter: Tami Bartolomei, Office of Emergency Services Coordinator.

Report was received.

RECESS: 8:04 – 8:17 P.M.

Councilmember Duenas returning at 8:19 P.M.

- b. Presentation of Findings to Improve the Efficiency and Productivity of the Paths, Open Space and Creeks Commission (POSC) and the Parks, Recreation, and Golf Commission (PRGC); and Seeking Direction from Council Regarding the Reformation of the Commissions as a Single Public Spaces Commission.**

Presenters: Neil Davis, Community Services Director; Shannon Riley, Deputy City Manager; and Craig Schlatter, Community Development Director.

Motion/Second: Rodin/Brown to approve staff initiation of processes to reform the Paths, Open Space and Creeks Commission (POSCC) and the Parks, Recreation into a combined Public Spaces Commission. Motion **carried** by the following roll call votes: AYES: Rodin, Dueñas, Brown, and Orozco. NOES: None. ABSENT: Crane. ABSTAIN: None.

- c. Adoption of Resolution of the City Council of the City of Ukiah Opposing the Application from the North Coast Railroad Company and Encouraging the Surface Transportation Board to Support Railbanking Between Willits and Humboldt County.**

Presenter: Shannon Riley, Deputy City Manager.

Motion/Second: Rodin/Brown to adopt Resolution (2021-44) opposing the application from the North Coast Railroad Company and encouraging the Surface Transportation Board to support railbanking between Willits and Humboldt County. Motion **carried** by the following roll call votes: AYES: Rodin, Dueñas, Brown, and Orozco. NOES: None. ABSENT: Crane. ABSTAIN: None.

13. NEW BUSINESS

- a. Award Professional Services Agreement to GHD Inc. in the Amount of \$312,491 to Prepare the Plans, Specifications, and Estimate for the Great Redwood Trail Phase 4 Project.**

Presenter: Tim Eriksen, Public Works Director/City Engineer.

Motion/Second: Rodin/Brown to award professional services agreement to GHD Inc. (COU No. 2122-118) in the amount of \$312,491 to prepare the plans, specifications, and estimate for the Great Redwood Trail Phase 4 Project. Motion **carried** by the following roll call votes: AYES: Rodin, Dueñas, Brown, and Orozco. NOES: None. ABSENT: Crane. ABSTAIN: None.

- b. Possible Introduction by Title Only of an Ordinance Amending Division 1, Chapter 4, Article 4B of the City Code Regarding the Procedure for Filling Vacancies on the Design Review Board.**

Presenters: Kristine Lawler, City Clerk and Craig Schlatter, Community Development Director.

Motion/Second: Rodin/Duenas to introduce Ordinance by title only. Motion **carried** by the following roll call votes: AYES: Rodin, Dueñas, Brown, and Orozco. NOES: None. ABSENT: Crane. ABSTAIN: None.

City Clerk, Kristine Lawler, read the following title into the record:

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF UKIAH AMENDING DIVISION 1, CHAPTER 4, ARTICLE 4B, SECTION 1161 OF THE CITY CODE REGARDING APPOINTMENT OF DESIGN REVIEW BOARD MEMBERS

Motion/Second: Brown/Rodin to introduce the Ordinance to amend Division 1, Chapter 4, Article 4B of the City Code Regarding the Procedure for Filling Vacancies on the Design Review Board. Motion **carried** by the following roll call votes: AYES: Rodin, Dueñas, Brown, and Orozco. NOES: None. ABSENT: Crane. ABSTAIN: None.

c. Receive Updates on City Council Committee and Ad Hoc Assignments and, if Necessary, Consider Modifications to Assignments and/or the Creation/Elimination of Ad hoc(s).

No reports were received.

d. Approve the Sole Source Purchase of a 2020 F-150 Police Responder XL Truck in the Amount of \$57,030.46 from Redwood Ford.

Presenter: Noble Waidelich, Police Captain.

Motion/Second: Brown/Rodin to approve the sole source purchase of a 2020 F-150 Police Responder XL Truck in the amount of \$57,030.46 from Redwood Ford. Motion **carried** by the following roll call votes: AYES: Rodin, Dueñas, Brown, and Orozco. NOES: None. ABSENT: Crane. ABSTAIN: None.

THE CITY COUNCIL ADJOURNED TO CLOSED SESSION AT 9:04 P.M.

14. CLOSED SESSION

a. Conference with Legal Counsel – Anticipated Litigation

(Government Code Section 54956.9(d)(2)or(4))

Significant exposure to litigation pursuant to paragraph (2) or (4) of subdivision (d) of Section 54956.9. Consideration of potential litigation arising from emergency drought declaration.

(Government Code Section 54956.9(e)(2)): (Number of potential cases: 1)

b. Conference with Legal Counsel – Anticipated Litigation

(Government Code Section 54956.9(d)(2)or(3))

Significant exposure to litigation pursuant to paragraph (2) or (3) of subdivision (d) of Section 54956.9: (Number of potential cases: 1)

c. Conference with Legal Counsel – Anticipated Litigation

(Government Code Section 54956.9(d)(2)or(3))

Significant exposure to litigation pursuant to paragraph (2) or (3) of subdivision (d) of Section 54956.9: (1 potential case, involving possible termination of construction contract for cause)

d. Conference with Legal Counsel – Existing Litigation

(Government Code Section 54956.9(d)(1))

Name of case: Vichy Springs Resort v. City of Ukiah, Et Al; Case No. SCU-K-CVPT-2018-70200

- e. **Conference with Legal Counsel – Existing Litigation**
(Government Code Section 54956.9(d)(1))
Name of case: Vichy Springs Resort v. City of Ukiah, Et Al; Case No. SCUК-CVPT-20-74612
- f. **Conference with Legal Counsel – Existing Litigation**
(Cal. Gov't Code Section 54956.9(d)(1))
Name of case: City of Ukiah v. Questex, LTD, et al, Mendocino County Superior Court, Case No. SCUК- CVPT-15-66036
- g. **Conference with Legal Counsel – Existing Litigation**
(Cal. Gov't Code Section 54956.9(d)(1))
Name of case: Siderakis v. Ukiah, et al, Mendocino County Superior Court, Case No. 21CV00603
- h. **Conference with Real Property Negotiators**
(Cal. Gov't Code Section 54956.8)
Property: APN Nos: 003-500-19; 003-190-08; 057-050-12; 157-050-11; 157-060-003; 001-040-83; 157-050-03, 157-060-02, 157-050-04, 157-050-03, 157-030-02, 157-050-01, 157-050-02, 157-050-10, 157-050-09, 157-070-01, 157-070-02, 003-190-01; 003-181-01; 003-582-38
Negotiator: Sage Sangiacomo, City Manager;
Negotiating Parties: Dave Hull and Ric Piffero
Under Negotiation: Price & Terms of Payment
- i. **Conference with Labor Negotiator (54957.6)**
Agency Representative: Sage Sangiacomo, City Manager
Employee Organizations: All Bargaining Units

Direction provided to Staff.

15. ADJOURNMENT

There being no further business, the meeting adjourned at 10:59 p.m.

Kristine Lawler, City Clerk

**CITY OF UKIAH
CITY COUNCIL MINUTES
Special Meeting**

Virtual Meeting Link: <https://attendee.gotowebinar.com/register/6653488325137117963>

**Ukiah, CA 95482
September 21, 2021
6:00 p.m.**

JOINT MEETING WITH THE UKIAH VALLEY FIRE DISTRICT

1. ROLL CALL AND PLEDGE OF ALLEGIANCE

Ukiah City Council met at a Special Meeting on September 21, 2021, having been legally noticed on September 20, 2021. The meeting was held virtually at the following link: <https://attendee.gotowebinar.com/register/6653488325137117963>. Mayor Orozco called the meeting to order at 6:55 p.m. Roll was taken with the following **Councilmembers Present:** Douglas F. Crane, Josefina Dueñas, Jim O. Brown, and Juan V. Orozco. **Councilmember Absent:** Mari Rodin by prearrangement. **Staff Present:** Sage Sangiacomo, City Manager; David Rapport, City Attorney; and Kristine Lawler, City Clerk.

Ukiah Valley Fire District (UVFD) Board Members Present: Jenifer Bazzani, Peter Bushby, Michael Graham, and David Haas. **UVFD Board Members Absent by Prearrangement:** Robert Banks, **UVFD Staff Present:** Douglas Hutchison, Fire Chief; and Stephanie Abba, Administrative Secretary.

MAYOR OROZCO AND PRESIDENT HAAS PRESIDING.

The Pledge of Allegiance was led by Mayor Orozco.

Mayor Orozco handed the virtual gavel to Vice Mayor Brown due to technical difficulties.

VICE MAYOR BROWN AND PRESIDENT HAAS PRESIDING.

2. AUDIENCE COMMENTS ON NON-AGENDA ITEMS

No public comment was received.

3. NEW BUSINESS

a. Consideration and Adoption of City and District Resolutions Agreeing to the Allocation of Property Taxes and Ukiah Valley Fire Protection District Parcel Taxes upon the Annexation of the City of Ukiah by the Ukiah Valley Fire Protection District.

Presenters: Doug Hutchison, Fire Chief; Sage Sangiacomo, City Manager; and David Rapport, City Attorney.

Vice Mayor Brown and President Haas made a statement that a Special Meeting was called for due to time deadlines.

Motion/Second: Crane/Duenas to adopt Resolution agreeing to the allocation of property taxes and Ukiah Valley Fire Protection District parcel taxes upon the annexation of the City of Ukiah by the Ukiah Valley Fire Protection District. Motion **carried** by the following roll call votes: AYES: Crane, Rodin, Dueñas, Brown, and Orozco. NOES: None. ABSENT: None. ABSTAIN: None.

UVFD Action Taken:

Motion/Second: Bazzani/Bushby to adopt Resolution agreeing to the allocation of property taxes and Ukiah Valley Fire Protection District parcel taxes upon the annexation of the City of Ukiah by the Ukiah Valley Fire Protection District. Motion **carried** by the following roll call votes: AYES: Bazzani, Bushby, Graham, and Haas. NOES: None. ABSENT: Banks. ABSTAIN: None.

4. ADJOURNMENT

There being no further business, the meeting adjourned at 7:18 p.m.

Kristine Lawler, City Clerk



AGENDA SUMMARY REPORT

SUBJECT: Council will Consider Awarding a Contract in the Amount of \$37,339.12 for Bi-Weekly Maintenance for the SCADA and Instrumentation at the Water Treatment Plant to JM Integration of Vacaville, CA.

DEPARTMENT: Finance

PREPARED BY: Sean White, Water Resources Director

PRESENTER: Consent Calendar

ATTACHMENTS:

1. JM Integration Quote

Summary: Council will consider awarding a contract in the amount of \$37,339.12 for bi-weekly maintenance for the SCADA and Instrumentation at the Water Treatment Plant to JM Integration of Vacaville, CA.

Background: The Water Treatment Plant (WTP), production wells, and distribution system are managed remotely thru a complex Supervisory Control and Data Acquisition (SCADA) system. The SCADA system is comprised of computers, controllers, sensors, and instrumentation.

Discussion: Like any complex electronic system, the SCADA system needs regular maintenance and repair. Since the SCADA system is a critical part of the City's water infrastructure, rapid response and repair are important.

Previously these services have been handled individually, with each service action requiring a separate purchase order. In order to operate more efficiently, the Water Resources Department is moving to a yearly contract to perform these routine services.

A quote (Attachment 1) was received on August 5, 2021 from JM Integration. JM Integration is considered the sole source for this work based on their knowledge of our SCADA system, and excellent past performance.

Recommended Action: Award contract in the amount of \$37,339.12 for bi-weekly maintenance for the SCADA and Instrumentation at the Water Treatment Plant to JM Integration of Vacaville, CA.

BUDGET AMENDMENT REQUIRED: N/A

CURRENT BUDGET AMOUNT: 82027111.52100: \$153,774

PROPOSED BUDGET AMOUNT: N/A

FINANCING SOURCE: Water Fund

PREVIOUS CONTRACT/PURCHASE ORDER NO.: N/A

COORDINATED WITH:

Approved: 
Sage Sangiacomo, City Manager



License #1040899

REQUEST FOR QUOTE

Revision 28FEB2021

Customer: City of Ukiah	Date: 8/5/2021
Project: WTP Bi-Weekly Maintenance & Troubleshooting 2021-22	Project Number: TBD

BILL TO	
Contact Name: Shelly Wagenet	
Phone: 7074672842	Email: mwagenet@cityofukiah.com
Location: 901 Riverwell St, Ukiah CA 95482	

JM Integration LLC is pleased to submit this proposal for services to support you in achieving your goals for improving customer satisfaction by providing the following scope of work listed below.

SCOPE OF WORK
General maintenance and troubleshooting tasks will be assigned on a bi-weekly basis.
Pricing includes one (1) technician for one (1) day recurring bi-weekly for a total of 52 weeks.
Pricing does NOT include materials.
Invoices will be sent on a monthly basis.

The following table details the pricing for delivery of the services outlined in this proposal. This pricing is valid for 30 days from the date of this proposal:

PRICING DESCRIPTION	
Labor	27040
Travel	10299.12
Materials	
Tools & Equipment	
Total	37339.12

The prices listed in the preceding table are an estimate for the services discussed. This summary is not a guarantee of final price. Estimates are subject to change if project specifications are changed or costs for outsourced services change before a contract is executed. We look forward to working with you and supporting your efforts to improve and maintain your system. If you have questions on this proposal, please contact me at your convenience.

Thank you for your time and consideration,

Jack Miller | Owner | JM Integration LLC

TERMS AND CONDITIONS

Base Terms: Quotation is valid for 30 days from above date. Our terms are due and payable 30 days from date of invoice. Payments must be made on a minimum of a monthly basis. If payment is not received by the 30th day, a 1.5% monthly service charge (18% annually) will be charged on all accounts past due. Attorney's fees, court costs and costs of collection will be paid to prevailing party. Permits and bonding are excluded unless otherwise noted herein. Our standard insurance applies unless agreed to in writing by JM Integration LLC. We accept no responsibility for consequential damages and our standard warranty applies. Please reference the above stated quote in all correspondence and purchase orders. Unless otherwise noted, this quote is based on standard straight time hours and does not include any prevailing wage rates unless agreed in writing by JM Integration LLC. The price quoted herein is for the labor and materials specifically listed within the body of this quote. Service calls carry a 4-hour minimum per person. Cancellation charges apply including engineering, labor, materials, quote and estimating time, markup, % of profit, return goods fees, etc. at the time of written cancellation notice to JM Integration LLC.

Limitation of Liability: (a) In no event shall JM Integration LLC, its suppliers or subcontractors be liable for special, indirect, incidental or consequential damages, whether in contract, warranty, tort, negligence, strict liability or otherwise, including, but not limited to, loss of profits or revenue, loss of use of the Equipment or any associated equipment, cost of capital, cost of substitute equipment, facilities or services, downtime costs, delays, and claims of customers of the Purchaser or other third parties for any damages. JM Integration LLC liability for any claim whether in contract, warranty, tort, negligence, strict liability, or otherwise for any loss or damage arising out of, connected with, or resulting from this Agreement or the performance or breach thereof, or from the design, manufacture, sale, delivery, resale, repair, replacement, installation, technical direction of installation, inspection, operation or use of any equipment covered by or furnished under this Agreement, or from any services rendered in connection therewith, shall in no case exceed one-fourth (1/4) of the purchase price allocable to the Equipment or part thereof or Services which gives rise to the claim. (b) All causes of action against JM Integration LLC arising out of or relating to this Agreement or the performance or breach hereof shall expire unless brought within one year of the time of accrual thereof. (c) In no event, regardless of cause, shall JM Integration LLC be liable for penalties or penalty clauses of any description or for indemnification of Purchaser or others for costs, damages, or expenses arising out of or related to the Equipment and/Services.

Force Majeure: JM Integration LLC shall neither be liable for loss, damage, detention or delay nor be deemed to be in default for failure to perform when prevented from doing so by causes beyond its reasonable control including but not limited to acts of war (declared or undeclared), Acts of God, fire, strike, labor difficulties, acts or omissions of any governmental authority or of Purchaser, compliance with government regulations, insurrection or riot, embargo, delays or shortages in transportation or inability to obtain necessary labor, materials, or manufacturing facilities from usual sources or from defects or delays in the performance of its suppliers or subcontractors due to any of the foregoing enumerated causes. In the event of delay due to any such cause, the date of delivery will be extended by period equal to the delay plus a reasonable time to resume production, and the price will be adjusted to compensate JM Integration LLC for such delay.

Cancellation: Any order may be cancelled by Purchaser only upon prior written notice and payment of termination charges, including but not limited to, all costs identified to the order incurred prior to the effective date of notice of termination and all expenses incurred by JM Integration LLC attributable to the termination, plus a fixed sum of ten (10) percent of the final total price to compensate for disruption in scheduling, planned production and other indirect costs.

Entire Agreement: This Agreement constitutes the entire agreement between JM Integration LLC and Purchaser. There are no agreements, understandings, restrictions, warranties, or representations between JM Integration LLC and Purchaser other than those set forth herein or herein provided

Bonding: Cost of Bonding is not included. Contact JM Integration LLC for a quote if bonding is required.

SIGNATURE	PRINT NAME	DATE
Jack Miller	Jack Miller	

SIGNATURE	PRINT NAME	DATE



AGENDA SUMMARY REPORT

SUBJECT: Adoption of an Ordinance to Prezone Certain Parcels in Association with the Western Hills Open Land Acquisition and Limited Development Agreement Project.

DEPARTMENT: Community
Development

PREPARED BY: Michelle Irace, Planning Manager, Maya Simerson,
Project & Grant Administrator

PRESENTER: Consent Calendar

ATTACHMENTS:

1. Ordinance for Prezoning_Western Hills Open Land Acquisition Limited DA.docx

Summary: The Council will consider adoption of an Ordinance to prezone certain parcels in association with the approved Western Hills Open Land Acquisition and Limited Development Agreement Project.

Background: The City has a vision, through the City Council's Strategic Plan, and is working towards a goal of promoting the protection of Ukiah's western urban interface to restore and conserve forest and stream ecosystems, provide large-scale wildfire mitigation and to protect the Upper Russian River Watershed to benefit fish, wildlife and the greater Ukiah community. Towards achievement of this goal, the City proposes the Ukiah Western Hills Open Land Acquisition and Limited Development Agreement Project ("Proposed Project") which includes the following components: 1) Acquisition and annexation of approximately 707 acres; 2) Prezoning the "Conservation Parcels" to "PF" Public Facilities, and prezoning the "Development Parcels" to "R1-H" Single-family Residential-Hillside Overlay (and associated Zoning Map and General Plan Map Amendments upon approval of the annexation application); 3) Sequential Lot Line Adjustments to reconfigure the existing parcels into seven lots ("Development Parcels") for future potential development; 4) Development Agreement between Hull Properties and the City allowing up to one single-family home and one accessory dwelling unit on each Development Parcel (up to 14 units total); and 5) site improvements including extension of utilities, road improvements, and construction of the water storage tank(s).

At their August 25, 2021 regular meeting, the Planning Commission voted to recommend to Council the adoption of the Initial Study and Mitigated Negative Declaration (ISMND), introduction of the Ordinance by title only to establish prezoning, as well as approval of the overall Proposed Project, as conditioned.

At the September 15, 2021, regular City Council meeting, Council unanimously voted (Crane absent) to adopt the ISMND, introduce by title only the Ordinance to establish prezoning, and to approve the Proposed Project, as conditioned.

Discussion: Staff is recommending that Council adopt the Ordinance to prezone certain parcels in association with the Western Hills Open Land Acquisition and Limited Development Agreement Project. The Ordinance is included as Attachment 1.

Recommended Action: Adopt ordinance amending the official zoning map for the City of Ukiah, and pre-zoning certain parcels in association with the Western Hills Open Land Acquisition and Limited Development

Agreement Project.

BUDGET AMENDMENT REQUIRED: N/A

CURRENT BUDGET AMOUNT: N/A

PROPOSED BUDGET AMOUNT:N/A

FINANCING SOURCE: N/A

PREVIOUS CONTRACT/PURCHASE ORDER NO.: N/A

COORDINATED WITH: Craig Schlatter, Community Development Director; Maya Simerson, Project Analyst;
David Rapport, City Attorney

Approved:


Sage Sangiacomo, City Manager

ORDINANCE NO.

**UNCODIFIED ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
UKIAH TO PREZONE CERTAIN PARCELS IN ASSOCIATION WITH
THE WESTERN HILLS OPEN LAND ACQUISITION AND LIMITED
DEVELOPMENT AGREEMENT PROJECT.**

The City Council of the City of Ukiah hereby ordains as follows:

SECTION ONE. FINDINGS

1. The City proposes to acquire and annex approximately 707 acres total, including the "Hull Properties" (APNs 001-040-83, 157-070-01, 157-070-02, 003-190-01, 157-050-09, 157-060-02, 157-050-02, 157-050-04, 157-050-01, 157-030-02, 157-030-03, 157-050-11 & 157-050-12), the "Noguera Properties" (APNs 003-190-09 & 003-110-90) and the City-owned "Donation Parcel" (APNs 157-050-03, 157-060-003) in the Western Hills for open space preservation, while allowing the potential for future low-density residential development on the approximately 54 easternmost acres ("Development Parcels"), consistent with existing development in the Western Hills within the City of Ukiah limits; and
2. Government Code Section 65859 allows the City to adopt a zoning district for land outside of the city limits in anticipation of annexation and development, i.e. prezone.
3. Government Code Section 56742 allows the City to annex parcels that are not located within the City's Sphere of Influence ("SOI"), provided that those parcels are located in the County of Mendocino, less than 300 acres, owned by the City, and used for municipal purposes at the time of the annexation application.

SECTION TWO.

The City Council of the City of Ukiah hereby ordains that:

1. The City will apply to annex approximately 640 acres total referred to as the "Conservation Parcels", for open space and conservation. The Conservation Parcels will be pre-zoned with a Public Facilities (PF) zoning designation, which encompasses lands within the City that contain open space and parks, as well as other public facilities. Approximately 343 acres of the Conservation Parcels are located within the City's SOI and 296 acres outside of it.
2. The proposed Development Parcels (totaling approximately 54 acres) will be zoned to Single-Family Residential-Hillside Overlay District (R1-H) with a General Plan Designation of Low Density Residential (LDR), consistent with adjacent City zoning and development patterns in the Western Hills. In addition, the Noguera Properties will be zoned R1-H for consistency with surrounding zoning and land uses.
3. A map of the affected territories is set forth in Exhibit A, and the parcel configuration, intended use, and proposed pre-zoning of the affected territories are set forth in Exhibit B, attached hereto and by reference incorporated herein.

SECTION THREE.

1. Publication: Within fifteen (15) days after its adoption, this Ordinance shall be published once in a newspaper of general circulation in the City of Ukiah. In lieu of publishing the full text of the Ordinance, the City may publish a summary of the Ordinance once 5 days prior to its adoption and again within fifteen (15) days after its adoption.

3. Effective Date: Section 2 and 3 of this ordinance shall become effective as of the date that the annexation of the Conservation Parcels, Development Parcels, and Noguera Properties becomes final.

Introduced by title only on _____, 2021, by the following roll call vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Adopted on _____, 2021, by the following roll call vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Juan V. Orozco, Mayor

ATTEST:

Kristine Lawler, City Clerk

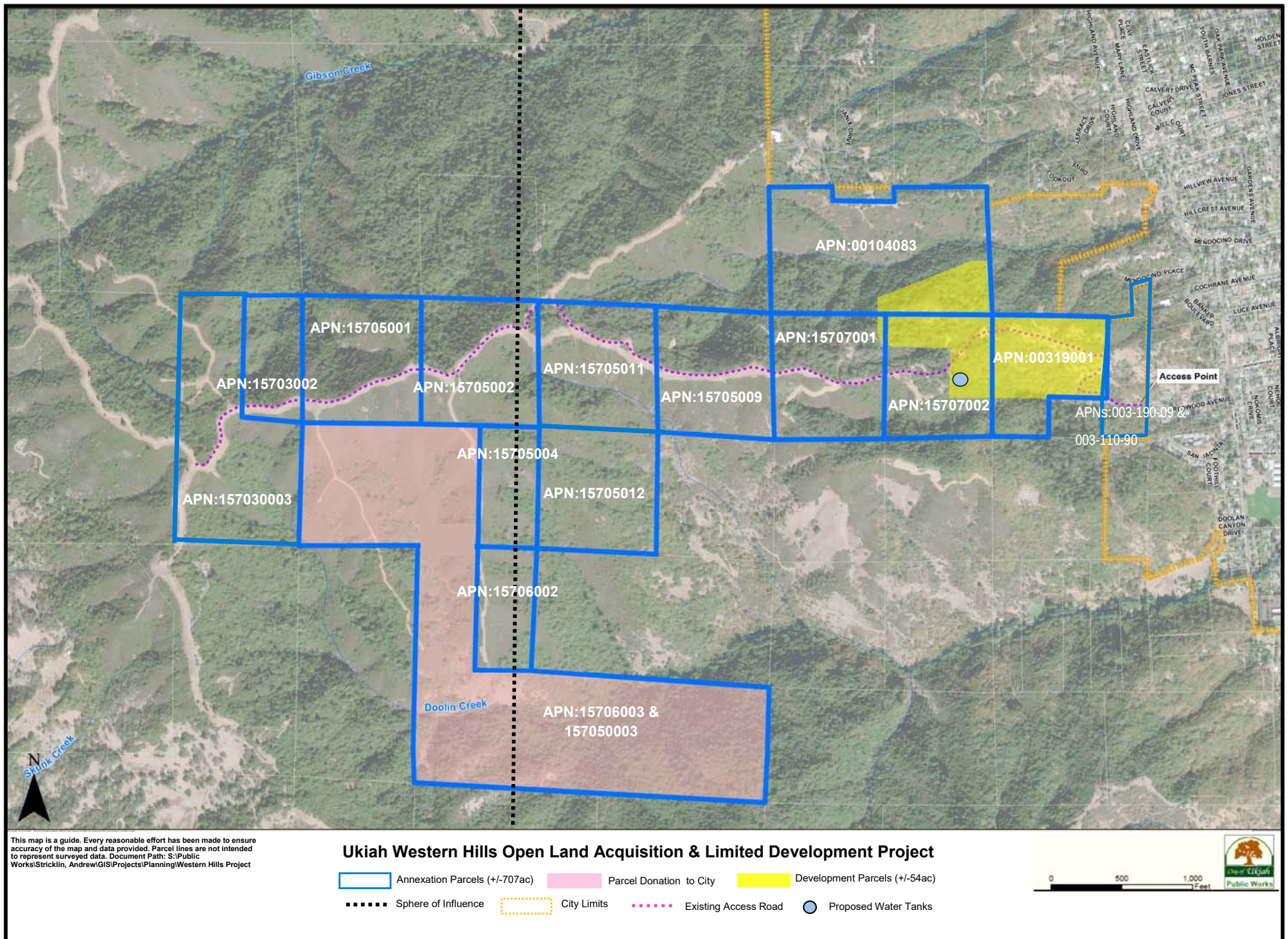


Figure 1
Location Map
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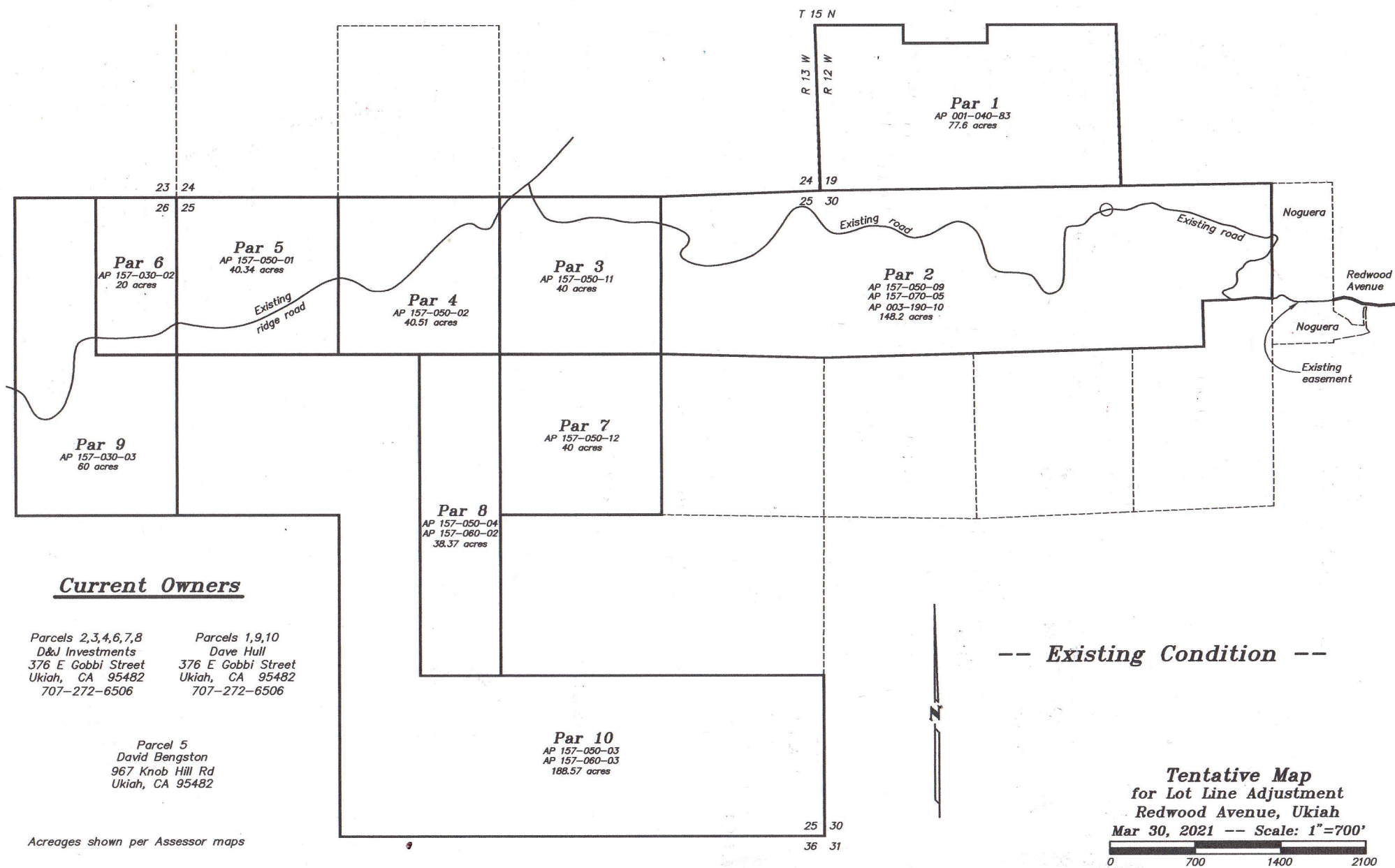
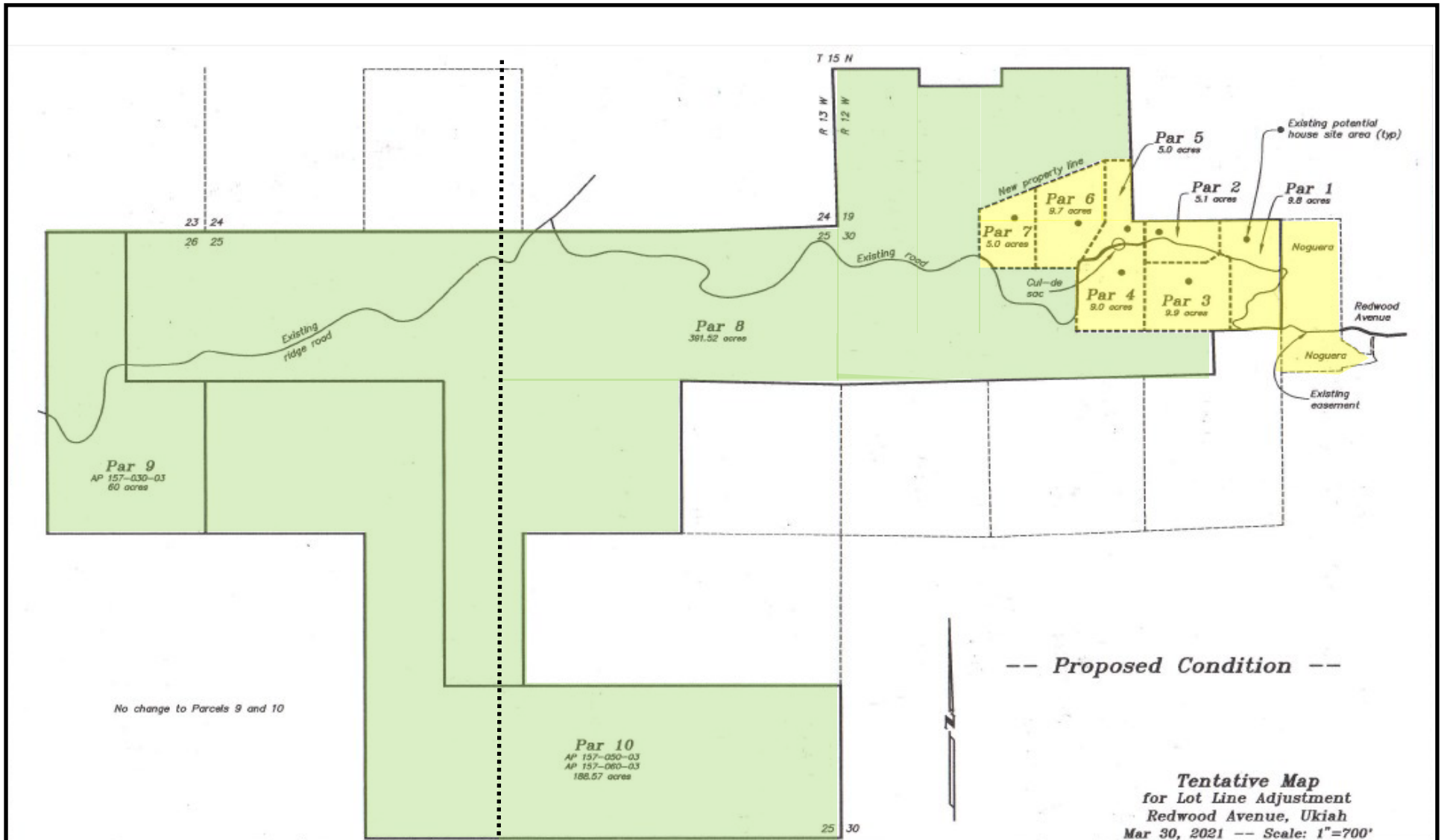


Figure 2
Existing Parcel Configuration
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Proposed Parcel Configuration & Prezoning for Western Hills (Hull Properties) Open Land Acquisition & Limited Development Agreement Project

..... Sphere of Influence

Conservation Parcels (640ac) with Public
Facilities (PF) Prezoning

Development Parcels (54ac) with Single-Family Residential-
Hillside Overlay District (R1-H) Prezoning

Last revised June 2, 2021

Figure 3
Proposed Parcel Configuration & Prezoning

EXHIBIT B- ANNEXATION PARCELS AND PREZONING

Assessor's Parcel Number (APN)	Existing Size (+/acres)	Proposed Size (+/-acres) through Lot Line Adjustments ¹	Resulting Parcel Configuration, Intended Use and Proposed Prezoning
001-040-83	77.6	9.8	Parcel 1 will become a Development Parcel intended for single family housing and prezoned R1-H.
157-070 01, 157-070-02, 003-190-01 & 157-050-09	148.2	5.1	Parcel 2 on Existing Conditions Tentative Map, contains several APNs but is one legal parcel (149 acres total). This parcel will become a Development Parcel intended for single-family housing and prezoned R1-H.
157-050-11	40.0	9.9	Parcel 3 will become a Development Parcel intended for single-family housing and prezoned R1-H.
157-050-02	40.5	9.0	Parcel 4 will become a Development Parcel intended for single-family housing and prezoned R1-H.
157-050-01	40.3	5.0	Parcel 5 will become a Development Parcel intended for single-family housing and prezoned R1-H.
157-030-02	20.0	9.7	Parcel 6 will become a Development Parcel intended for single-family housing and prezoned R1-H.
157-050-12	40.0	5.0	Parcel 7 will become a Development Parcel intended for single-family housing and prezoned R1-H.
157-050-04 & 157-060-02	38.7	391.5	Parcel 8 will become a Conservation Parcel and be prezoned PF. The proposed water tanks will be placed on this parcel within the existing water tank pad site (on existing Parcel 2).
157-030-03	60.0	60.0	Parcel 9 is an Conservation Parcel and will prezoned PF.
157-030-03 & 157-060-03	188.5	188.5	Parcel 10 (City-owned "Donation Parcel") will become a Conservation Parcel and will be prezoned PF.
"Noguera Properties" 003-190-09 & 003-110-90	10.20 4.14	10.20 4.14	These parcels contain the existing access road that will be improved but remain under private ownership. It will be included in the annexation proposal and prezoned R1-H, consistent with surrounding zoning and land uses, but no development is proposed; this parcel is not included in the Lot Line Adjustment.
TOTAL	+/- 707 acres		

¹ Resulting parcel configuration is subject to change but the Development Parcel area footprint and number of resulting parcels will remain the same.



AGENDA SUMMARY REPORT

SUBJECT: Notification to City Council of Purchase Order #47467 to Family Tree Service for the Removal of Ten(10) Trees and One Stump in the Amount of \$18,350.

DEPARTMENT: Community Services

PREPARED BY: Neil Davis, Community Services Administrator

PRESENTER: Consent Calendar

ATTACHMENTS:

1. Tree Maintenance Guidelines
2. Purchase Order 47467-00

Summary: Council will receive a report on Purchase Order #47467 to Family Tree Service for the removal of ten(10) trees and one stump in the amount of \$18,350

Background: The Grace Hudson Museum Campus is comprised of the Grace Hudson Museum, the Historic Sunhouse Residence, the Sunhouse landscaped grounds, the Wild Gardens Interpretive exhibit, and the Ts'Wish Wetlands. The entire campus serves as an interpretive center for education and edification and is a significant economic driver for the City of Ukiah. The Sunhouse Residence is landscaped to evoke the essence of what the home was like when Grace Hudson was a resident. The Wild Gardens and Ts'Wish Wetlands are maintained with native plants to demonstrate the native plants and their traditional uses.

Discussion: In the course of routine duties and in accordance with 6.9.2 of the City's Tree Management guidelines (Attachment 1), the Wild Gardens Manager used the International Society of Arborists Tree Risk Assessment Form in assessment of the trees on the Grace Hudson campus. Eight trees were determined to be dead or dying and a potential safety risk. Additionally, two large non-native and invasive eucalyptus trees were found in the Ts'wish Wetlands. The eight dead or dying trees were flagged for removal for safety while the two eucalyptus were flagged for removal to maintain the integrity of the gardens master plan.

As required by the City's Tree Management Guidelines 7.1 and 7.2, developed by the Tree Advisory Group, at least ten trees will be planted to replace the removed trees. Exact species and locations will be determined by the Wild Gardens Manager, who is committed to maintaining the tree canopy at the Grace Hudson Museum Campus.

Family Tree Service submitted the lowest acceptable bid (Attachment 2) for the project. The Wild Gardens and Ts'wish Wetlands master plans will be followed in replacing the trees.

Recommended Action: Receive report on Purchase Order #47467 to Family Tree Service for the removal of ten(10) trees and one stump in the amount of \$18,350

BUDGET AMENDMENT REQUIRED: No.

CURRENT BUDGET AMOUNT: 10022700.52100: \$31,550

PROPOSED BUDGET AMOUNT: N/A

FINANCING SOURCE: N/A

PREVIOUS CONTRACT/PURCHASE ORDER NO.: PO 47467

COORDINATED WITH: Seth Strader, Buyer II

Approved: 
Sage Sangiacomo, City Manager

CITY OF UKIAH TREE MANAGEMENT GUIDELINES

TREE MANAGEMENT POLICIES FOR THE
PROTECTION, OPERATION AND MAINTENANCE OF CITY PROPERTY



Adopted 12-01-10 & Revised 11-19-14

TREE MANAGEMENT GUIDELINES AND POLICIES FOR THE OPERATION AND MAINTENANCE OF CITY PROPERTY

1.0 PURPOSE STATEMENT

The purpose of this document is to provide policy guidelines for the preservation, maintenance and enhancement of the urban forest in parks and other areas maintained by the staff and contractors of the City of Ukiah. These guidelines are based on policy from the *City of Ukiah General Plan Growth Management Program* adopted by the City Council December 6, 1995 and amended June 16, 2004 and the *City of Ukiah Community Forest Management Plan*, adopted by the City Council on November 3, 1993.

" Trees are a precious legacy which improve our quality of life and enhance our community image and pride. Trees enrich air and water quality, provide wildlife habitat, increase aesthetic value, reduce soil erosion, and help us to maintain a sense of rural community."

Community Forest Management Plan Vision Statement

2.0 DEPARTMENTS AFFECTED

- 2.1 Community Services Department
- 2.2 Public Works Department
- 2.3 Electric Utility Department
- 2.4 Planning and Community Development Department
- 2.5 Ukiah Municipal Airport

3.0 RESPONSIBILITY

The department directors shall be responsible for the implementation of these policies and guidelines and all staff shall be trained and shall abide by these guidelines and policies as outlined in this document. City Council shall approve any significant amendments or changes to the *Tree Management Guidelines and Policies* proposed by staff and community partners before they are adopted.

3.1 The Directors of the departments are responsible for the preservation, care and maintenance of trees as follows:

- 3.1.1 Community Services Department is responsible for all trees in public parks including the Commemorative Program trees.
- 3.1.2 Public Works Department is responsible for all trees in the public right of way and creeks.
- 3.1.3 Electric Utility Department is responsible for trimming of trees to maintain clearance from primary electric lines and facilities
- 3.1.4 Planning and Community Development Department is responsible for oversight of all landscaping plans filed by the applicant.

3.2 Partnerships: Volunteers and/or community groups shall be important partners to achieve objectives for urban forestry.

TREE MANAGEMENT GUIDELINES AND POLICIES FOR THE OPERATION AND MAINTENANCE OF CITY PROPERTY

4.0 TRAINING

City staff shall receive training on all procedures listed in this document, including on-site classes and/or training provided by Mendocino College and assorted qualified arboricultural professionals on a regular schedule to ensure that proper methods are utilized.

All City of Ukiah staff performing tree care duties within the City's urban forest shall attend a minimum of two training workshops annually.

A workshop for dormant care of trees will be held in the Fall/Winter months. A second workshop will occur in the Spring/Summer to train for the growing season. Workshops will include, but not limited to: proper seasonal maintenance; best practices for soil conditioning; proper pruning techniques; and plant identification. Workshops will generally be held in the field and last about two hours and will be run by a qualified arboricultural professional with expertise in best practices for urban forest care.

5.0 POLICY GOALS

The Tree Management Guidelines focus on long-term protection of the City's trees and have been developed for the preservation, planting, care, removal or disposition of trees, replacement planting in parks, along streets and in other public areas.

The City of Ukiah intends that these guidelines and policies shall remain in effect, however, they will be subject to change based upon arboricultural standards, community input and staff recommendations. Suggestions for changes to the Guidelines must be submitted in writing to a department director. They will then be discussed with community partners and staff and then submitted to the City Council for approval.

6.0 GUIDELINES FOR TREE CARE AND MAINTENANCE

Staff and contracted professionals shall utilize International Society of Arboriculture's Best Management Practices (ISA BMP) and/or American National Standards Institute (ANSI). A Glossary of terms is included in Section 9.0.

Specific criteria as detailed in the ISA BMP shall be established and applied to for the removal and/or pruning of trees located in or on City property. The same criteria shall be used to evaluate the overall public benefit of the proposed work. In all cases, safety concerns shall receive priority. In addition, priority will be given to limiting removal, increasing forest canopy, and preserving appropriate vegetation on park property.

6.1 Tree Preservation: The health and physical state of trees shall be maintained and protected whenever possible. Instances not specifically covered elsewhere in this policy include:

TREE MANAGEMENT GUIDELINES AND POLICIES FOR THE OPERATION AND MAINTENANCE OF CITY PROPERTY

- 6.1.1 **Conservation of Landmark Trees:** These are individual trees that are considered unique because of size, species, historical significance, and shall be given extra protections and consideration for retention. Refer to the Glossary of Terms.
- 6.1.2 **Conservation of Commemorative Program Trees:** These are individual trees or groves purchased by someone from the City of Ukiah to memorialize an individual or group. Refer to the Glossary of Terms.
- 6.1.3 **Existing Trees:** Staff shall change use patterns in root zones whenever practical. For example: Vehicles parked or materials stored in the root zone shall be subject to an education and/or enforcement campaign to reverse the damage to the tree roots; pathways causing excessive compaction around tree roots shall be relocated if other options are deemed insufficient. Fencing, boulders, logs and landscaping are reasonable deterrents to reduce further damage and shall be used whenever practical. Refer to ISA BMP *Integrated Vegetation Management*.
- 6.1.4 **Special consideration shall be given for unique situations.** Every effort shall be made to protect trees growing near underground streams.
- 6.1.5 **Storm water flooding and sedimentation of drainage areas shall be properly considered before tree removal.**
- 6.1.6 **The relationship of vegetation to slope stability will be a primary consideration in all proposed vegetation management on slopes.**
- 6.1.7 **Diseased or Infested Plants That Pose Risk to Trees:** Action shall be taken to effectively decrease risk to other trees from pests and diseases. This may include removal and destruction of affected materials, pesticide treatments and/or alternative cultural practices. Other qualified experts shall be consulted as needed. Refer to ISA BMP *Integrated Pest Management*; *City of Ukiah Integrated Pest Management Plan*.
- 6.1.8 **Damage, Vandalism and Illegal Cutting:** Action shall be taken whenever possible to investigate and prosecute vandalism and illegal cutting of city-owned trees. Compensation for damages shall be sought based on the appraised value in accordance with The Guide for Plant Appraisal as authored by the Council of Tree and Landscape Appraisers.
- 6.2 Planting:** Planning before planting can ensure that the right tree is planted in the right location. Proper tree selection and placement prevents tree damage and costly maintenance like trimming. Consideration of water requirements and climate and surrounding infrastructure such as sidewalks, sewer lines and overhead/underground power lines shall improve the chances for optimum growth potential. Refer to the *City of Ukiah's Master Tree List*; *City of Ukiah Tree Planting and Maintenance Recommendations*; ISA BMP *Tree Planting*; and ISA BMP *Tree Support Systems*.
- 6.3 Root Environment and Tree Root Zones:** Refer to the Glossary of Terms. Whenever feasible, a pro-active program of cultural practices shall be implemented to maintain the health and vitality of City trees. Refer to ISA BMP *Tree and Shrub Fertilization*.
 - 6.3.1 **Trees in parks, fields and all other areas both developed and undeveloped:**

TREE MANAGEMENT GUIDELINES AND POLICIES FOR THE OPERATION AND MAINTENANCE OF CITY PROPERTY

- 6.3.1.1 Soil Compaction: Every effort shall be made to avoid the compaction of soil in root zones and to encourage penetration of rainfall deep into the soil.
- 6.3.1.2 Mulch: Organic material such as mulch and leaves shall not be removed under the tree canopy.
- 6.3.1.3 Crews shall, when feasible and practical, establish and maintain the areas under tree canopies free of turf and invasive plant species. The use of native grasses and plants are encouraged, as are plants associated with the trees above them. Special consideration shall be given to oak trees and the use of drought tolerant plants near them.
- 6.3.1.4 Parking: Vehicles and equipment should be parked on paved areas, streets and parking lots.
- 6.3.1.5 Pavement: The use of pavement within park and garden areas shall be limited as much as possible, especially under tree canopies. Whenever pavement is necessary the use of permeable materials is preferred. Remove the affected curb and damaged or cracked pavement due to root uplift when feasible. Level the section with mulch, chips, sand, or gravel rather than replacing the area with impervious materials.
- 6.3.1.6 Leaf Blowers: The use of leaf blowers is discouraged. Leaf blowers should not be used to blow debris with native soil.
- 6.3.1.7 Pesticides: The use of pesticides is discouraged. Please refer to the City Integrated Pest Management policy.
- 6.3.1.8 Stakes: In the unusual situation when stakes are needed they should be driven in outside the root ball. ISA BMP Tree Support Systems shall be followed.

6.4 Construction around Trees: Protection devices shall be installed to protect the tree and root zones when near or within construction zones. The root system extends at least to the edge of the canopy or drip line of the tree with most of the fine feeder roots active in the top few inches of the soil. These roots need air to stay healthy in order to provide the tree with nutrients and water. This root zone shall be protected from compaction, changes in soil grade, digging, or other disturbances.

Protective fencing and warning signage will be required around the root zone. All tree protection devices shall be visible, well-anchored, and approved in the field by the Supervisor or designee prior to clearing, grading, or beginning of construction and shall remain in place and maintained until the project is completed. Refer to *ISA BMP Managing Trees During Construction* and *ANSI Construction Management and Standard*.

TREE MANAGEMENT GUIDELINES AND POLICIES FOR THE OPERATION AND MAINTENANCE OF CITY PROPERTY

- 6.5 Consultation with a Qualified Arboricultural Professional:** When planning and designing a public improvement project the City shall seek the appropriate qualified expert when the project involves or is near a tree or trees.
- 6.6 Pruning Standards:** The latest pruning standards established by the International Society of Arboriculture shall be used in the maintenance of trees and are detailed in the ISA Best Maintenance Practice booklets. Refer to ISA BMP *Tree Pruning*; ISA BMP *Utility Pruning of Trees*. Such maintenance will include:
- 6.6.1 General pruning for clearance to prevent injuries and to facilitate maintenance and vehicle clearance.
 - 6.6.2 Pruning dead, dying, and diseased sections to improve the health and appearance of the tree and to prevent accidents.
 - 6.6.3 Pruning for clearance around lighting and overhead lines.
 - 6.6.4 Pruning back for authorized passage on service roads, walkways and paths.
 - 6.6.5 Pruning requested by a private property owner. Such requests do not obligate the Department to prune trees, shrubs, and/or vegetation. It is the responsibility of the business owner to plan their signage so that visibility is not affected by growing trees.
 - 6.6.6 Pruning in park areas identified as places of illegal or inappropriate activity in order to improve general visibility and increased police surveillance.
- 6.7 Birds and Nesting:** Except in emergencies nesting birds or nests shall not be disturbed or harassed by pruning or removal activities. To avoid nesting season such activities shall occur between September 1st and March 31st. Fish and Game Code 3503: "It is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird..." The Migratory Birds Treaty Act of 1918 also applies.
- 6.8 Unnecessary Wounding:** Because "topping" of trees can cause permanent damage by promoting decay, as well as unnatural, dense and weak branching structure, topping shall not be practiced or permitted except under special circumstances. Not only can a tree sustain wounds to the branches or top, it can also sustain wounds to the trunk. Therefore, these policies shall reinforce the protection of the trunk area from wounds associated with a lawn mower or other equipment.
- 6.9 Hazardous Tree Management:** Public health, safety and general welfare will be maintained through the use of generally accepted professional practices of evaluation and treatment to reduce risks to people and property from hazardous trees. Attention to proper selection, planting and maintenance of new trees shall also be pursued to achieve long-term risk reduction.
- 6.9.1 The City of Ukiah shall assess and manage the risk of tree failure within the limits of available fiscal and human resources. Priority shall be given to locations and situations with high probability of failure and high potential damage or injury that may result.

TREE MANAGEMENT GUIDELINES AND POLICIES FOR THE OPERATION AND MAINTENANCE OF CITY PROPERTY

- 6.9.2 Notwithstanding an immediate hazard to safety and/or property, the City shall utilize a written tree risk assessment methodology established by the ISA (ISA Basic Tree Risk Assessment Form or equivalent) to evaluate the likelihood that part or all of a tree will fail and cause damage and/or injury by a qualified arboricultural professional. The components of the assessment shall include tree health, species profile, site factors, history of failures, tree defects/conditions, target assessment, risk categorization, mitigation options and recommend inspection intervals when warranted.
- 6.9.3 Corrective action for high hazard rated trees shall be reasonable and prudent and may include:
- Moving any at-risk structures, equipment, fixtures or recreational sites;
 - Correction of the defect by pruning, cabling and bracing, or tree removal;
 - Closure of the area

7.0 Tree Removal: The City shall provide 72 hours of advance notice of the intended tree or trees that shall be removed by posting a sign at the work site when feasible. The sign shall contain the reason for the removal of the tree and the appropriate city department's telephone number that the public may contact for further information. Tree removal will include:

- 7.0.1 Trees that pose substantial risk or hazard to the public, adjacent properties or to public facilities.
- 7.0.2 Dead, dying or diseased trees.
- 7.0.3 Removal from properties being improved or developed under an approved design, however, prior consideration to retention shall be given whenever possible. Preference is to retain existing healthy trees when designing any development rather than attempting mitigation.
- 7.0.4 Trees that block trails, drains or otherwise obstruct the use and function of infrastructure elements.
- 7.0.5 Trees on sites that were over planted by design or are crowded from natural competition. As the landscape grows, the Supervisor with consultation with a qualified expert shall selectively remove trees on a site to maintain spacing for optimal tree growth and function.
- 7.0.6 Removal requested by a private property owner. However, such requests do not obligate the City of Ukiah to remove or allow removal of any trees, shrubs, and/or vegetation.
- 7.0.7 Consideration shall be given for providing trunk and limbs for service projects such as constructing benches and picnic tables. The use of wood chips for mulching material around trees and vegetation in the parks is encouraged.
- 7.0.8 Any person aggrieved or impacted by a decision to remove a tree may appeal the decision during the noticing period. A letter stating the reason(s) for the

TREE MANAGEMENT GUIDELINES AND POLICIES FOR THE OPERATION AND MAINTENANCE OF CITY PROPERTY

appeal must be submitted to the City Clerk's Office. An appeal automatically stops any action or non-action on the tree until the responsible Department Director has an opportunity to review and consider the appeal. When feasible, the Director will consult with the City's Tree Advisory Committee for additional input. The Director's decision on an appeal is the final administrative determination.

The Director's final determination may be appealed to the City Council. The appeal must be filed with the City Clerk's Office within 10 days of the Director's determination and must be accompanied by supporting documentation from a qualified arboricultural professional using the same tree risk assessment methodology established by the ISA as detailed in Section 6.9.2.

- 7.1 Tree Replacement:** At least one tree shall be planted for every tree that is removed from City property. Replacement tree species shall be selected so that overall mature canopy volume will be maintained or increased. It is preferable to plant the replacement tree in close proximity to the original tree's location. The replacement tree may be located elsewhere, if local conditions contributed to the previous tree's failure (See Section 6.2). New locations should be found on the same site or in the same neighborhood at a location of similar or greater value. Preference shall be given for planting native trees whenever feasible.
- 7.2 Replacement Plantings:** The City shall undertake the task of replacement plantings to mitigate the effects of vegetation removal and to reestablish the landscape and increase overall mature forest canopy. The City shall determine the species of tree to be planted on City property and the planting location. Every effort shall be made to select a species compatible with the existing tree plantings on the street, the neighborhood identity, the maturity of the trees, space available for growth, the presence of underground and overhead utility lines, utility poles, streetlights, driveway approaches and fire hydrants.
- 7.3 Phasing:** The City of Ukiah when appropriate shall consider a phased approach to vegetation management to reduce potential short-term negative aesthetic and/or wildlife habitat impacts (associated with such actions).
- 7.4 Wildlife and Habitat:** Trees and forested areas are recognized as important habitat for native wildlife and providing vital wildlife corridors. Trees, undeveloped landscapes and creeks will be managed to optimize them for wildlife habitat. Refer to the City of Ukiah Creeks Maintenance Policies and Procedures.

8.0 SUMMARY

These guidelines are set in place to enhance the urban forest within the City of Ukiah. As industry standards change in regard to tree care, this document shall remain flexible to incorporate needed changes.

9.0 GLOSSARY OF TERMS

For additional definitions, refer to the International Society of Arboriculture Best Management Practices

TREE MANAGEMENT GUIDELINES AND POLICIES FOR THE OPERATION AND MAINTENANCE OF CITY PROPERTY

- 9.1 Commemorative Program Tree Program** provides an opportunity for the public in celebrating an event or memorializing a loved one by the planting of a young tree or trees while improving the appearance and canopy of City parks. A tree or grove is purchased from the City of Ukiah to honor or memorialize an individual or group. Such tree(s) are identified and recorded by the City of Ukiah with the name of the tree species, dedicated individual or group and the name of the donor.
- 9.2 Developed landscape** is property that has been graded and/or planted, and contains plantings that are distinct from typical native forest. These active and/or passive recreational landscape areas are routinely maintained by park staff for public use. Developed landscapes shall include, but are not limited to: lawns, athletic fields, boulevards, golf courses including pitch and putt, lawn bowling greens, play areas, squares, places, triangles, and swimming beaches.
- 9.3 Hazardous Tree** is a tree that can be predicted to fail and has a high probability of striking people or property causing injury or damage.
- 9.4 Invasive exotic vegetation** consists of species of plants that are not native to our region and exhibit aggressive growth to the exclusion of native or planted landscapes and wildlife.
- 9.5 Landmark Trees** are individual trees that have been designated as unique because of size, historical/commemorative association, and distinct form, as an outstanding specimen or are important for wildlife habit. Such trees will be given extra protection and consideration for retention. Rules and regulations for landmark trees are defined in the City's Landmark Tree Program and/or Downtown Zoning Code.
- 9.6 Topping** is the removal of the terminal shoot of a tree to a stub or lateral branch that is not sufficiently large enough to assume a terminal role or cannot be expected to achieve wound closure to inhibit decay.
- 9.7 Tree Failure** is the breaking and falling of a tree or any substantial part of a tree. This does not include falling leaves or fruit.
- 9.8 Tree Root Zone** is the area from the trunk to the drip line or the edge of the unpruned canopy around a mature, uninjured tree or the anticipated root zone of a young tree.
- 9.9 Qualified Arboricultural Professional** is a tree care professional with a minimum of two years of experience in the evaluation and care of trees in combination with a professional license or certification that measures minimum competency in relevant subjects, including protection of public health, safety and welfare. Acceptable titles include Certified Arborist, Registered Consulting Arborist, Registered Professional Forester, and Landscape Architect.
- 9.9.1 Undeveloped Landscape** is property that contains native or volunteer (self-propagated) plants and is not intended for recreational use except along designated trails. Undeveloped landscapes are (usually) not as intensively maintained as developed landscapes.

TREE MANAGEMENT GUIDELINES AND POLICIES FOR THE OPERATION AND MAINTENANCE OF CITY PROPERTY

10.0 ADDITIONAL RESOURCES

Additional City and other tree-related documents that incorporate tree guidelines are available electronically through the Intranet. The Department Director shall provide the *The International Society of Arboriculture Best Management Practice* booklets, American National Standards Institute related documents and Mendocino County ReLeaf materials to their employees.

These documents are:

- Municipal Code Article 2, Chapter 5, Number 5420 Street Tree Policy, Purpose and Intent (Ordinance 869, adopted 1987)
- Community Forest Management Plan
- Tree Protection and Enhancement Policy
- Tree Planting and Maintenance Recommendations
- Master Tree List
- Integrated Pest Management Plan, Community Service Department
- Creek Maintenance Policies & Procedures
- Form Based Zoning Preservation Tree List
- General Plan, Open Space and Conservation Element, adopted 12/6/1995; amended 6/16/2004
- Landscaping and Streetscape Design Guidelines
- Commercial Development Design Guidelines
- International Society of Arboriculture Best Management Practices (ISA BMP): *Managing Trees During Construction; Tree Pruning; Integrated Pest Management; Tree Support Systems; Utility Pruning of Trees; Tree and Shrub Fertilization; Tree Planting; Tree Inventories; Integrated Vegetation Management*
- American National Standards Institute (ANSI): *Construction Management Standards*
- Mendocino County ReLeaf Tree Care Guide
- Hillside Ordinance 9135



Attachment 1

Purchase Order

Fiscal Year 2022

Page 1 of 1

THIS NUMBER MUST APPEAR ON ALL INVOICES, PACKAGES AND SHIPPING PAPERS.

Purchase Order #

47467-00

Delivery must be made within doors of specified destination.

BILL TO

CITY OF UKIAH
ATTN: ACCOUNTS PAYABLE
300 SEMINARY AVENUE
UKIAH, CA 95482

VENDOR

FAMILY TREE RESOURCE INC
PO BOX 1501
LAYTONVILLE CA 95454

SHIP TO

CITY OF UKIAH - MUSEUM
GRACE HUDSON MUSEUM
431 S MAIN STREET
UKIAH CA 95482

Vendor Phone Number		Vendor Fax Number	Buyer		Date Ordered	Date Required
			Seth Strader		09/14/2021	
Delivery Reference		Freight Method/Terms		Department/Location		Sales Tax Rate
NEIL DAVIS		N30		COMMUNITY SERVICES		0.000
Item#	Description/Part No.	Qty	UOM	Unit Price	Extended Price	
1	ALL NECESSARY LABOR, EQUIPMENT AND MATERIALS FOR THE REMOVAL OF TEN (10) TREES AND ONE (1) STUMP AS PER SPECIFICAITON e39077 DATED 8/20/21 REF REQ E39077 PER BID OPENING 9/7/21 PREVAILING WAGE PROJECT - WORK SUBJECT TO ATTACHMENT A	18350.0	DOLL	\$1.000	\$18,350.00	

By 
Purchasing Supervisor

VENDOR COPY

PO Total

\$18,350.00

1. **GENERALLY.** These Terms and Conditions of Sale ("Terms and Conditions") apply to all purchases by City of Ukiah. (Referred to as "Buyer"). The supplier of goods and services under this transaction is herein referred to as "Seller". The goods or service purchased are referred to as the "Purchase."

2. **TERMS EXCLUSIVE.** Buyer will order the goods or services described herein only upon the terms and conditions contained herein. Seller's acceptance of this order shall occur either through commencement of performance under this order or acknowledgment of this order. By accepting this order, Seller waives all terms and conditions contained in its quotation, acknowledgment, invoice or other documents which are different from or additional to those contained herein and all such different or additional terms and conditions shall be null and void. **SELLER MAY NOT CHANGE MATERIAL OF MANUFACTURE, SOURCES OF SUPPLY, MANUFACTURING PROCESS OR LOCATION WITHOUT THE PRIOR WRITTEN CONSENT OF BUYER.**

3. **INSPECTION.** All goods shall be received subject to Buyer's inspection and rejection. Defective goods and goods otherwise not conforming to this order shall be held for Seller's instruction and at Seller's risk, and if Seller so directs, shall be returned at Seller's expense. No defective goods shall be replaced without a new purchase order. Payment by Buyer shall not be construed as an acceptance of goods. Buyer may return to Seller any non-defective, excess goods within thirty (30) days of receiving them.

4. **CHANGES.** City may make changes within the general scope of this order in drawings and specifications for specially manufactured supplies, place of delivery, method of shipment or packing of the order by giving notice to Seller and subsequently confirming such changes in writing. If such changes affect the cost of or the time required for performance of this order, an equitable adjustment in the price or delivery or both must be made. No change by Seller is allowed without City's written approval. Any claim by Seller for an adjustment under this section must be made in writing within thirty (30) days from the date of receipt by Seller of notification of such change unless City waives this condition in writing. Nothing in this section excuses Seller from proceeding with performance of the order as changed.

5. **TERMINATION.** City may terminate this order at any time, either verbally or in writing, with or without cause. Should termination occur, City will pay Seller as full performance until such termination the unit or pro rata order price for the performed and accepted portion of the Purchase. City may provide written notice of termination for Seller's default if Seller refuses or fails to comply with this order. If Seller does not cure such failure within a reasonable time period, or fails to perform the Purchase within the time specified (or allowed by extension), Seller will be liable to City for any excess costs incurred by City.

6. **TIME EXTENSION.** Time is of the essence City may extend the time for completion if, in City's sole determination, Seller was delayed because of causes beyond Seller's control and without Seller's fault or negligence. In the event delay was caused by City, Seller's sole remedy is limited to recovering money actually and necessarily expended by Seller because of the delay; there is no right to recover anticipated profit.

7. **REMEDIES CUMULATIVE.** City's rights and remedies under this order are not exclusive and are in addition to any rights and remedies provided by law.

8. **TITLE.** Title to materials and supplies purchased under this order pass directly from Seller to City upon City's written acceptance following an actual inspection and City's opportunity to reject.

9. **PAYMENT.** City will pay Seller after receiving acceptable invoices for materials and supplies delivered and accepted or services rendered and accepted. City will not pay cartage, shipping, packaging or boxing expenses unless specified in this order.

10. **INDEMNIFICATION.** Seller agrees to indemnify and hold harmless from and against any claim, action, damages, costs (including, without limitation, attorney's fees), injuries, or liability, arising out of the Purchase or the order, or their performance. Should City be named in any suit, or should any claim be brought against it by suit or otherwise, whether the same be groundless or not, arising out of the Purchase or order, or their performance, Seller will defend City (at City's request and with counsel satisfactory to City) and indemnify City for any judgment rendered against it or any sums paid out in settlement or otherwise. For purposes of this section "City" includes City's officers, elected officials, and employees. This paragraph 9 will survive termination of this order. The requirements as to the types and limits of insurance coverage to be maintained by Seller, and any approval of such insurance by City, are not intended to and will not in any manner limit or qualify the liabilities and obligations otherwise assumed by Seller pursuant to this order, including, without limitation, to the provisions concerning indemnification.

11. **WARRANTY.** Seller agrees that the Purchase is covered by the most favorable commercial warranties the Seller gives to any customer for the same or substantially similar supplies or services, or such other more favorable warranties as is specified in this order. Warranties will be effective notwithstanding any inspection or acceptance of the Purchase by City.

12. **ASSIGNMENT.** City may assign this order. Except as to any payment due under this order, Seller may not assign or subcontract the order without City's written approval. Should City give consent, it will not relieve Seller from any obligations under this order and any transferee or subcontractor will be considered Seller's agent.

13. **INSURANCE.** Seller must provide the insurance indicated on the face sheet of this order.

14. **PERMITS.** Seller must procure all necessary permits and licenses, and abide by all federal, state, and local laws, for performing this order.

15. **INDEPENDENT CONTRACTOR.** City and Seller agree that Seller will act as an independent contractor and will have control of all work and the manner in which it is performed. Seller will be free to contract for similar service to be performed for other employers while under contract with City. Seller is not an agent or employee of City and is not entitled to participate in any pension plan, insurance, bonus or similar benefits City provides for its employees. Any provision in this order that may appear to give City the right to direct Seller as to the details of doing the work or to exercise a measure of control over the work means the Seller will follow the direction of the City as to end results of the work only.

16. **WAIVER.** City's review or acceptance of, or payment for, work product prepared by Seller under this order will not be construed to operate as a waiver of any rights City may have under this Agreement or of any cause of action arising from Seller's performance. A waiver by City of any breach of any term, covenant, or condition contained in this order will not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, or condition contained in this order, whether of the same or different character.

17. **INTERPRETATION.** This Agreement was drafted in, and will be construed in accordance with the laws of the State of California, and exclusive venue for any action involving this agreement will be in Mendocino County.

**ATTACHMENT A - PREVAILING WAGE ADDENDUM
FOR
PURCHASE ORDERS FOR PUBLIC WORK**

Date: 9/14/21

PO #47467

Vendor agrees to comply with the following requirements.

1. DIR Public Works Registration

1.1 No contractor or subcontractor may be listed on a bid proposal for a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)].

1.2 No contractor or subcontractor may be awarded a contract for public work on a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5.

1.3 This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

1.4 The Labor Commissioner through the Division of Labor Standards Enforcement (DLSE) may at any time require contractors and subcontractors to furnish electronic certified payroll records directly to DLSE. Commencing with contracts awarded or after April 1, 2015, all contractors and subcontractors must furnish electronic certified payroll records directly to the DLSE.

1.5 The Prime Contractor is required to post job notices at the job site as prescribed by regulations (currently, 8 CCR §16451(d).)

1.6 *Public Works Small Project Exemption:* Small project exemption means that contractors who work exclusively on small projects are not required to register as public works contractors or file electronic certified payroll reports for those projects. However, prevailing wages must still be paid on projects with small project exemption. Contractors are still required to maintain certified payroll records on a continuous basis, and provide those records to the Labor Commissioner's Office upon request. Small project exemption is applied based on the amount of the entire project, not a contractors subcontracted amount of the project. Small project exemption applies for all public works projects that do not exceed: \$25,000 for new construction, alteration, installation, demolition or repair; and \$15,000 for maintenance.

2. Use of Employees.

2.1. Contractor and any subcontractors shall pay all mechanics and laborers employed by them to work upon the site of the work unconditionally and without subsequent deductions or rebate on any account the full amounts due at the time of payment at wage rates not less than those contained in the applicable prevailing wage determination, regardless of any contractual relationship which may be alleged to exist between the Contractor and subcontractors and such laborers and mechanics.

2.2. Contractor shall comply with the California Labor Code Section 1775. In accordance with said Section 1775, Contractor shall forfeit as a penalty to the City, \$50.00 for each calendar day or portion thereof, for each workman paid less than the stipulated prevailing rates for such work or craft in which such workman is employed for any work done under the Contract by him or her or by any subcontractor under him or her in violation of the provisions of the Labor Code and in particular, Labor Code Sections 1770 to 1780, inclusive. In addition to said penalty and pursuant to Section 1775, the difference between such stipulated prevailing wage rates and the amount paid to each workman for each calendar day or portion thereof for which each workman was paid less than the stipulated prevailing wage rate shall be paid to each workman by the Contractor.

2.3. Pursuant to the provision of Section 1770 of the Labor Code of the State of California, City has ascertained the general prevailing rate of wages (which rate includes employer payments for health and welfare, vacation, pension and similar purposes) applicable to the work to be done, for straight time work. The holiday wage rate listed shall be applicable to all holidays recognized in the collective bargaining agreement of the particular craft, classification, or type of workers concerned. Copies of the General Prevailing Wage Determination are on file in the office of the City Engineer and are available to the Contractor on request. The Contractor shall post the wage determination at the site of work in a prominent place where the workers can easily see it.

2.4. City will not recognize any claim for additional compensation because the Contractor has paid any rate in excess of the prevailing wage rate obtained by the Engineer. The possibility of wage increases is one of the elements to be considered by the Contractor in determining his or her bid and will not in any circumstances be considered as the basis for a claim against the City.

2.5. Travel and Subsistence Payments.

Contractor shall make travel and subsistence payments to each worker needed to execute the work in accordance with the requirements in Section 1773.8 of the Labor Code (Chapter 880, Statutes of 1968).

2.6. Apprentices.

Attention is directed to the provisions in Sections 1777.5 (Chapter 1411, Statutes of 1968) and 1777.6 of the California Labor Code concerning the employment of apprentices by the Contractor or any subcontractor under him. Contractor and any subcontractor under him or her shall comply with the requirements of said sections in the employment of apprentices.

Information relative to apprenticeship standards, wage schedules and other requirements may be obtained from the Director of Industrial Relations, ex officio the

Administrator of Apprenticeship, San Francisco, California, or from the Division of Apprenticeship Standards and its branch offices.

Copies of Labor Code Sections 1771 (requiring prevailing wages), 1775 (imposing penalties, including a \$50 per day, per worker forfeiture, for failure to pay prevailing wages), 1776 (requiring contractor to maintain available for inspection certified payroll records), 1777.5 (requiring certain apprenticeship programs), 1813 (imposing penalties for failure to make records available for inspection) and 1815 (requiring time and ½ for overtime) are available at the Department of Industrial Relations website at <http://www.dir.ca.gov/>

I have read and agree to comply with the foregoing.

Date: _____

[Signature]

[Phone number]

[Print name]

[Email]

[Title]

[Business Name]

[Street address]

[Mailing address]

[City] [State] [Zip code]



AGENDA SUMMARY REPORT

SUBJECT: Request a Budget Amendment to the Park Development Fund Open Space Supplies Account in an Amount of \$2,530.25 from the Park Development Reserve Fund to Cover the Cost of the Filing Fee for the Initial Study and Mitigated Negative Declaration to the County of Mendocino for the Ukiah Western Hills Open Land Acquisition & Limited Development Agreement Project.

DEPARTMENT: City Manager /
Admin

PREPARED BY: Maya Simerson, Project & Grant Administrator,
Mary Horger, Financial Services Manager

PRESENTER: Maya Simerson, Project Administrator and Mary
Horger, Financial Services Manager

ATTACHMENTS:

None

Summary: Council will consider a budget amendment to the Park Development Fund Open Space supplies account in the amount of \$2,530.25 from the Park Development Reserve Fund to cover the cost of the filing fee for the initial study and mitigated negative declaration to the County of Mendocino for the Ukiah Western Hills Open Land Acquisition & Limited Development Agreement Project.

Background: The City has a vision, through the City Council's Strategic Plan, and is working towards a goal of promoting the protection of Ukiah's western urban interface to restore and conserve forest and stream ecosystems, provide large-scale wildfire mitigation and to protect the Upper Russian River Watershed to benefit fish, wildlife and the greater Ukiah community. Towards achievement of this goal, the City proposes to acquire and annex approximately 707 acres in the Western Hills for open space preservation while allowing the potential for future low-density residential development on the approximately 54 easternmost acres, consistent with existing development in the Hillside District of the Western Hills within the City of Ukiah limits. This project is referred to as the Ukiah Western Hills Open Land Acquisition and Limited Development Agreement Project.

Discussion: At the September 15, 2021 City Council meeting the Council approved the adoption of the environmental document for the Ukiah Western Hills Open Land Acquisition & Limited Development Agreement Project. The Initial Study and Mitigated Negative Declaration must be filed at the County of Mendocino's Clerk/Recorders office. To cover the cost of the filing fees, a budget amendment is required from the Open Space Reserve Account into the Park Development Fund Supplies Account.

Staff recommends the approval of this requested budget amendment.

Recommended Action: Approve a Budget Amendment to the Park Development Fund Open Space supplies account in the amount of \$2,530.25 from the Park Development Reserve Fund to cover the cost of the filing fee for the Initial Study and Mitigated Negative Declaration to the County of Mendocino for the Ukiah Western Hills Open Land Acquisition & Limited Development Agreement Project.

BUDGET AMENDMENT REQUIRED: Yes

CURRENT BUDGET AMOUNT: 25122100.54100.39015: \$0

PROPOSED BUDGET AMOUNT: 25122100.52100.39015: \$2,530.25

FINANCING SOURCE: 25100000.39015 Reserved – Open Space Acquisition Funds

PREVIOUS CONTRACT/PURCHASE ORDER NO.: No

COORDINATED WITH: Michelle Irace, Planning Manager and Mary Horger, Financial Services Manager

Approved: 
Sage Sangiacomo, City Manager



AGENDA SUMMARY REPORT

SUBJECT: Adoption of Resolution Ratifying an Emergency Order of the City Manager Authorizing Temporary Use of the Property at 1240 Airport Park Boulevard as a Disaster Resources Facility to Assist Those Affected by the Hopkins Fire.

DEPARTMENT: City Manager /
Admin

PREPARED BY: Kristine Lawler, City Clerk

PRESENTER: Consent Calendar

ATTACHMENTS:

1. Resolution with Exhibit A - Ratifying Declaration of Local Emergency

Summary: Council will consider adopting a Resolution ratifying an emergency order of the City Manager authorizing temporary use of the property at 1240 Airport Park Boulevard as a disaster resources facility to assist those affected by the Hopkins fire.

Background: On September 12, 2021, the Hopkins Fire had emerged in Mendocino County, had burned over 275 acres, and was 95% contained, but threatening over 400 structures. On September 16, 2021, the Mendocino County Chief Executive Officer/Director of Emergency Services proclaimed that a local emergency existed throughout Mendocino County.

Under Ukiah City Code Section 5130 and consistent with California Government code Section 8634, in a declared local emergency the City Manager has the authority to promulgate orders and regulations to provide for the protection of life and property, where necessary to preserve the public order and safety. All such orders and regulations to be effective must be in writing and signed by the promulgating official and must be confirmed at the next regular meeting of the City Council.

In order to assist residents who were affected by the Hopkins Fire and any future wildfires during this fire season, United Disaster Relief of Northern California (UDRND) wanted to open a temporary resource facility at 1240 Airport Park Boulevard in the City of Ukiah.

In response to this request and under the above circumstances, the City Manager issued an emergency order on September 17, 2021 (Exhibit A to Attachment 1).

On September 21, 2021, the Mendocino County Board of Supervisors ratified the County Chief Executive Officer/Director of Emergency Services' proclamation of the existence of a Local Emergency and the Health Officer Declaration pursuant to Government Code Section 8550, et seq.

Discussion: Whenever a local emergency is proclaimed by an authorized City officer, including the City Manager, City Council shall take action to ratify the proclamation at their next regular meeting.

The City recognizes the need for a disaster resource for victims of wild fires, including the Hopkins fire, and that is why staff is recommending that Council ratify the City Manager's Proclamation of the Existence of a Local Emergency with the attached resolution (Attachment 1).

Recommended Action: Adopt Resolution ratifying an emergency order of the City Manager authorizing temporary use of the property at 1240 Airport Park Boulevard as a disaster resources facility to assist those affected by the Hopkins fire.

BUDGET AMENDMENT REQUIRED: N/A

CURRENT BUDGET AMOUNT: N/A

PROPOSED BUDGET AMOUNT: N/A

FINANCING SOURCE: N/A

PREVIOUS CONTRACT/PURCHASE ORDER NO.: N/A

COORDINATED WITH: N/A

Approved: 
Sage Sangiacomo, City Manager

RESOLUTION NO. 2021-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF UKIAH, CALIFORNIA, CONFIRMING AND RATIFYING THE EMERGENCY ORDER OF THE CITY MANAGER OF THE CITY OF UKIAH, IN HIS CAPACITY AS THE DIRECTOR OF EMERGENCY SERVICES FOR THE CITY, AUTHORIZING TEMPORARY USE OF THE PROPERTY AT 1240 AIRPORT PARK BOULEVARD AS A DISASTER RESOURCE FACILITY TO ASSIST THOSE AFFECTED BY THE HOPKINS FIRE.

WHEREAS, on September 12, 2021, the Hopkins Fire had emerged in Mendocino County, had burned over 275 acres, and was 95% contained, but threatening over 400 structures. On September 16, 2021, the Mendocino County Chief Executive Officer/Director of Emergency Services proclaimed that a local emergency existed throughout Mendocino County; and

WHEREAS, under Ukiah City Code Section 5130 and consistent with California Government code Section 8634, in a declared local emergency the City Manager has the authority to promulgate orders and regulations to provide for the protection of life and property, where necessary to preserve the public order and safety. All such orders and regulations to be effective must be in writing and signed by the promulgating official and must be confirmed at the next regular meeting of the City Council; and

WHEREAS, in order to assist residents who were affected by the Hopkins Fire and any future wildfires during this fire season, United Disaster Relief of Northern California (UDRND) wanted to open a temporary resource facility at 1240 Airport Park Boulevard in the City of Ukiah; and

WHEREAS, in response to this request and under the above circumstances, the City Manager issued an emergency order on September 17, 2021; and

WHEREAS, on September 21, 2021, the Mendocino County Board of Supervisors ratified the County Chief Executive Officer/Director of Emergency Services' proclamation of the existence of a Local Emergency and the Health Officer Declaration pursuant to Government Code Section 8550, et seq.

NOW, THEREFORE, IT IS ORDERED by the City Council of the City of Ukiah the Emergency Order (Exhibit A) of the City Manager, in his capacity as the Director of Emergency Services for the City, authorizing temporary use of the property at 1240 airport park boulevard as a disaster resource facility to assist those affected by the Hopkins Fire. and orders contained therein, is hereby confirmed.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Ukiah on the 6th day of October, 2021 by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Juan V. Orozco, Mayor

ATTEST:

Kristine Lawler, City Clerk



EMERGENCY ORDER OF THE CITY MANAGER OF THE CITY OF UKIAH, IN HIS CAPACITY AS THE DIRECTOR OF EMERGENCY SERVICES FOR THE CITY, AUTHORIZING TEMPORARY USE OF THE PROPERTY AT 1240 AIRPORT PARK BOULEVARD AS A DISASTER RESOURCE FACILITY TO ASSIST THOSE AFFECTED BY THE HOPKINS FIRE .

A. Background:

1. The Hopkins Fire emerged in Mendocino County on September 12, 2021 and has burned over 275 acres, is currently at 95% containment, and is threatening over 400 structures
2. On September 16, 2021 the Mendocino County Chief Executive Officer/Director of Emergency Services proclaimed that a local emergency exists throughout Mendocino County as of September 12, 2021.
3. On September 16, 2021, the Mendocino County Health Officer issued a Declaration of Local Health Emergency ("Health Officer Declaration") as of September 12, 2021
4. On September 21, 2021, at its regular meeting, the Board of Supervisors for the County of Mendocino will consider ratifying the Proclamation of the Director of Emergency Services Proclaiming the Existence of a Local Emergency and the Health Officer Declaration pursuant to Government Code Section 8550, et seq.
5. Under Ukiah City Code Section 5130 and consistent with California Government Code Section 8634, in a declared local emergency the City Manager has the authority to promulgate orders and regulations to provide for the protection of life and property, where necessary to preserve the public order and safety. All such orders and regulations to be effective must be in writing and signed by the promulgating official and must be confirmed at the next regular meeting of the City Council.
6. In order to assist residents who are affected by the Hopkins Fire and any future wildfires during this fire season, United Disaster Relief of Northern California ("UDRNC") wishes to open a temporary resource facility at 1240 Airport Park Boulevard in the City of Ukiah.

B. Order

IT IS ORDERED by the City Manager, in his capacity as the Director of Emergency Services for the City of Ukiah, as follows:

1. UDRNC and Mendocino County disaster relief services are allowed temporary use of the property at 1240 Airport Park Boulevard ("the Property") to assist residents impacted by wildfires, and more particularly the Hopkins Fire.

2. The Department of Community Development of the City of Ukiah sets the following conditions on this Emergency Order:
 - a. The maximum term of temporary use of the Property, and for the duration of this Emergency Order will be eight (8) months from the date of issuance of the emergency order.
 - b. There will be no extensions to the maximum term of temporary use or the duration of the Emergency Order.
 - c. If UDRNC anticipates needing to continue services at the Property for longer than eight (8) months, UDRNC will apply as soon as possible, but no later than six (6) months from the date this Order is issued, for a use permit in accordance with the Ukiah City Code and any other regulations and requirements that apply within the Airport Industrial Park Planned Development.
 - d. UDRNC will certify via letter to the City of Ukiah Community Development Director that the services provided at the location will assist victims of the Hopkins Fire such that a potential threat to victims' health and safety can be lessened or avoided.
 - e. Building permits for any improvements required must be secured prior to occupancy. Applicant shall be in compliance with all applicable City codes.

C. Other

1. This Order shall be effective through May 17, 2022 or until the termination of the local emergency, whichever comes first.
2. This Order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the City of Ukiah, its departments, officers, employees, or any other person.
3. If any provision of this Order or the application thereof to any person or circumstances is held to be invalid, the remainder of the Order, including the application of such part or provision to other persons or circumstances, shall not be affected and shall continue in full force and effect. To this end, the provisions of this Order are severable.
4. This Order shall be filed in the City Clerk's Office and given widespread publicity and notice.


Shannon Riley, Deputy City Manager
Director of Emergency Services, City of Ukiah

Dated: 9/17/21



AGENDA SUMMARY REPORT

SUBJECT: Authorize City Manager to Negotiate and Execute a Contract with North Coast Opportunities in the Amount of \$152,000 to Provide Project Support for the CNRA Funded Urban Greening Grant to Build Phase 4 of the Great Redwood Trail.

DEPARTMENT: Community Services

PREPARED BY: Neil Davis, Community Services Administrator

PRESENTER: Consent Calendar

ATTACHMENTS:

1. NCO Project Manager Scope of Work 1
2. Professional Services Contract NCO_UkiahSoUL

Summary: Council will consider authorizing the City Manager to negotiate and execute a contract with North Coast Opportunities in the amount of \$152,000, to provide project support for the CNRA funded Urban Greening Grant to build Phase 4 of the Great Redwood Trail.

Background: The City of Ukiah was awarded an Urban Greening Grant from the CA Natural Resources Agency to complete phase 4 of the Great Redwood Trail (GRT4). The GRT4 will extend the existing rail trail phase 2 from Commerce Drive south approximately 1.9 miles past Plant Road near the City's wastewater treatment plant. The new phase will provide connectivity from the Redwood Business Park to the Ukiah Animal Shelter, Plant Road. Phase 3 of the trail was also funded by the same California Natural Resources Agency grant through the Urban Greening Program.

The Urban Greening grant specified and budgeted \$152,000 for North Coast Opportunities (NCO) to work in a supporting role providing 1) Workforce Development, 2) Landscaping and Planting, 3) Volunteer Recruitment and Oversight, 4) Pocket Park Development, 5) Community Organization, Partnership Development, and Maintenance, 6) Outreach to Disadvantaged Communities, and 7) Project Coordination, Documentation, and Reporting.

Discussion: The City has a long and productive relationship with NCO. This includes a similar partnership with NCO to provide similar support on phase 3 of this project. NCO staff will provide a "Project Manager" or Project Management Team with a scope of work outlined in Attachment 1. Staff looks forward to another successful partnership and recommends approval of this contract negotiation (Attachment 2).

Recommended Action: Authorize the City Manager to negotiate and execute a contract with North Coast Opportunities in the amount of \$152,000, to provide project support for the CNRA Funded Urban Greening Grant to build Phase 4 of the Great Redwood Trail.

BUDGET AMENDMENT REQUIRED: No

CURRENT BUDGET AMOUNT: 51124210.80230.18253: \$3,563,212

PROPOSED BUDGET AMOUNT: N/A

FINANCING SOURCE: Urban Greening Grant

PREVIOUS CONTRACT/PURCHASE ORDER NO.: N/A

COORDINATED WITH:

Approved: 
Sage Sangiacomo, City Manager

Scope of Work for "SoUL" NCO Project Manager

Purpose: This scope of work (SOW) describes the work to be completed by the North Coast Opportunities' NCO Project Manager as a subcontractor to the City of Ukiah as part of the CA Natural Resources Agency Urban Greening "South Ukiah Link to Active Living (SoUL)" Grant.

The Project Manager will report to the City of Ukiah's Senior Civil Engineer or designee. The Senior Civil Engineer will focus on the planning and construction of a class one bike path and installation of purple pipe for reclaimed water. Under the oversight of the Senior Civil Engineer, the Project Manager will oversee all other aspects of the project including as per **SB 850** "creates, enhances, or expands community parks and green spaces, and uses natural systems or systems that mimic natural systems to achieve multiple benefits." Additionally, as per **SB 859** the Project Manager will ensure the project 1) benefits a critically underserved community or disadvantaged community, 2) Develop partnerships with local community organizations and businesses in order to strengthen outreach to disadvantaged communities, provides access to quality jobs for residents of disadvantaged communities, or provides access to workforce education and training, and 3) ensures interagency cooperation.

As outlined in the application for the SoUL project, a primary focus for the Project Manager will be on developing and maintaining 3(j) "Economic, social, and health benefits, including, but not limited to, recreational opportunities, workforce education and training, contracting, and job opportunities for disadvantaged communities."

Hourly Billing Rate \$65 Hour

Project Manager Task List

Avg Hours/week

Task 1	Workforce Development (Native Plant Propagation and Irrigation Installation)	2
1a	In coordination with the Wild Gardens Manager develop a training plan for Native Plant Landscape Worker Development through the CA Conservation Corps (CCC) and volunteers.	
1b	Act as liaison with City of Ukiah for Workforce Development issues	
1c	Publicize availability of free training	
1d	Provide oversight, collect data, and report Workforce Development activities to Senior Civil Engineer	
1e	Plan and coordinate procurement and delivery of necessary materials	
1f	Troubleshoot and assist CCC and any other recruited trainees with unplanned contingencies	
1g	Assist Wild Gardens Manager in training to CCC in plant propagation and maintenance, installation, and irrigation installation.	
Task 2	Landscaping and Planting	4
2a	In cooperation with the Wild Gardens Manager 1) review and update plant list, and 2) develop a workplan and timeline for acquiring, preparing, and planting native plants for the entire project	
2b	Develop landscape plan for trailside planting	
2c	Arrange for seed/plant propagation sites and volunteer gardeners to propagate local native strains	
2d	Coordinate activities of CCC and Community organizations / volunteers	
2e	Monitor planting and landscaping activities to ensure quality and maximize plant survival rate	
2f	Assist volunteers and partner organizations with procurement and delivery of necessary materials, supplies, and tools	
2g	Troubleshoot and assist volunteers with unplanned contingencies	
Task 3	Volunteer Recruitment and Oversight	4
3a	Recruit and assist Wild Gardens Manager in the preparation of volunteer trainings	
3b	Recruit volunteers to assist with native grass seed collection and propagation, and native plant propagation.	
3c	Organize and oversee volunteer preparation of native grasses for planting	
3d	Ongoing volunteer recruitment and retention activities to include recruitment events	
3e	Assist Wild Gardens Manager in volunteer training	
Task 4	Pocket Park Development	2

4a	Assist the Wild Gardens Manager in the preparation of pocket park with landscaping designs. Obtain approval and permitting as appropriate for pocket parks .	
4b	Consult with the NCO Program Manager on the development of subject matter, language, and design of interpretive signage highlighting the benefits and uses of native plants in landscaping.	
4c	Produce or subcontract the production of interpretive signage	
Task 5	Community Organization Partnership Development and Maintenance	4
5a	Recruit Non-Profit/community organizations, and Subject Matter Experts to assist with the planning, planting, and maintenance of native plant gardens along the trail and in pocket parks.	
5b	Plan and facilitate community meetings to solicit neighborhood input on pocket park plans	
5c	Identify and preemptively manage neighborhood opposition (i.e., NIMBY, competing interests) as may arise	
Task 6	Outreach to Disadvantaged Communities	2
6a	Meet monthly or as needed with neighborhood stakeholders and opinion leaders to maintain communication and reinforce community partnerships.	
6b	Disadvantaged neighborhood canvassing to solicit project input/feedback	
6c	Disadvantaged neighborhood canvassing to recruit diverse volunteer participation	
Task 7	Project Coordination, Documentation and Reporting	2
7a	Recruit SoUL Community Leadership team	
7b	Develop SoUL volunteer communication strategy and tools	
7c	Provide social and traditional media relations	
7d	Meet monthlyCity of Ukiah Staff monthly and as needed to coordinate community and City efforts.	
7e	Collect project data to include # of plantings, survival rate, volunteer rate, volunteer hours, workforce development reporting, in-kind donations, partner organization involvement rate, pedestrian and bicycle trail use rates, and other measures as may be deemed beneficial	
7f	Closing the Gap Ribbon Cutting Ceremony	

Sonja Burgal, SoUL NCO Project Manager

Walk & Bike Mendocino is a Program of North Coast Opportunities

*413 N State St Ukiah CA 95482 * 707-467-3220 * sburgal@ncoinc.org

AGREEMENT FOR
PROFESSIONAL CONSULTING SERVICES
[Design Professional]

This Agreement, made and entered into this ____ day of _____, 2021 ("Effective Date"), by and between CITY OF UKIAH, CALIFORNIA, hereinafter referred to as "City" and NORTH COAST OPPORTUNITIES (NCO), a non-profit corporation organized and in good standing under the laws of the state of California, hereinafter referred to as "Consultant".

RECITALS

This Agreement is predicated on the following facts:

- a. City requires consulting services related to the terms of the California Natural Resources Agency (CNRA) South Ukiah Link (SoUL)" identified by the CNRA as Grant Agreement number U29193-0.
- b. Consultant represents that it has the qualifications, skills, experience and properly licensed to provide these services, and is willing to provide them according to the terms of this Agreement.
- c. City and Consultant agree upon the Scope-of-Work and Work Schedule attached hereto as Attachment "A", describing contract provisions for the project and setting forth the completion dates for the various services to be provided pursuant to this Agreement.

TERMS OF AGREEMENT

1.0 DESCRIPTION OF PROJECT

Project to construct an approximately 1.9 miles class 1 bike/pedestrian trail segment of the Great Redwood Trail along the former Northwestern Pacific railway.

Project elements funded by this grant include:

Approximately 1.9 miles class 1 ADA compatible bike/pedestrian trail
 Approximately two ADA compliant ramps connecting trail to shopping area
 ADA compliant crosswalk and Plant Road
 ADA compliant crosswalk at Norgard Ave
 ADA compliant crosswalk at Airport Park Blvd
 Propagation and planting of approximately
 204 trees including staking, fencing and shade cloth as needed
 600 grasses
 500 shrubs including Milkweed
 Approximately 30 CY of mulch
 Approximately 50 CY of compost
 Approximately 10 irrigation tables with misting
 Above ground irrigation
 Approximately 30,000 SF family gathering area
 Approximately three mounted picnic tables or equivalent family gathering furnishings
 Approximately 30,000 SF Native Plant Demonstration Garden
 Approximately 8 streetlights
 Approximately 3 interpretive signs
 Approximately one funding acknowledgement sign

The Consultant's responsibilities will include 1) Workforce Development, 2) Landscaping and Planting, 3) Volunteer Recruitment and Oversight, 4) Pocket Park Development, 5) Community Organization, Partnership Development, and Maintenance, 6) Outreach to Disadvantaged Communities, and 7) Project Coordination, Documentation, and Reporting.

- 1.1 The Project is described in detail in the attached Scope-of-Work (Attachment "A").
- 2.0 SCOPE OF SERVICES
- 2.1 As set forth in Attachment "A" Project Manager Scope of Work
- 2.2. Additional Services. Additional services, if any, shall only proceed upon written agreement between City and Consultant. The written Agreement shall be in the form of an Amendment to this Agreement.
- 3.0 CONDUCT OF WORK
- 3.1 Time of Completion. Consultant shall commence performance of services as required by the Scope-of-Work upon receipt of a Notice to Proceed from City and shall complete and submit final invoice for such services by February 1, 2023. Consultant shall complete all work in accordance with grant requirements and to the City's reasonable satisfaction, even if contract disputes arise or Consultant contends it is entitled to further compensation.
- 4.0 COMPENSATION FOR SERVICES
- 4.1 Basis for Compensation. For the performance of the professional services of this Agreement, Consultant shall be compensated on a time and expense basis not to exceed a guaranteed maximum dollar amount of \$152,000. Labor charges shall be based upon hourly billing rates for the various classifications of personnel employed by Consultant to perform the Scope of Work as set forth in the attached Attachment A, which shall include all direct and indirect costs and expenses of every kind or nature. Consultant shall complete the Scope of Work for the not-to-exceed guaranteed maximum, even if actual time and expenses exceed that amount.
- 4.2 Changes. Should changes in compensation be required because of changes to the Scope-of-Work of this Agreement, the parties shall agree in writing to any changes in compensation. "Changes to the Scope-of-Work" means different activities than those described in Attachment "A" and not additional time to complete those activities than the parties anticipated on the date they entered this Agreement.
- 4.3 Sub-contractor Payment. The use of sub-consultants or other services to perform a portion of the work of this Agreement shall be approved by City prior to commencement of work. The cost of sub-consultants shall be included within guaranteed not-to-exceed amount set forth in Section 4.1.
- 4.4 Terms of Payment. Payment to Consultant for services rendered in accordance with this contract shall be based upon submission of monthly invoices for the work satisfactorily performed prior to the date of invoice less any amount already paid to Consultant, which amounts shall be due and payable thirty (30) days after receipt by City. The invoices shall provide a description of each item of work performed, the time expended to perform each task, the fees charged for that task, and the direct expenses incurred and billed for. Invoices shall be accompanied by documentation sufficient to enable City to determine progress made and the expenses claimed.

5.0 ASSURANCES OF CONSULTANT

- 5.1 Independent Contractor. Consultant is an independent contractor and is solely responsible for its acts or omissions. Consultant (including its agents, servants, and employees) is not City's agent, employee, or representative for any purpose.

It is the express intention of the parties hereto that Consultant is an independent contractor and not an employee, joint venturer, or partner of City for any purpose whatsoever. City shall have no right to, and shall not control the manner or prescribe the method of accomplishing those services contracted to and performed by Consultant under this Agreement, and the general public and all governmental agencies regulating such activity shall be so informed.

Those provisions of this Agreement that reserve ultimate authority in City have been inserted solely to achieve compliance with federal and state laws, rules, regulations, and interpretations thereof. No such provisions and no other provisions of this Agreement shall be interpreted or construed as creating or establishing the relationship of employer and employee between Consultant and City.

Consultant shall pay all estimated and actual federal and state income and self-employment taxes that are due the state and federal government and shall furnish and pay worker's compensation insurance, unemployment insurance and any other benefits required by law for himself and his employees, if any. Consultant agrees to indemnify and hold City and its officers, agents and employees harmless from and against any claims or demands by federal, state or local government agencies for any such taxes or benefits due but not paid by Consultant, including the legal costs associated with defending against any audit, claim, demand or law suit.

Consultant warrants and represents that it is a properly licensed professional or professional organization with a substantial investment in its business and that it maintains its own offices and staff which it will use in performing under this Agreement.

- 5.2 Conflict of Interest. Consultant understands that its professional responsibility is solely to City. Consultant has no interest and will not acquire any direct or indirect interest that would conflict with its performance of the Agreement. Consultant shall not in the performance of this Agreement employ a person having such an interest. If the City Manager determines that the Consultant has a disclosure obligation under the City's local conflict of interest code, the Consultant shall file the required disclosure form with the City Clerk within 10 days of being notified of the City Manager's determination.

6.0 INDEMNIFICATION

- 6.1 Insurance Liability. Without limiting Consultant's obligations arising under Paragraph 6.2 Consultant shall not begin work under this Agreement until it procures and maintains for the full period of time allowed by law, surviving the termination of this Agreement insurance against claims for injuries to persons or damages to property, which may arise from or in connection with its performance under this Agreement.

A. Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. Insurance Services Office ("ISO) Commercial General Liability Coverage Form No. CG 20 10 10 01 and Commercial General Liability Coverage – Completed Operations Form No. CG 20 37 10 01.
2. ISO Form No. CA 0001 (Ed. 1/87) covering Automobile Liability, Code 1 "any auto" or Code 8, 9 if no owned autos and endorsement CA 0025.
3. Worker's Compensation Insurance as required by the Labor Code of the State of California and Employers Liability Insurance.

B. Minimum Limits of Insurance

Consultant shall maintain limits no less than:

1. General Liability: \$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage including operations, products and completed operations. If Commercial General Liability Insurance or other form with a general aggregate limit is used, the general aggregate limit shall apply separately to the work performed under this Agreement, or the aggregate limit shall be twice the prescribed per occurrence limit.
2. Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage.
3. Worker's Compensation and Employers Liability: Worker's compensation limits as required by the Labor Code of the State of California and Employers Liability limits of \$1,000,000 per accident.

C. Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the City. At the option of the City, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects to the City, its officers, officials, employees and volunteers; or the Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

D. Other Insurance Provisions

The policies are to contain, or be endorsed to contain, the following provisions:

1. General Liability and Automobile Liability Coverages
 - a. The City, its officers, officials, employees and volunteers are to be covered as additional insureds as respects; liability arising out of activities performed by or on behalf of the Consultant, products and completed operations of the Consultant, premises owned, occupied or used by the Consultant, or automobiles owned, hired or borrowed by the Consultant for the full period of time allowed by law, surviving the termination of this Agreement. The coverage shall contain no special limitations on the scope-of-protection afforded to the City, its officers, officials, employees or volunteers.

- b. The Consultant's insurance coverage shall be primary insurance as respects to the City, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees or volunteers shall be in excess of the Consultant's insurance and shall not contribute with it.
- c. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the City, its officers, officials, employees or volunteers.
- d. The Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

2. Worker's Compensation and Employers Liability Coverage

The insurer shall agree to waive all rights of subrogation against the City, its officers, officials, employees and volunteers for losses arising from Consultant's performance of the work, pursuant to this Agreement.

3. All Coverages

Each Insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City.

E. Acceptability of Insurers

Insurance is to be placed with admitted California insurers with an A.M. Best's rating of no less than A- for financial strength, AA for long-term credit rating and AMB-1 for short-term credit rating.

F. Verification of Coverage

Consultant shall furnish the City with Certificates of Insurance and with original Endorsements effecting coverage required by this Agreement. The Certificates and Endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The Certificates and Endorsements are to be on forms provided or approved by the City. All Certificates and Endorsements are to be received and approved by the City before Consultant begins the work of this Agreement. The City reserves the right to require complete, certified copies of all required insurance policies, at any time. If Consultant fails to provide the coverages required herein, the City shall have the right, but not the obligation, to purchase any or all of them. In that event, after notice to Consultant that City has paid the premium, the cost of insurance may be deducted from the compensation otherwise due the contractor under the terms of this Contract.

G. Subcontractors

Consultant shall include all sub-contractors or sub-consultants as insured under its policies or shall furnish separate certificates and endorsements for each sub-contractor

or sub-consultant. All coverage for sub-contractors or sub-consultants shall be subject to all insurance requirements set forth in this Paragraph 6.1.

- 6.2 Indemnification. Notwithstanding the foregoing insurance requirements, and in addition thereto, Consultant agrees, for the full period of time allowed by law, surviving the termination of this Agreement, to indemnify the City for any claim, cost or liability that arises out of, or pertains to, or relates to any negligent act or omission or the willful misconduct of Consultant and its agents in the performance of services under this contract, but this indemnity does not apply to liability for damages for death or bodily injury to persons, injury to property, or other loss, arising from the sole negligence, willful misconduct or defects in design by the City, or arising from the active negligence of the City.

"Indemnify," as used herein includes the expenses of defending against a claim and the payment of any settlement or judgment arising out of the claim. Defense costs include all costs associated with defending the claim, including, but not limited to, the fees of attorneys, investigators, consultants, experts and expert witnesses, and litigation expenses.

References in this paragraph to City or Consultant, include their officers, employees, agents, and subcontractors.

7.0 CONTRACT PROVISIONS

- 7.1 Documents and Ownership of Work. All documents furnished to Consultant by City and all documents or reports and supportive data prepared by Consultant under this Agreement are owned and become the property of the City upon their creation and shall be given to City immediately upon demand and at the completion of Consultant's services at no additional cost to City. Deliverables are identified in the Scope-of-Work, Attachment "A". All documents produced by Consultant shall be furnished to City in digital format and hardcopy. Consultant shall produce the digital format, using software and media approved by City.
- 7.2 Governing Law. Consultant shall comply with the laws and regulations of the United States, the State of California, and all local governments having jurisdiction over this Agreement. The interpretation and enforcement of this Agreement shall be governed by California law and any action arising under or in connection with this Agreement must be filed in a Court of competent jurisdiction in Mendocino County.
- 7.3 Entire Agreement. This Agreement plus its Attachment(s) and executed Amendments set forth the entire understanding between the parties.
- 7.4 Severability. If any term of this Agreement is held invalid by a court of competent jurisdiction, the remainder of this Agreement shall remain in effect.
- 7.5 Modification. No modification of this Agreement is valid unless made with the agreement of both parties in writing.
- 7.6 Assignment. Consultant's services are considered unique and personal. Consultant shall not assign, transfer, or sub-contract its interest or obligation under all or any portion of this Agreement without City's prior written consent.
- 7.7 Waiver. No waiver of a breach of any covenant, term, or condition of this Agreement shall be a waiver of any other or subsequent breach of the same or any other covenant, term or condition or a waiver of the covenant, term or condition itself.

7.8 Termination. This Agreement may only be terminated by either party: 1) for breach of the Agreement; 2) because funds are no longer available to pay Consultant for services provided under this Agreement; or 3) City has abandoned and does not wish to complete the project for which Consultant was retained. A party shall notify the other party of any alleged breach of the Agreement and of the action required to cure the breach. If the breaching party fails to cure the breach within the time specified in the notice, the contract shall be terminated as of that time. If terminated for lack of funds or abandonment of the project, the contract shall terminate on the date notice of termination is given to Consultant. City shall pay the Consultant only for services performed and expenses incurred as of the effective termination date. In such event, as a condition to payment, Consultant shall provide to City all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports prepared by the Consultant under this Agreement. Consultant shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder, subject to off-set for any direct or consequential damages City may incur as a result of Consultant's breach of contract.

7.9 Execution of Agreement. This Agreement may be executed in duplicate originals, each bearing the original signature of the parties. Alternatively, this Agreement may be executed and delivered by facsimile or other electronic transmission, and in more than one counterpart, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument. When executed using either alternative, the executed agreement shall be deemed an original admissible as evidence in any administrative or judicial proceeding to prove the terms and content of this Agreement.

8.0 NOTICES

Any notice given under this Agreement shall be in writing and deemed given when personally delivered or deposited in the mail (certified or registered) addressed to the parties as follows:

Tim Eriksen
City of Ukiah
Department of Public Works
300 Seminary Avenue
Ukiah, CA 95482-5400

Patty Bruder
North Coast Opportunities
413 North State Street
Ukiah, CA 95482

9.0 SIGNATURES

IN WITNESS WHEREOF, the parties have executed this Agreement the Effective Date:

CONSULTANT

BY: _____
Patty Bruder
EXECUTIVE DIRECTOR

Date

IRS IDN Number 94-1671958

CITY OF UKIAH

BY: _____
Sage Sangiacomo
CITY MANAGER

Date

ATTEST

CITY CLERK

Date

APPROVED AS TO FORM

BY: _____
David Rapport
CITY ATTORNEY

Date



AGENDA SUMMARY REPORT

SUBJECT: Adoption of an Ordinance Amending Division 1, Chapter 4, Article 4B of the City Code Regarding the Procedure for Filling Vacancies on the Design Review Board.

DEPARTMENT: City Clerk

PREPARED BY: Kristine Lawler, City Clerk

PRESENTER: Kristine Lawler, City Clerk and Craig Schlatter, Community Development Director.

ATTACHMENTS:

1. Proposed Ordinance - Redline
2. Proposed Ordinance - Clean
3. Design Review Board Application
4. Design Review Board Roster

Summary: The City Council will consider adopting an Ordinance Amending Section 1161 of Division 1, Chapter 4, Article 4B of the City Code Regarding Appointment of Design Review Board Members.

Background: The Design Review Board (DRB) consists of five members who have experience in architecture and design, landscape architecture, building contracting, urban planning, civil engineering, or similar field of study. Up to two members shall be at-large without a residence or business located within the City. If no at-large candidates are available, the City Council may fill the board seats with City residents or City business owners.

The function of the DRB is to review proposed site development permit applications, planned development applications and precise development plans, work with staff and the applicants to ensure design consistency with the Ukiah General Plan, Zoning Code, and Design Review Guidelines, and make recommendations concerning architecture, site design layout, landscaping, parking, signage, exterior lighting, and other aspects of urban design to City Staff, the Zoning Administrator, Planning Commission and City Council as appropriate.

The current practice for making appointments to the DRB is that at or near the beginning of his or her four-year term of office, each member of the City Council may nominate one Board member who shall be appointed to the Board, if approved by a majority vote of the City Council. Each Board member's term of office shall coincide with the four-year term of office of the City Council member who nominated him or her.

At the September 15, 2021, regular City Council meeting, Council unanimously voted (Crane absent) to introduce the Ordinance by title only amending Section 1161 of Division 1, Chapter 4, Article 4B of the City Code regarding appointment of Design Review Board Members.

Discussion: Staff is proposing to amend the appointment process for the DRB to reflect the same appointment process now used for Planning Commissioners. The DRB Appointment Ordinance, a redlined version of which is attached here as Attachment 1 and a clean version as Attachment 2, amends Section 1161 of Division 1, Chapter 4, Article 4B of the City Code so that vacancies on the DRB will be filled through a process in which interested candidates will file an application (a draft version of which is attached here as Attachment 3) stating their interest in the position and setting forth qualifications. After all applications are

received, the City Council will review applications, interview candidates, and select a new DRB Member by majority vote. Council is authorized to establish a formal review and selection process by resolution of the Council. DRB Members serve at the will of the City Council and will serve a term of four (4) years, though Members may be appointed to successive terms without limitations.

Should a DRB Member vacate the position before the end of their term, replacement candidates will be invited to submit applications for the vacant position, after which the City Council will initiate the review process and select a candidate by majority vote.

The interview and voting process for a vacant DRB Member position will take place at a single City Council meeting, unless a different procedure is approved by a majority vote of the City Council.

Please note that adoption of this Ordinance will not affect the terms of the current DRB Members. They will continue to serve at the will of the Council. The current DRB Roster showing the term expirations is attached here as Attachment 4.

Recommended Action: Adopt Ordinance amending Division 1, Chapter 4, Article 4B of the City Code regarding the procedure for filling vacancies on the Design Review Board.

BUDGET AMENDMENT REQUIRED: N/A

CURRENT BUDGET AMOUNT: N/A

PROPOSED BUDGET AMOUNT: N/A

FINANCING SOURCE: N/A

PREVIOUS CONTRACT/PURCHASE ORDER NO.: N/A

COORDINATED WITH: Craig Schlatter, Community Development Director

Approved: 
Sage Sangiacomo, City Manager

ORDINANCE NO. _____

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF UKIAH AMENDING DIVISION 1, CHAPTER 4, ARTICLE 4B, SECTION 1161 OF THE CITY CODE REGARDING APPOINTMENT OF DESIGN REVIEW BOARD MEMBERS.

The City Council of the City of Ukiah hereby ordains as follows:

SECTION ONE.

Section 1161 of Division 1, Chapter 4, Article 4B of the Ukiah City Code is hereby amended to read as follows:

§1161 MEMBERS; APPOINTMENT; TERM

Members of the Design Review Board shall be appointed by a majority of the City Council, each to serve at the will of the City Council up to a term of four (4) years. Members may be appointed to successive terms without limitations. Members shall be appointed according to procedures established by resolution of the City Council and shall be required to complete an application. ~~Board shall consist of a total of five (5) members, of which at least three (3) members shall be residents of the City or a business owner in the City and up to two (2) members shall be at-large without a residence or business located within the City. If no at-large candidates are available, the City Council may fill the board seats with City residents or City business owners. At or near the beginning of his or her four (4) year term of office, each member of the City Council may nominate one Board member who shall be appointed to the Board, if approved by a majority vote of the City Council. Each Board member's term of office shall coincide with the four (4) year term of office of the City Council member who nominated him or her, regardless of whether that City Council member serves his or her full four (4) year term.~~

If a Board member vacates his or her office before the expiration of his or her term of office, a successor shall be appointed by a majority of the City Council upon receipt and review of applications for the vacant appointment. ~~the City Council member who nominated that Board member (or a City Council member elected or appointed to fill the remaining unexpired term of office of the City Council member who appointed the Board member) may nominate a replacement to serve the remainder of that Board member's term of office, who shall be appointed, if the nomination is approved by a majority vote of the City Council.~~

~~If a City Council member's nomination receives less than a majority vote, he or she may nominate additional candidates, one at a time, until one of them is appointed by a majority vote of the City Council.~~ Board members shall be nominated and voted upon at a single City Council meeting, unless a different procedure is approved by a majority vote of the City Council. ~~If a City Council member fails to nominate a Board member within sixty (60) days after the vacancy occurs, a majority of the City Council shall fill the vacancy following the procedure used to appoint members to other City Commissions and Boards.~~

SECTION TWO.

1. Publication: Within fifteen (15) days after its adoption, this Ordinance shall be published once in a newspaper of general circulation in the City of Ukiah. In lieu of

publishing the full text of the Ordinance, the City may publish a summary of the Ordinance once 5 days prior to its adoption and again within fifteen (15) days after its adoption.

2. Effective Date: The ordinance shall become effective thirty (30) days after its adoption.

Introduced by title only on _____, 2021, by the following roll call vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Adopted on _____, 2021, by the following roll call vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Juan V. Orozco, Mayor

ATTEST:

Kristine Lawler, City Clerk

ORDINANCE NO. _____

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF UKIAH AMENDING DIVISION 1, CHAPTER 4, ARTICLE 4B, SECTION 1161 OF THE CITY CODE REGARDING APPOINTMENT OF DESIGN REVIEW BOARD MEMBERS.

The City Council of the City of Ukiah hereby ordains as follows:

SECTION ONE.

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§1161 MEMBERS; APPOINTMENT; TERM

Members of the Design Review Board shall be appointed by a majority of the City Council, each to serve at the will of the City Council up to a term of four (4) years. Members may be appointed to successive terms without limitations. Members shall be appointed according to procedures established by resolution of the City Council and shall be required to complete an application.

If a Board member vacates his or her office before the expiration of his or her term of office, a successor shall be appointed by a majority of the City Council upon receipt and review of applications for the vacant appointment.

Board members shall be nominated and voted upon at a single City Council meeting, unless a different procedure is approved by a majority vote of the City Council.

SECTION TWO.

1. Publication: Within fifteen (15) days after its adoption, this Ordinance shall be published once in a newspaper of general circulation in the City of Ukiah. In lieu of publishing the full text of the Ordinance, the City may publish a summary of the Ordinance once 5 days prior to its adoption and again within fifteen (15) days after its adoption.
2. Effective Date: The ordinance shall become effective thirty (30) days after its adoption.

Introduced by title only on _____, 2021, by the following roll call vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Adopted on _____, 2021, by the following roll call vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Juan V. Orozco, Mayor

ATTEST:

Kristine Lawler, City Clerk

**DESIGN REVIEW BOARD APPLICATION FOR APPOINTMENT****A. General Information**

Full Name					Date		
Residence Address (Physical Address, not PO)							
Mailing Address (if different from above)							
Home Phone	()			Work Phone	()		
Email	@			Cell Phone	()		
Employer							
Business Address							
Job Title/Position					Employed Since		
How long have you resided in:	Ukiah?		Mendocino County?		California?		
Please list community groups or organizations you are affiliated with and list any offices held.							

B. Please answer the following on a separate sheet(s) of paper and attach.

1. Why are you applying to serve on the City of Ukiah's Design Review Board?
2. What is your understanding of the purpose, role and responsibility of the Design Review Board?
3. Please list any volunteer, civic or charitable organizations to which you serve or have served. Have you held an officer position in any of these organizations?
4. How do you believe your own skills, experience, expertise and perspectives will be beneficial to the work of the Design Review Board?
5. Can you commit to preparing for and attending at least one meeting of the Design Review Board per month?
Note: for most monthly agendas, the average time needed for preparation and attendance is 2-3 hours.
6. Please describe your experience in architecture/design, community, city, urban or environmental planning, construction, engineering or surveying, and/or historical or cultural preservation.
7. Are you interested in serving on any other Boards or Commissions of the City? If so, which one(s)?

Signature of Applicant_____
Date

Thank you for your interest in serving your community and the City of Ukiah.

Please return this application and attachments to the City Clerk's office at 300 Seminary Avenue, Ukiah, CA 95482. If you have any questions, please contact the City Clerk's office at (707) 463-6217.

Design Review Board

Board Contact Person: Michelle Irace – 463-6207

Established: Ordinance 1136, Adopted on June 6, 2012

City Dept. Affiliation: Planning Department

Membership: Board shall consist of a total of five (5) members, of which at least three (3) members shall be residents of the City or a business owner in the City and up to two (2) members shall be at-large without a residence or business located within the City. If no at-large candidates are available, the City Council may fill the board seats with City residents or City business owners. Board members shall have sufficient education and/or experience to perform and fulfill the duties required in section 1169 (See Function). This education and/or experience may consist of a college degree, professional license, or employment experience in architecture and design, landscape architecture, building contracting, urban planning, civil engineering, or similar field of study. Alternatively, the City Council may determine that a combination of education and/or experience in lieu of a college degree, professional license, or employment experience may qualify a candidate for the Board.

Term: At or near the beginning of his or her four (4) year term of office, each members of the City Council may nominate one Board members who shall be appointed to the Board, if approved by a majority vote of the City Council. Each Board member's term of office.

Appointed By: City Council: If a City Council member's nomination receives less than a majority vote, he or she may nominate additional candidates, one at a time, until one of them is appointed by a majority vote of the City Council. Board members shall be nominated and voted upon at a single City Council meeting, unless a different procedure is approved by a majority vote of the City Council. If a City Council member fails to nominate a Board member within sixty (60) days after the vacancy occurs, a majority of the City Council shall fill the vacancy following the procedure used to appoint Members to other City Commissions and Boards.

Meets: The Board shall hold at least one regular meeting each month at a time and place established by the Board, unless a lack of business or a lack of a quorum occurs.

Function: It shall be the function and duty of the Design Review Board to review proposed site development permit applications, planned development applications and precise development plans, work with staff and the applicants to ensure design consistency with the Ukiah General Plan, Zoning Code, and Design Review Guidelines, and make recommendations concerning architecture, site design layout, landscaping, parking, signage, exterior lighting, and other aspects of urban design to city staff, Zoning Administrator, Planning Commission and City Council as appropriate.

Name/Address	Contact Info	Member Position	Current Appt. Date	Expiration Date
Howell Hawkes [REDACTED]	[REDACTED]	Member - City Resident/Property or Business Owner	12/19/2018	12/7/2022
Colin Morrow [REDACTED]	[REDACTED]	Member - City Resident/Property or Business Owner	12/19/2018	12/7/2022
Tom Liden [REDACTED]	[REDACTED]	Member - City Resident/Property or Business Owner	12/19/2018	12/7/2022
VACANT		Member - Community at Large		
VACANT		Member - Community at Large		



AGENDA SUMMARY REPORT

SUBJECT: Notification to the City Council of Purchase Order #47493 Issued to Arrow Fencing to Replace Fencing Lost in the Highway Fire at the Water Treatment Plant (WTP) in the Amount of \$25,200.

DEPARTMENT: Finance

PREPARED BY: Mary Williamson, Buyer II

PRESENTER: Consent Calendar

ATTACHMENTS:

1. Arrow Fencing Proposal 0927

Summary: The City Council is being notified of Purchase Order #47493 issued to Arrow Fencing to replace fencing lost in the Highway Fire at the Water Treatment Plant (WTP) in the amount of \$25,200.

Background: Pursuant to the requirements of Section 1522 of the Municipal Code, staff is reporting to City Council the expenditure for replacing fencing lost in the Highway Fire at the Water Treatment Plant in the amount of \$25,200.

Discussion: Based on the urgency of this work to secure the facility and the Ranny, only one quote was obtained from a firm that has previously performed quality work for the City. That quote is attached here as Attachment 1.

Recommended Action: Council will receive a report on Purchase Order #47493 issued to Arrow Fencing for fence replacement at the Water Treatment Plant (WTP) in the amount of \$25,200.

BUDGET AMENDMENT REQUIRED: N/A

CURRENT BUDGET AMOUNT: 82027111.52100.18286: \$25,200.00

PROPOSED BUDGET AMOUNT: N/A

FINANCING SOURCE: Water Fund

PREVIOUS CONTRACT/PURCHASE ORDER NO.: PO 47493

COORDINATED WITH:

Approved: 
Sage Sangiacomo, City Manager



Agricultural • Commercial • Residential

State & Federal

License # 585041

ARROW FENCING
CALPELLA, CA 95418
Arrowfencingca.com

P.O. BOX 385
707-485-1128 Fax: 707-485-1142
chris@arrowfencingca.com

PROPOSAL/CONTRACT

Page 1
09/27/2021

Customer Information:

City Of Ukiah
1320 Airport Rd
Ukiah, CA 95482

Job Information:

Dave 467-5785
Ranney fence

Notes:

- Install 6' tall open chain link fence as per plan Plus install fence under the Ranney on two sides \$25,200.00

Price good for 7 days

ARROW FENCING - CALIFORNIA CONTRACTORS LICENSE #585041

NOTICE TO OWNER: (SECTION 7019 - CONTRACTORS LICENSE LAW) UNDER THE MECHANIC'S LIEN LAW, ANY CONTRACTOR, SUBCONTRACTOR, LABORER, MATERIALMAN OR OTHER PERSON WHO HELPS TO IMPROVE YOUR PROPERTY AND IS NOT PAID FOR HIS LABOR, SERVICES OR MATERIAL, HAS A RIGHT TO ENFORCE HIS CLAIM AGAINST YOUR PROPERTY.

UNDER THE LAW, YOU MAY PROTECT YOURSELF AGAINST SUCH CLAIMS BY FILING, BEFORE COMMENCING SUCH WORK OR IMPROVEMENT, AN ORIGINAL CONTRACT FOR THE WORK OF IMPROVEMENT OR A MODIFICATION THEREOF, IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY WHERE THE PROPERTY IS SITUATED AND REQUIRING THAT A CONTRACTOR'S PAYMENT BOND BE RECORDED IN SUCH OFFICE. SAID BOND SHALL BE IN AN AMOUNT NOT LESS THAN FIFTY PERCENT (50/5) OF THE CONTRACT PRICE AND SHALL, IN ADDITION TO ANY CONDITIONS FOR THE PERFORMANCE OF THE CONTRACT, BE CONDITIONED FOR THE PAYMENT IN FULL OF THE CLAIMS OF ALL PERSONS FURNISHING LABOR, SERVICES, EQUIPMENT OR MATERIALS FOR THE WORK DESCRIBED IN SAID CONTRACT.

The responsibility for complying with local zoning regulations and obtaining any required permits shall rest with the customer. ARROW FENCING will assist the customer, upon request, in determining where the fence is to be erected, but under no circumstance does ARROW FENCING assume any responsibility concerning property lines or in any way guarantee their accuracy. If property pins cannot be located it is recommended that the customer have the property surveyed.

ARROW FENCING assumes no responsibility for damage to underground utilities, public or private. The customer will assume all liability for any damage caused by directing ARROW FENCING to dig in the immediate vicinity of known utilities.

The final billing will be based on the actual footage of fencing built and the work performed. Partial billing for materials delivered to the job site and work completed may be sent at weekly intervals. Adjustments for material used on this job and adjustments for labor will be charged or credited at the currently established rates.

Additional charges for any extra work not covered in this contract that was requested by the customer will also be added. The full amount of this contract along with any additional charges will become payable upon completion of all work whether or not it has been invoiced.

A finance charge of 1 1/2% per month (for a minimum of \$1.00), which is an annual percentage rate of 18%, shall be applied to accounts that are not paid within 10 days after completion of any work invoiced. All materials will remain the property of ARROW FENCING until all invoices pertaining to this job are paid in full. The customer agrees to pay all interest and any costs incurred in the collection of this debt.

CONTRACTORS ARE REQUIRED BY LAW TO BE LICENSED AND REGULATED BY THE CONTRACTOR'S STATE LICENSE BOARD. ANY QUESTIONS CONCERNING A CONTRACTOR MAY BE REFERRED TO THE REGISTRAR, CONTRACTORS STATE LICENSE BOARD, [9835 Goethe Road], Sacramento, California. [Mailing Address: P.O. Box 26000, Sacramento, California 95827.]

Approved & Accepted for Customer:

Customer _____ Date _____

Accepted for ARROW FENCING:

Salesperson _____ Date _____

Contract Amount: \$ _____

Down Payment: \$ _____

Balance Due: \$ _____



AGENDA SUMMARY REPORT

SUBJECT: Request Approval to Amend the Contract with Utility Design Services to Increase Design and Engineering Contract Funding for Electric Capital Improvement Projects in the amount of \$260,000.

DEPARTMENT: Electric Utility

PREPARED BY: Diann Lucchetti, Administrative Secretary

PRESENTER: Consent Calendar

ATTACHMENTS:

1. COU# 1314-213

Summary: Council will consider approving an amendment to the contract with Utility Design Services to increase design and engineering contract funding for Electric capital improvement projects in the amount of \$260,000.

Background: The Electric Utility continues to expand its Capital projects to improve the electric system performance, reliability and capability. These projects either upgrade the system's reliability through replacement of end of life equipment or improve system performance and efficiency using updated technology. The additional funding would provide design services for projects including new undergrounding projects, 4160 Volt to 12,000 Volt conversion at the Fairgrounds, Western Hills Development, overhead conductor upgrades and main feeder re-enforcements. In addition, Utility Design Services, LLC provides survey support services required for most projects to obtain easements for equipment placement and in the preparation of legal descriptions.

Utility Design Services has provided engineering and design services for the City of Ukiah Electric Department for many years and has thorough knowledge of the City's electric system, it's policies and design standards.

Discussion: The Electric Utility Department's aggressive improvement projects will upgrade many areas of the electric system that were built with direct buried cable and minimal switching points. Additionally, reconstruction projects are planned in congested areas where space is limited. The balance of the Electric Utility Department's workload includes new customer projects, low impact system improvements, inspection services and normal system maintenance. The broad range of projects result in labor intensive designs with challenging construction coordination.

Utility Design Services, LLC is highly qualified with years of industry and Ukiah knowledge to assist our design and construction team. This professional support helps ensure the Electric Utility Department's capital improvements are designed and constructed while we continue to provide customer support and system maintenance. A general range of services are provided including: project design, drafting and record support, survey and public utility easement procurement and construction management.

To ensure necessary level of engineering support to meet current engineering demands and continue necessary system improvements, Staff recommends approval of the contract funding amendment. Funds are budgeted in the Fiscal Year 2021-2022 Budget.

A copy of the contract (Attachment 1) has been attached to this staff report for reference.

Recommended Action: Approve an amendment to the contract with Utility Design Services to increase design and engineering contract funding for Electric capital improvement projects in the amount of \$260,000.

BUDGET AMENDMENT REQUIRED: No

CURRENT BUDGET AMOUNT: \$160,000; FY21/22; 80126100.80230 and 80026400.52100; FY21/22 \$100,000

PROPOSED BUDGET AMOUNT: N/A

FINANCING SOURCE: 80126100.80230 Capital & Maintenance Projects and 80026400.52100 Contracted Services-Admin.

PREVIOUS CONTRACT/PURCHASE ORDER NO.: COU 1314213

COORDINATED WITH: N/A

Approved: 
Sage Sangiacomo, City Manager

CITY OF UKIAH
AMENDMENT NO. 1
TO
PROFESSIONAL SERVICES CONTRACT 1314213
BETWEEN
UTILITY DESIGN SERVICES, LLC and THE CITY OF UKIAH

This Amendment No. 1, entered on June 22, 2016, revises the Agreement for Professional services dated April 30, 2014 between the City of Ukiah and Utility Design Services, LLC for professional consulting services relating to Distribution System Design and Project Management Support Services.

This Amendment No. 1 adds to the contract the following:

1. Additional 18 months for time of completion, revising the expiration of the agreement to October 30th, 2018.
2. Revising the guaranteed maximum dollar amount by an additional \$120,000.00, for a revised, total contract amount not-to-exceed \$300,000.00.

Except as expressly amended by this Amendment, all other terms remain unchanged and in full force and effect.

IN WITNESS WHEREOF, THE PARTIES HAVE EXECUTED THIS AMENDMENT ON THE EFFECTIVE DATE:

UTILITY DESIGN SERVICES, LLC

BY: 

AL SMATSKY

DATE: JUNE 22, 2016

CITY OF UKIAH

BY: 

SAGE SANGIACOMO, CITY MANAGER

DATE: 6-28-16

ATTEST

BY: 

KRISTINE LAWLER, CITY CLERK

DATE: 6-28-16

CITY OF UKIAH
AMENDMENT NO. 2
TO
PROFESSIONAL SERVICES CONTRACT 1314213
BETWEEN
UTILITY DESIGN SERVICES, LLC and THE CITY OF UKIAH

This Amendment No. 2, entered on March 5, 2018, revises the Agreement for Professional services dated April 30, 2014 between the City of Ukiah and Utility Design Services, LLC for professional consulting services relating to Distribution System Design and Project Management Support Services.

This Amendment No. 2 adds to the contract the following:

1. Eliminates specific time of completion. Agreement to be utilized as needed, and may be terminated as per Section 7.8.
2. Revising the guaranteed maximum dollar amount by an additional \$180,000.00, for a revised, total contract amount not-to-exceed \$480,000.00.

Except as expressly amended by this Amendment, all other terms remain unchanged and in full force and effect.

IN WITNESS WHEREOF, THE PARTIES HAVE EXECUTED THIS AMENDMENT ON THE EFFECTIVE DATE:

UTILITY DESIGN SERVICES, LLC

BY: 
 AL SMATSKY

DATE: March 3 2018

CITY OF UKIAH

BY: 
 SAGE SANGIACOMO, CITY MANAGER

DATE: 3/12/18

ATTEST

BY: 
 KRISTINE LAWLER, CITY CLERK

DATE: 3/12/18

CITY OF UKIAH
AMENDMENT NO. 3
TO
PROFESSIONAL SERVICES CONTRACT 1314213
BETWEEN
UTILITY DESIGN SERVICES, LLC and THE CITY OF UKIAH

This Amendment No. 3, entered on February 20, 2019, revises the Agreement for Professional services dated April 30, 2014 between the City of Ukiah and Utility Design Services, LLC for professional consulting services relating to Distribution System Design and Project Management Support Services.

This Amendment No. 2 adds to the contract the following:

1. Revising the guaranteed maximum dollar amount by an additional \$300,000, for a revised, total contract amount not-to-exceed \$780,000.

Except as expressly amended by this Amendment, all other terms remain unchanged and in full force and effect.

IN WITNESS WHEREOF, THE PARTIES HAVE EXECUTED THIS AMENDMENT ON THE EFFECTIVE DATE:

UTILITY DESIGN SERVICES, LLC

BY: Al Smatsky
AL SMATSKY

DATE: Feb 20 2019

CITY OF UKIAH

BY: Sage Sangiacomo
SAGE SANGIACOMO, CITY MANAGER

DATE: 2-25-19

ATTEST

BY: Kristine Lawler
KRISTINE LAWLER, CITY CLERK

DATE: 2-25-19

CITY OF UKIAH
AMENDMENT NO. 4
TO
PROFESSIONAL SERVICES CONTRACT 1314213
BETWEEN
UTILITY DESIGN SERVICES, LLC and THE CITY OF UKIAH

This Amendment No. 4, entered on April 14, 2020, revises the Agreement for Professional services dated April 30, 2014 between the City of Ukiah and Utility Design Services, LLC for professional consulting services relating to Distribution System Design and Project Management Support Services.

This Amendment No. 4 revises the following:

1. Rate schedule has been revised per Attachment A for the 2020 calendar year.

Except as expressly amended by this Amendment, all other terms remain unchanged and in full force and effect.

IN WITNESS WHEREOF, THE PARTIES HAVE EXECUTED THIS AMENDMENT ON THE EFFECTIVE DATE:

UTILITY DESIGN SERVICES, LLC

BY: 
 AL SMATSKY

DATE: April 4 2020

CITY OF UKIAH

BY: 
 SAGE SANGIACOMO, CITY MANAGER

DATE: 4/17/20

ATTEST

BY: 
 KRISTINE LAWLER, CITY CLERK

DATE: 4/20/20

March 12 2020

ELECTRICAL UTILITY DESIGN CONSULTANT

Utility Design Services LLC

Prepares detailed electrical designs, engineered construction drawings and cost estimates for electric system reliability and capital improvement projects.

Designs street lighting systems and prepares construction drawings.

Coordinates project design with other City departments and utilities.

Negotiate easements and right-of-ways for all utility projects.

Prepares bid specifications and council communications.

Inspection services performed throughout construction representing the client to insure conformance with design, specifications and pertinent regulations.

Hourly Rates

Design Consultant \$ 145/hr

Junior Design Consultant \$ 110/hr

Civil Engineer \$225/hr

Drafting Technician \$90/hr

The following direct charges are charged in addition to the hourly charge rates set forth above.

Direct Charges:

Travel subsistence, air travel, motel, meals, etc.: Cost + 20%

Vehicles \$ 10.00/day plus \$ 0.57.5/mile

AGREEMENT FOR
PROFESSIONAL CONSULTING SERVICES

This Agreement, made and entered into this 30th day of April, 2014 ("Effective Date"), by and between CITY OF UKIAH, CALIFORNIA, hereinafter referred to as "City" and Utility Design Services, LLC., a limited liability company organized and in good standing under the laws of the state of California, hereinafter referred to as "Consultant",

RECITALS

This Agreement is predicated on the following facts:

- a. City requires consulting services related to Distribution System Design and Project Management Support Services.
- b. Consultant represents that it has the qualifications, skills, experience and properly licensed to provide these services, and is willing to provide them according to the terms of this Agreement.
- c. City and Consultant agree upon the Scope-of-Work and Work Schedule attached hereto as Attachment "A", describing contract provisions for the project and setting forth the completion dates for the various services to be provided pursuant to this Agreement.

TERMS OF AGREEMENT

1.0 DESCRIPTION OF PROJECT

- 1.1 The Project is described in detail in the attached Scope-of-Work (Attachment "A").

2.0 SCOPE OF SERVICES

- 2.1 As set forth in Attachment "A".
- 2.2. Additional Services. Additional services, if any, shall only proceed upon written agreement between City and Consultant. The written Agreement shall be in the form of an Amendment to this Agreement.

3.0 CONDUCT OF WORK

- 3.1 Time of Completion. Consultant shall commence performance of services as required by the Scope-of-Work upon receipt of a Notice to Proceed from City and shall complete such services within three years from the effective date. Consultant shall complete the work to the City's reasonable satisfaction; even if contract disputes arise or Consultant contends it is entitled to further compensation.

4.0 COMPENSATION FOR SERVICES

- 4.1 Basis for Compensation. For the performance of the professional services of this Agreement, Consultant shall be compensated on a time and expense basis not to exceed a guaranteed maximum dollar amount of \$180,000. Labor charges shall be based upon hourly billing rates for the various classifications of personnel employed by

Consultant to perform the Scope of Work as set forth in the attached Attachment A, which shall include all indirect costs and expenses of every kind or nature, except direct expenses. The direct expenses and the fees to be charged for same shall be as set forth in Attachment A. Consultant shall complete the Scope of Work for the not-to-exceed guaranteed maximum, even if actual time and expenses exceed that amount.

4.2 Changes. Should changes in compensation be required because of changes to the Scope-of-Work of this Agreement, the parties shall agree in writing to any changes in compensation. "Changes to the Scope-of-Work" means different activities than those described in Attachment "A" and not additional time to complete those activities than the parties anticipated on the date they entered this Agreement.

4.3 Sub-contractor Payment. The use of sub-consultants or other services to perform a portion of the work of this Agreement shall be approved by City prior to commencement of work. The cost of sub-consultants shall be included within guaranteed not-to-exceed amount set forth in Section 4.1.

4.4 Terms of Payment. Payment to Consultant for services rendered in accordance with this contract shall be based upon submission of monthly invoices for the work satisfactorily performed prior to the date of the invoice less any amount already paid to Consultant, which amounts shall be due and payable thirty (30) days after receipt by City. The invoices shall provide a description of each item of work performed, the time expended to perform each task, the fees charged for that task, and the direct expenses incurred and billed for. Invoices shall be accompanied by documentation sufficient to enable City to determine progress made and to support the expenses claimed.

5.0 ASSURANCES OF CONSULTANT

5.1 Independent Contractor. Consultant is an independent contractor and is solely responsible for its acts or omissions. Consultant (including its agents, servants, and employees) is not the City's agent, employee, or representative for any purpose.

It is the express intention of the parties hereto that Consultant is an independent contractor and not an employee, joint venturer, or partner of City for any purpose whatsoever. City shall have no right to, and shall not control the manner or prescribe the method of accomplishing those services contracted to and performed by Consultant under this Agreement, and the general public and all governmental agencies regulating such activity shall be so informed.

Those provisions of this Agreement that reserve ultimate authority in City have been inserted solely to achieve compliance with federal and state laws, rules, regulations, and interpretations thereof. No such provisions and no other provisions of this Agreement shall be interpreted or construed as creating or establishing the relationship of employer and employee between Consultant and City.

Consultant shall pay all estimated and actual federal and state income and self-employment taxes that are due the state and federal government and shall furnish and pay worker's compensation insurance, unemployment insurance and any other benefits required by law for himself and his employees, if any. Consultant agrees to indemnify and hold City and its officers, agents and employees harmless from and against any claims or demands by federal, state or local government agencies for any such taxes or benefits due but not paid by Consultant, including the legal costs associated with defending against any audit, claim, demand or law suit.

Consultant warrants and represents that it is a properly licensed professional or professional organization with a substantial investment in its business and that it maintains its own offices and staff which it will use in performing under this Agreement.

- 5.2 Conflict of Interest. Consultant understands that its professional responsibility is solely to City. Consultant has no interest and will not acquire any direct or indirect interest that would conflict with its performance of the Agreement. Consultant shall not in the performance of this Agreement employ a person having such an interest. If the City Manager determines that the Consultant has a disclosure obligation under the City's local conflict of interest code, the Consultant shall file the required disclosure form with the City Clerk within 10 days of being notified of the City Manager's determination.

6.0 INDEMNIFICATION

- 6.1 Insurance Liability. Without limiting Consultant's obligations arising under Paragraph 6.2 Consultant shall not begin work under this Agreement until it procures and maintains for the full period of time allowed by law, surviving the termination of this Agreement insurance against claims for injuries to persons or damages to property, which may arise from or in connection with its performance under this Agreement.

A. Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. Insurance Services Office ("ISO) Commercial General Liability Coverage Form No. CG 20 10 10 01 and Commercial General Liability Coverage – Completed Operations Form No. CG 20 37 10 01.
2. ISO Form No. CA 0001 (Ed. 1/87) covering Automobile Liability, Code 1 "any auto" or Code 8, 9 if no owned autos and endorsement CA 0025.
3. Worker's Compensation Insurance as required by the Labor Code of the State of California and Employers Liability Insurance.
4. Errors and Omissions liability insurance appropriate to the consultant's profession. Architects' and engineers' coverage is to be endorsed to include contractual liability.

B. Minimum Limits of Insurance

Consultant shall maintain limits no less than:

1. General Liability: \$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage including operations, products and completed operations. If Commercial General Liability Insurance or other form with a general aggregate limit is used, the general aggregate limit shall apply separately to the work performed under this Agreement, or the aggregate limit shall be twice the prescribed per occurrence limit.
2. Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage.

3. Worker's Compensation and Employers Liability: Worker's compensation limits as required by the Labor Code of the State of California and Employers Liability limits of \$1,000,000 per accident.
4. Errors and Omissions liability: \$1,000,000 per occurrence.

C. Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the City. At the option of the City, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects to the City, its officers, officials, employees and volunteers; or the Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

D. Other Insurance Provisions

The policies are to contain, or be endorsed to contain, the following provisions:

1. General Liability and Automobile Liability Coverages

- a. The City, its officers, officials, employees and volunteers are to be covered as additional insureds as respects; liability arising out of activities performed by or on behalf of the Consultant, products and completed operations of the Consultant, premises owned, occupied or used by the Consultant, or automobiles owned, hired or borrowed by the Consultant for the full period of time allowed by law, surviving the termination of this Agreement. The coverage shall contain no special limitations on the scope-of-protection afforded to the City, its officers, officials, employees or volunteers.
- b. The Consultant's insurance coverage shall be primary insurance as respects to the City, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees or volunteers shall be in excess of the Consultant's insurance and shall not contribute with it.
- c. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the City, its officers, officials, employees or volunteers.
- d. The Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

2. Worker's Compensation and Employers Liability Coverage

The insurer shall agree to waive all rights of subrogation against the City, its officers, officials, employees and volunteers for losses arising from Consultant's performance of the work, pursuant to this Agreement.

3. Professional Liability Coverage

If written on a claims-made basis, the retroactivity date shall be the effective date of this Agreement. The policy period shall extend from a one year period from the completion of the work performed under this agreement.

4. All Coverages

Each Insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City.

E. Acceptability of Insurers

Insurance is to be placed with admitted California insurers with an A.M. Best's rating of no less than A- for financial strength, AA for long-term credit rating and AMB-1 for short-term credit rating.

F. Verification of Coverage

Consultant shall furnish the City with Certificates of Insurance and with original Endorsements effecting coverage required by this Agreement. The Certificates and Endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The Certificates and Endorsements are to be on forms provided or approved by the City. Where by statute, the City's Workers' Compensation - related forms cannot be used; equivalent forms approved by the Insurance Commissioner are to be substituted. All Certificates and Endorsements are to be received and approved by the City before Consultant begins the work of this Agreement. The City reserves the right to require complete, certified copies of all required insurance policies, at any time. If Consultant fails to provide the coverages required herein, the City shall have the right, but not the obligation, to purchase any or all of them. In that event, the cost of insurance becomes part of the compensation due the contractor after notice to Consultant that City has paid the premium.

G. Subcontractors

Consultant shall include all subcontractors or sub-consultants as insured under its policies or shall furnish separate certificates and endorsements for each subcontractor or sub-consultant. All coverage for sub-contractors or sub-consultants shall be subject to all insurance requirements set forth in this Paragraph 6.1.

- 6.2 Indemnification. Notwithstanding the foregoing insurance requirements, and in addition thereto, Consultant agrees, for the full period of time allowed by law, surviving the termination of this Agreement, to indemnify the City for any claim, cost or liability that arises out of, or pertains to, or relates to any negligent act or omission or the willful misconduct of Consultant in the performance of services under this contract by Consultant, but this indemnity does not apply to liability for damages for death or bodily injury to persons, injury to property, or other loss, arising from the sole negligence, willful

misconduct or defects in design by the City, or arising from the active negligence of the City.

"Indemnify," as used herein includes the expenses of defending against a claim and the payment of any settlement or judgment arising out of the claim. Defense costs include all costs associated with defending the claim, including, but not limited to, the fees of attorneys, investigators, consultants, experts and expert witnesses, and litigation expenses.

References in this paragraph to City or Consultant include their officers, employees, agents, and subcontractors.

7.0 CONTRACT PROVISIONS

7.1 Ownership of Work. All documents furnished to Consultant by City and all documents or reports and supportive data prepared by Consultant under this Agreement are owned and become the property of the City upon their creation and shall be given to City immediately upon demand and at the completion of Consultant's services at no additional cost to City. Deliverables are identified in the Scope-of-Work, Attachment "A". All documents produced by Consultant shall be furnished to City in digital format and hardcopy. Consultant shall produce the digital format, using software and media approved by City.

7.2 Governing Law. Consultant shall comply with the laws and regulations of the United States, the State of California, and all local governments having jurisdiction over this Agreement. The interpretation and enforcement of this Agreement shall be governed by California law and any action arising under or in connection with this Agreement must be filed in a Court of competent jurisdiction in Mendocino County.

7.3 Entire Agreement. This Agreement plus its Attachment(s) and executed Amendments set forth the entire understanding between the parties.

7.4 Severability. If any term of this Agreement is held invalid by a court of competent jurisdiction, the remainder of this Agreement shall remain in effect.

7.5 Modification. No modification of this Agreement is valid unless made with the agreement of both parties in writing.

7.6 Assignment. Consultant's services are considered unique and personal. Consultant shall not assign, transfer, or sub-contract its interest or obligation under all or any portion of this Agreement without City's prior written consent.

7.7 Waiver. No waiver of a breach of any covenant, term, or condition of this Agreement shall be a waiver of any other or subsequent breach of the same or any other covenant, term or condition or a waiver of the covenant, term or condition itself.

7.8 Termination. This Agreement may only be terminated by either party: 1) for breach of the Agreement; 2) because funds are no longer available to pay Consultant for services provided under this Agreement; or 3) City has abandoned and does not wish to complete the project for which Consultant was retained. A party shall notify the other party of any alleged breach of the Agreement and of the action required to cure the breach. If the breaching party fails to cure the breach within the time specified in the notice, the contract shall be terminated as of that time. If terminated for lack of funds or

abandonment of the project, the contract shall terminate on the date notice of termination is given to Consultant. City shall pay the Consultant only for services performed and expenses incurred as of the effective termination date. In such event, as a condition to payment, Consultant shall provide to City all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports prepared by the Consultant under this Agreement. Consultant shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder, subject to off-set for any direct or consequential damages City may incur as a result of Consultant's breach of contract.

7.9 Duplicate Originals. This Agreement may be executed in duplicate originals, each bearing the original signature of the parties. When so signed, each such document shall be admissible in administrative or judicial proceedings as proof of the terms of the Agreement between the parties.

8.0 NOTICES

Any notice given under this Agreement shall be in writing and deemed given when personally delivered or deposited in the mail (certified or registered) addressed to the parties as follows:

CITY OF UKIAH
ELECTRIC UTILITY
300 SEMINARY AVENUE
UKIAH, CALIFORNIA 95482-5400

UTILITY DESIGN SERVICES, LLC.
AL SMATSKY
619 W. PINE STREET
LODI, CA 95240

9.0 SIGNATURES

IN WITNESS WHEREOF, the parties have executed this Agreement the Effective Date:

UTILITY DESIGN SERVICES, LLC.

BY: AL Smatsky
PRINT NAME: AL Smatsky
46-5111318
IRS IDN Number

May 6th 2014
Date

CITY OF UKIAH

BY: Jane Chamber
CITY MANAGER

5/16/14
Date

ATTEST

Kristine Lander
CITY CLERK

5/16/14
Date

ELECTRICAL UTILITY DESIGN CONSULTANT

Utility Design Services LLC

Prepares detailed electrical engineering designs, drawings and cost estimates related to the maintenance and construction of the City of Ukiah electrical system.

Designs street lighting systems and prepares construction drawings.

Coordinates project design with other City departments and utilities.

Negotiate easements and right-of-ways as required for the project.

Prepares written bid specifications and council communications as necessary for the implication of the project.

Inspect construction work in progress for conformance with project design and all pertinent regulations.

Hourly Rates

Design Consultant \$ 100/hr

Civil Engineer \$120/hr

Drafting Technician \$45/hr

The following direct charges are charged in addition to the hourly charge rates set forth above.

Direct Charges:

Subsistence, air travel, etc. Cost + 15%

Vehicles \$ 10.00/day plus \$ 0.55/mile



AGENDA SUMMARY REPORT

SUBJECT: Adoption of a Resolution of the City of Ukiah, Adopting the City of Ukiah Social Media Policy.

DEPARTMENT: City Manager /
Admin

PREPARED BY: Traci Boyl, Management Analyst

PRESENTER: Consent Calendar

ATTACHMENTS:

1. Resolution with Exhibit A - Policy Social Media

Summary: The Council will consider adopting a resolution adopting the City of Ukiah Social Media Policy.

Background: An analysis of the City's use and presence of social media and the City's Administrative Policies was performed. The analysis confirmed that the City of Ukiah uses various social media platforms to disseminate information about the City to its citizens, and the City does not have an Administrative Policy to outline procedures for - and expectations of - the City's use and presence on those social media platforms.

Discussion: The City's presence and use of social media and the lack of an administrative policy to outline procedures for- and expectations of - the City's use and presence on social media, including the City's rules regarding comment moderation, create inefficiencies and confusion for City elected officials and officers, City employees, and the public.

The City Manager's Office has reviewed the City's use of social media platforms and the City's Administrative Policies and supports the resolution (Attachment 1) to adopt the City of Ukiah Social Media Policy (Attachment 1 - Exhibit A). There is no fiscal impact associated with the proposed resolution.

If the resolution is approved by City Council, implementation of the Social Media Policy will begin immediately.

Recommended Action: Adopt resolution adopting the City of Ukiah Social Media Policy.

BUDGET AMENDMENT REQUIRED: N/A

CURRENT BUDGET AMOUNT: N/A

PROPOSED BUDGET AMOUNT: N/A

FINANCING SOURCE: N/A

PREVIOUS CONTRACT/PURCHASE ORDER NO.: N/A

COORDINATED WITH: N/A

Approved: 
Sage Sangiacomo, City Manager

RESOLUTION NO. 2021-

RESOLUTION OF THE CITY OF UKIAH, ADOPTING THE CITY OF UKIAH SOCIAL MEDIA POLICY.

WHEREAS, the City of Ukiah ("City") recognizes the need for use of social media platforms as a means of conveying City information to its citizens; and

WHEREAS, the City recognizes the effective method and popularity of use of various social media platforms, including (but not limited to) Facebook, YouTube, LinkedIn, Instagram, Twitter, or NextDoor (collectively "Social Media") by and amongst City elected officials and officers, City employees, and the public as a means of communication, promoting public awareness, City services, policies and programs; and

WHEREAS, the City has determined that a Social Media Policy provides greater efficiency in government by outlining procedures for and expectations of the City's use and presence on social media, as well as communicating the City's rules regarding comment moderation of the public who comment on the City's social media pages; and

WHEREAS, the City Council has determined that adopting a Social Media Policy serves a municipal and public purpose.

NOW, THEREFORE BE IT RESOLVED, that the Council of the City of Ukiah hereby adopts the City's Social Media Policy, attached hereto as Exhibit A.

PASSED, ADOPTED and APPROVED this 6th day of October 2020 by the following vote on roll call vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Juan V. Orozco, Mayor

ATTEST:

Kristine Lawler, City Clerk

	SUBJECT: Social Media Policy		
ADMINISTRATIVE POLICY	POLICY NUMBER	EFFECTIVE DATE	PAGE
APPROVAL LEVEL: CITY MANAGER	XXX-2021		1 of 6

Purpose

This policy establishes guidelines for the establishment and use by the City of Ukiah of social media sites as a means of conveying City of Ukiah (“City”) information to its citizens.

City of Ukiah uses social media to disseminate information about the City to its citizens.

The City of Ukiah reserves the right to decide what is “spoken” on behalf of the City on City Sites.

The goals of City Sites are to:

- Increase the public’s knowledge, trust, and use of City services
- Promote the value and importance of City services among and between governing officials, civic leaders, and the general public
- Maintain open, professional and responsive communication with members of the public and the news media

Definitions

“Comments” means and includes information, articles, pictures, videos or any other form of communication posted on a City of Ukiah social media site.

“City of Ukiah Social Media Site” means a presence established by the City or a department head or department designee on a social media platform to provide, receive and share information in accordance with this policy.

“Department” means any City department listed as such on the City’s website.

“Department head” means the designated head of a City department, such as, but not limited to, the Public Works, Water and Wastewater, Electric, Police, Fire, Community Services, and Community Development Departments, and also includes the City Manager, Assistant City Manager, City Clerk and any other person designated as such by the City Manager.

“Designee” means a person designated by a department head to manage social media for the Department.

“Social media” means content created, using accessible, expandable, and upgradable publishing technologies, through and on the Internet. Examples of social media include, but are not limited to, Facebook, Twitter, YouTube, Blogs, and Instagram.

	SUBJECT: Social Media Policy		
ADMINISTRATIVE POLICY	POLICY NUMBER	EFFECTIVE DATE	PAGE
APPROVAL LEVEL: CITY MANGER			2 of 6

Ownership

All social media communications composed, sent, or received on City of Ukiah social media sites are the property of the City. While the City social media sites are administered by the City, the content on the sites is not entirely controlled by the City. The City does not endorse any links or advertisements on its social media sites placed by the site owners, their vendors or partners or members of the public.

Agency Management Requirements

1. The City has the right to monitor employees' social media use on City equipment and will exercise its right as necessary. Such users do not and shall not have an expectation of privacy. Social media is not a secure means of communication.
2. City Social Media Sites should make clear that they are maintained by the City and that they follow the City's Social Media Policy. This Policy shall be displayed to users of and visitors to City Social Media Sites and/or be made available by hyperlink. The department director or designee will monitor content on City Social Media Sites to ensure adherence to both this Policy and the interests and goals of the City.
3. Comments posted to City Social Media Sites are subject to public disclosure and/or third party monitoring. Whenever possible, the following language shall be visible on walls or other City social media site pages:

"The purpose of the City of Ukiah's [page/site] is to provide general public information only. Should you need to request City services or if you require a response from the City, you must go to www.cityofukiah.com or call the City at (707)463-6200. Representatives of City of Ukiah communicate via this website. Communication on social media is not a substitution for reporting an emergency. In an emergency, dial 911. Consequently, any communication via this site (whether by a City employee or the general public) may be subject to California's public records laws and subject to disclosure by the City if requested."

The Comment guidelines specified above must be displayed to all users/visitors to City Social Media Sites and/or made available by hyperlink.

4. The department director and/or designee shall monitor the City Social Media Sites established by that department during business hours for Comments requesting responses from the City and for Comments in violation of this Policy.

	SUBJECT: Social Media Policy		
ADMINISTRATIVE POLICY	POLICY NUMBER	EFFECTIVE DATE	PAGE
APPROVAL LEVEL: CITY MANGER			3 of 6

5. Any Comments removed based on the guidelines in this policy must be retained by the department director and/or designee for a reasonable period of time, including the time, date and identity of the poster, in accordance with the City's policies on the retention of such information.
6. In the spirit of transparency, when the department director/designee receives messages through a private message service offered by the provider of a City Social Media Site, he/she shall request the senders of such messages to contact him/her at a public e-mail address maintained by City. Any private messages received by the department director/designee should be treated as constituent e-mails and therefore, as public records. The department director, his/her designee and any other authorized users should reply using their City e-mail account.

Agency User Requirements

City Social Media Site access shall be limited only to those City employees having a clear, City-related business purpose.

1. The use by any City employees of all social media sites, groups and pages used to disseminate official City of Ukiah information to the public are subject to the advance written approval of the City Manager or his/her designee(s) (Social Media Authorization and Agreement Form). City Social Media Sites shall be established, maintained and administered by a department's director or designee with technical assistance to be provided as needed by City Information Technology ("IT") staff to serve the social media needs of that department.
2. Employees representing the City government via City Social Media Sites must have a completed and signed authorization and agreement form on file prior to using any City Social Media sites.
3. This policy and City Social Media Authorization and Use Forms **do not** give authorization to City employees to establish or create City Social Media Sites, pages or groups.
4. Creation of "groups, pages or City Social Media sites" to support business goals is **only allowed** with pre-approval from the City Manager.
5. Employees representing the City government via City Social Media Sites must conduct themselves at all times in their use of the sites as representatives of the City and in accordance with all City policies, rules and memoranda of understanding. Failure to do so may result in discipline.
6. All use of City Social Media Sites by City employees (including use of non-City Social Media sites for communications related to City business) should be consistent with applicable state, federal, and local laws, regulations, and policies including all applicable City information

	SUBJECT: Social Media Policy		
ADMINISTRATIVE POLICY	POLICY NUMBER	EFFECTIVE DATE	PAGE
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technology security policies.

7. Wherever practical, staff shall verify facts, cite sources, present balanced views, acknowledge and correct errors, and check grammar and spelling before publishing posts. Staff shall not post information not authorized under this policy. The City reserves the right to restrict, remove or otherwise edit any materials posted by City staff on City social media sites or in their capacity as City employees that the City deems inappropriate.
8. Wherever possible, all City Social Media Sites should link back to the official City website for forms, documents, online services and other information necessary to conduct business with the City. The City's websites (<http://www.cityofukiah.com> and <https://www.ukiahpolice.com>) will remain the City's primary and predominant internet presence.
9. City Social Media Sites shall be managed consistent with California's Ralph M. Brown Act. Members of the City Council, Commissions and/or Boards shall not respond to, "like", "share", "retweet" or otherwise participate in any published postings, or use City Social Media Sites, or any form of electronic communication to respond to, blog or engage in serial meetings, or otherwise discuss, deliberate, or express opinions on any issue within the subject matter jurisdiction of the body on which they serve.
10. City Social Media Sites are subject to the California Public Records Act. Any content maintained in a social media format that is related to City business, including a list of subscribers, posted communication, and communication submitted for posting, may be a public record subject to public disclosure and retention. There shall be no expectation of privacy in any content or Comments on City Social Media Sites.
11. Any comment removed for violating this policy shall be maintained in its original, unedited form. If content does not meet the comment policy, the entire item and as much detail as possible (names, dates and times of posting, etc.) shall be maintained in an offline format. For example, take a screenshot, include time and date and as many details as possible including reason for removal, then save to a Word document and file.
12. All City Social Media Sites shall utilize authorized City contact information for account set-up, monitoring and access. If payments are to be made (as in "boosting" a post on Facebook), charges must be made to a credit card and reported to the Finance Department within the regular billing cycle.
13. Authorized Users of City Social Media Sites shall review, be familiar with, and comply with the site's use policies and terms and conditions.

	SUBJECT: Social Media Policy		
ADMINISTRATIVE POLICY	POLICY NUMBER	EFFECTIVE DATE	PAGE
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Comment Policy

As a public entity, the City must abide by certain standards to serve all its constituents in a civil and unbiased manner. Therefore, users of and visitors to City Social Media Sites shall be notified that the intended purpose of the sites are to disseminate information from the City to its citizens about the City's mission, meetings, activities and current issues. The City reserves the right to restrict or remove any Comments deemed in violation of this Social Media Policy or any applicable law.

Content that May Be Removed Includes:

- a. Content and/or language a reasonable person would find offensive, including but not limited to profane, obscene, or pornographic content and/or language;
- b. Content that promotes, fosters or perpetuates discrimination on the basis of race, creed, color, national origin, age, religion, gender, gender expression, gender identity, disability, medical condition, genetic information, sexual orientation, marital status or any other protected class;
- c. Personal attacks, insults, and/or threats to any person or organization;
- d. Solicitation of commerce, including but not limited to advertising of any business or product/service for sale;
- e. Conduct in violation of any federal, state or local law;
- f. Encouragement of illegal activity;
- g. Information that may tend to compromise the safety or security of the public or public systems; or
- h. Content that violates a legal ownership interest, such as a copyright, of any party.
- i. Comments or hyperlinks unrelated to the topic of the discussion and/or forum.

Users of and visitors to City Social Media Sites shall also be notified that:

- 1 A Comment posted by a member of the public on any City Social Media Site is the opinion of that member of the public only, and publication of a Comment does not imply endorsement of, or agreement by, the City, nor do such Comments necessarily reflect the opinions or policies of the City.

	SUBJECT: Social Media Policy		
ADMINISTRATIVE POLICY	POLICY NUMBER	EFFECTIVE DATE	PAGE
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- 2 All Comments made to City Social Media Sites are public, not private. Comments of the department director/designee and any feedback by other employees or non-employees, including citizens, will be considered a public record and will be managed in accordance with the California Public Records Act and the City's records retention policies.
- 3 The City reserves the right to deny access to City Social Media Sites for any individual who violates the City's Social Media Policy, at any time and without prior notice.
- 4 Comments posted to City Social Media Sites are subject to public disclosure and/or third party monitoring.
5. All Comments posted to any City Facebook site are bound by Facebook's Statement of Rights and Responsibilities, located at <http://www.facebook.com/terms.php>, and the City reserves the right to report any violation of Facebook's Statement of Rights and Responsibilities to Facebook with the intent of Facebook taking appropriate and reasonable responsive action.
6. This City Social Media Policy may be revised at any time.



AGENDA SUMMARY REPORT

SUBJECT: Consider Approval of Annual Allocation of Funds, in the Amount of \$68,750, to the Ukiah Valley Basin Groundwater Sustainability Agency, for Agency Administration and Implementation of the Groundwater Sustainability Plan, until Such a Time that a Regulatory Fee or Other Funding Mechanism is Implemented; and a One-Time Contribution of \$4,000 to Perform Additional Groundwater Monitoring to Study the Effects of the Current Drought Emergency on the Groundwater Levels in the Ukiah Valley Basin.

DEPARTMENT: Water Resources

PREPARED BY: Sean White, Water Resources Director

PRESENTER: Consent Calendar

ATTACHMENTS:

None

Summary: Council will consider approval of annual allocation of funds, in the amount of \$68,750, to the Ukiah Valley Basin Groundwater Sustainability Agency, for agency administration and implementation of the Groundwater Sustainability Plan, until such a time that a Regulatory Fee or other funding mechanism is implemented; and an additional one-time contribution of \$4,000 to perform additional groundwater monitoring to study the effects of the current drought emergency on the groundwater levels in the Ukiah Valley Basin.

Background: On August 13, 2021, the Ukiah Valley Basin Groundwater Sustainability Agency (UVBGS) Board of Directors met to discuss funding for the implementation of the Groundwater Sustainability Plan (GSP) and ongoing administrative costs of the UVBGS. Following a presentation by the Financial Ad Hoc Committee, the Board adopted the Committee's recommendations including funding by member contributions in the immediate future, subject to commitment of funds by the respective Boards and Councils, until such a time that fees can be imposed. We also discussed conducting a study in order to implement a regulatory fee for ongoing funding. The estimated average annual costs for GSP implementation and UVBGS administration, including funding for the fee study, are \$275,000, or \$68,750 for each of the four Member Agencies.

Additionally, the Board approved a budget augmentation for immediate additional groundwater monitoring in Fall 2021, subject to funding from additional member contributions. The Board discussed the lack of data currently being collected to analyze the impacts of the 2021 drought on groundwater conditions and the need for additional monitoring to study these conditions.

Upon consideration, the Board authorized staff to expend funds up to but not exceeding \$16,000. This is \$4,000 for each member agency if divided evenly.

Discussion: Based on their projected budget, the Ukiah Valley Groundwater Sustainability Agency respectfully requests each Member Agency commit to additional contributions in the annual amount of \$68,750, beginning in Fiscal Year 2021/22, until such a time that a regulatory fee can be implemented for ongoing funding of the UVBGS. It is anticipated the fee study and implementation of a regulatory fee will take 2-3 years, although no timeline is guaranteed.

Additionally, it is requested each Member Agency contribute \$4,000 immediately to perform additional

groundwater monitoring to study the effects of the current drought emergency on the groundwater levels in the Ukiah Valley Basin.

Recommended Action: Approve Annual Allocation of Funds, in the Amount of \$68,750, to the Ukiah Valley Basin Groundwater Sustainability Agency, for Agency Administration and Implementation of the Groundwater Sustainability Plan, until Such a Time that a Regulatory Fee or Other Funding Mechanism is Implemented; and an additional one-time contribution of \$4,000 to perform additional groundwater monitoring to study the effects of the current drought emergency on the groundwater levels in the Ukiah Valley Basin.

BUDGET AMENDMENT REQUIRED: N/A

CURRENT BUDGET AMOUNT: 82027110.52100: \$248,660

PROPOSED BUDGET AMOUNT: N/A

FINANCING SOURCE: Water Fund

PREVIOUS CONTRACT/PURCHASE ORDER NO.: N/A

COORDINATED WITH:

Approved: 
Sage Sangiacomo, City Manager



AGENDA SUMMARY REPORT

SUBJECT: Report of a Revised Final Purchase Price of the Seasonal Ice Rink in the Amount of \$198,259.16, and Approve Corresponding Budget Amendment.

DEPARTMENT: Finance

PREPARED BY: Seth Strader, Buyer I

PRESENTER: Consent Calendar

ATTACHMENTS:

1. ASR
2. Original Proposal
3. Revised Proposal

Summary: Council will receive a report regarding the revised final purchase price of the seasonal ice rink in the amount of \$198,259.16.

Background: At their September 1, 2021 meeting, Council originally approved the purchase of a seasonal ice rink from Everything Ice in the amount of \$167,737. See Attachment 1 for a copy of this report. This proposal included all necessary materials for the rink structure as well as additional accessories including skates, skate sharpener, ice resurfer, edger and rubber mats. See Attachment 2 for a copy of this proposal.

Discussion: During the process of finalizing the order with Everything Ice, it came to staff's attention that Everything Ice's original proposal included pricing for the headers of the rink to be along the short 40' side of the rink while in fact they would be needed along the longer 100' side. This resulted in a price increase of \$30,522.16. See attachment 3 for a copy of this proposal.

Funding for this will be covered by an interfund loan from the general fund. Repayment to the general fund will come from net revenues generated by the ice rink operation, as well as re-appropriated rental costs for the ice rink structure that will not be incurred.

Recommended Action: Receive report of a revised final purchase price of the seasonal ice rink in the amount of \$198,259.16, and approve corresponding budget amendment.

BUDGET AMENDMENT REQUIRED: Yes

CURRENT BUDGET AMOUNT: 31422860,52100 \$53,000
31422860.80100.18193 \$0

PROPOSED BUDGET AMOUNT: 31422860,52100 \$10,000
31422860.80100.18193 \$198,260

FINANCING SOURCE: Interfund loan with general fund

PREVIOUS CONTRACT/PURCHASE ORDER NO.: PO 47462

COORDINATED WITH: Jake Burgess, Recreation Supervisor & Mary Horger, Financial Services Manager

Approved: 
Sage Sangiacomo, City Manager



AGENDA SUMMARY REPORT

SUBJECT: Authorization to Purchase a Seasonal Ice Rink in the Amount of \$167,737, and Approve Corresponding Budget Amendments.

DEPARTMENT: Community Services

PREPARED BY: Jake Burgess, Recreation Supervisor

PRESENTER: Jake Burgess, Recreation Supervisor and Mary Horger, Financial Services Manager.

ATTACHMENTS:

1. Everything Ice Portable Rink Equipment Budget

Summary: The Community Services Department seeks approval for the purchase of a Seasonal Ice Rink in the amount of \$167,737. Rink purchase will include 100' x 40' rink floor with all hoses, piping, necessary glycol, clear dasherboards and access gates. Cost will also include 300 ice skates, "Ice Wizard" resurfacer, gas powered edger, skate sharpener, and rubber mats.

Background: The City of Ukiah has previously partnered with local businesses and organizations to bring a seasonal ice rink to downtown Ukiah from 2016 to 2019. Over a period of five weeks, the rink was open daily--including holidays--and hosted an average of 8,000 skaters and fifty school field trips per season. With generous community sponsors, admission fees, and a full concessions stand, the rink covered its costs and generated revenue of roughly \$3,000 per season.

The ice rink has been located on School Street in front of Alex Thomas Plaza. The site is ideal for its proximity to electrical access, parking, public restrooms, and the covered pavilion. The activity at the ice rink also brings thousands of people to downtown Ukiah during prime Holiday shopping season, providing opportunities for local businesses to partner with the City for various promotions.

Discussion: The City of Ukiah has previously rented the seasonal ice rink at an average cost of \$86,375 per year. This cost included ice rink mat, vapor barrier, rink walls, chiller, glycol, mats, skates, ice resurfacer and ice maintenance tools. Over the course of four years of renting the entire rink set up, the City has spent a total of \$345,500. The purchase of the rink would save rental costs and provide stability to the operation which will assist with sponsor recruitment, field trip booking and business partnerships.

A budget amendment will be required for the purchase. Funding for the purchase will be the American Rescue Funds. The price quote with details is attached as Attachment 1 - Everything Ice Portable Rink Equipment Budget.

Recommended Action: Authorize the Purchase of a Seasonal Ice Rink, and approve corresponding budget amendments.

BUDGET AMENDMENT REQUIRED: Yes

CURRENT BUDGET AMOUNT: 67022860.80100.18193: \$0

PROPOSED BUDGET AMOUNT: 67022860.80100.18193 (Ice Rink Purchase): \$167,737

FINANCING SOURCE: American Rescue Funds

PREVIOUS CONTRACT/PURCHASE ORDER NO.:

COORDINATED WITH: Mary Horger; Neil Davis

Approved: 
Sage Sangiacomo, City Manager

		UKIAH, CA - PORTABLE ICE RINK EQUIPMENT BUDGET		BUDGET Rink Size: 100' x 40' x 16' Date: 8/12/2021	
A	REFRIGERATION/MECHANICAL OPTIONS			PRICE	
1	ETHYLENE GLYCOL SECONDARY FLUID CHARGE ANND OFF SEASON STORAGE TOTES				
	MECHANICAL TOTALS			\$ 6,835	
B	100' x 40' x 16' RINK FLOOR			PRICE	
1	150' RUN OF 6" FLEX HOSE TRANSMISSION MAINS				
2	PORTA ICE RINK PIPING SYSTEM COMPLETE WITH 6wRR" DIAMETER HEADER, TUBING, AND ALL INSTALLATION HARDWARE				
	RINK FLOOR TOTALS			\$ 44,140	
C	DASHERBOARDS			PRICE	
1	REC SERIES STEEL DASHERBOARDS COMPLETE WITH 3/16 CLEAR POLY CARB FACING, 1/2 POLY WHITE KICKPLATE, 1/2 POLY WHITE CAPRAIL				
2	4 TOTAL ACCESS GATES AND (2) 5' HINGED EQUIPMENT DOORS				
3	INCLUDES FREEZE IN PLATES FOR DASHER ANCHORING				
	DASHERBOARD TOTALS			\$ 45,862	
TOTAL PRICE: SECTIONS A, B, & C				\$ 96,837	
D	OPTIONS			PRICE	
1	EVERYTHING ICE SITE SUPERVISOR (\$750/DAY PLUS TRAVEL EXPENSES: AIRFARE, RENTAL CAR, GAS, AND HOTEL)				
2	SHIPPING BUDGET			\$ 6,000	
3	ICE WIZARD (GOLF CART)			\$ 22,000	
4	GAS POWERED ICE EDGER			\$ 3,200	
5	400 PAIR RENTAL SKATES PER CUSTOMER BREAKDOWN			\$ 32,900	
6	WISSOTA PORTABLE SKATE SHARPENER			\$ 1,300	
7	(100) 4' x 6' x 1/2" BLACK RUBBER MATS			\$ 5,500	
Notes: All materials are quoted supply only of materials. Material only options are unloaded and installed by others under the optional supervision by EI at a prescribed per diem rate plus travel and living expenses. All domestic (lower 48) projects include shipping to the job site F.O.B. Factory. All quotes are good for 60 days and subject to change without notice beyond this period. Prices do not include costs for labor, shipping, permits, fees, any applicable sales/use taxes, or provision for prevailing wages unless expressly stipulated. Standard payment terms apply: 50% at agreement and 50% prior to shipping.					

ACCEPTED

ACCEPTED

ACCEPTED

ACCEPTED

ACCEPTED

ACCEPTED

\$167,737.00

\$167,737.00

ACCEPTED

ACCEPTED

ACCEPTED

ACCEPTED

ACCEPTED

ACCEPTED

		UKIAH, CA - PORTABLE ICE RINK EQUIPMENT BUDGET		BUDGET Rink Size: 100' x 40' x 16' Date: 9/13/2021	
A	REFRIGERATION/MECHANICAL OPTIONS			PRICE	
1	ETHYLENE GLYCOL SECONDARY FLUID CHARGE AND OFF SEASON STORAGE TOTES				
	MECHANICAL TOTALS			\$ 6,835	
B	100' x 40' x 16' RINK FLOOR			PRICE	
1	150' RUN OF 6" FLEX HOSE TRANSMISSION MAINS				
2	PORTA ICE RINK PIPING SYSTEM COMPLETE WITH 6wRR" DIAMETER HEADERS ON 100' RINK SIDE, TUBING, AND ALL INSTALLATION HARDWARE				
	RINK FLOOR TOTALS			\$ 62,273	
C	DASHERBOARDS			PRICE	
1	REC. SERIES STEEL DASHERBOARDS COMPLETE WITH 3/16 CLEAR POLY CARB FACING, 1/2 POLY WHITE KICKPLATE, 1/2 POLY WHITE CAPRAIL				
2	0 TOTAL ACCESS GATES AND (4) 5' HINGED EQUIPMENT DOORS				
3	INCLUDES FREEZE IN PLATES FOR DASHER ANCHORING				
	DASHERBOARD TOTALS			\$ 43,897	
TOTAL PRICE: SECTIONS A, B, & C				\$ 113,005	
D	OPTIONS			PRICE	
1	EVERYTHING ICE SITE SUPERVISOR (\$750/DAY PLUS TRAVEL EXPENSES: AIRFARE, RENTAL CAR, GAS, AND HOTEL)				
2	SHIPPING BUDGET			\$ 6,000	
3	ICE WIZARD (GOLF CART)			\$ 22,000	
4	GAS POWERED ICE EDGER			\$ 3,200	
5	400 PAIR RENTAL SKATES PER CUSTOMER BREAKDOWN			\$ 32,900	
6	WISSOTA PORTABLE SKATE SHARPENER			\$ 1,300	
7	(100) 4' x 6' x 1/2" BLACK RUBBER MATS			\$ 5,500	
Notes: All materials are quoted supply only of materials. Material only options are unloaded and installed by others under the optional supervision by EI at a prescribed per diem rate plus travel and living expenses. All domestic (lower 48) projects include shipping to the job site F.O.B. Factory. All quotes are good for 60 days and subject to change without notice beyond this period. Prices do not include costs for labor, shipping, permits, fees, any applicable sales/use taxes, or provision for prevailing wages unless expressly stipulated. Standard payment terms apply: 50% at agreement and 50% prior to shipping.					

\$183,905.00



AGENDA SUMMARY REPORT

SUBJECT: Report of Revised Vendor for the Purchase of LED Lighting System for the Galleries at the Grace Hudson Museum.

DEPARTMENT: Finance

PREPARED BY: Seth Strader, Buyer I

PRESENTER: Consent Calendar

ATTACHMENTS:

1. Original ASR
2. Original PO
3. Revised PO

Summary: Council will receive a report regarding the revised vendor used for the purchase of the LED Lighting System for the Galleries at the Grace Hudson Museum.

Background: At their meeting on September 1, 2021, Council approved the sole source purchase with Sixteen5hundred for the purchase of a new LED lighting equipment for the galleries at the Grace Hudson Museum in the amount of \$86,276.50 plus tax and shipping. See Attachment 1 for a copy the report.

Discussion: After receiving Council approval and issuing the Purchase Order (PO) (provided for as Attachment 2) to the vendor, Sixteen5Hundred requested that the City issue the PO instead to their distributor, City Electric Supply based in Santa Rosa. The Purchase Order was revised to reflect the new vendor, and saved the City shipping charges totaling \$2,036.56. See Attachment 3 for a copy of the revised PO.

Recommended Action: Receive a report regarding the revised vendor used for the purchase of the LED Lighting System for the Galleries at the Grace Hudson Museum.

BUDGET AMENDMENT REQUIRED: No

CURRENT BUDGET AMOUNT: 10022700.80220.18024 \$94,000.00

PROPOSED BUDGET AMOUNT: \$93,933.54

FINANCING SOURCE: Public Benefit Funds - Demonstration Project

PREVIOUS CONTRACT/PURCHASE ORDER NO.: 47459

COORDINATED WITH: Neil Davis, Community Services Director & Mary Horger, Financial Services Manager

Approved: 
Sage Sangiacomo, City Manager



AGENDA SUMMARY REPORT

SUBJECT: Approve Sole Source Purchase of LED Lighting System for the Galleries at Grace Hudson Museum from Sixteen5hundred for \$86,276.50 Plus Tax and Shipping; and Approve Corresponding Budget Amendment.

DEPARTMENT: Community Services

PREPARED BY: Neil Davis, Community Services Administrator

PRESENTER: Consent Calendar

ATTACHMENTS:

1. Sixteen5Hundred Quote

Summary: Council will consider approving a sole source purchase of a LED Lighting System for the galleries at the Grace Hudson Museum from Sixteen5hundred in the amount of \$86,276.50 plus tax, shipping and handling; and approval of corresponding budget amendment.

Background: The Grace Hudson Museum and Sun House (GHM) has become an increasingly important cultural and educational resource for the Bay Area and North Coast. Established with private funds in 1986 and subsequently donated to the City of Ukiah, the GHM is now a prime driver of local tourism generating roughly 5,000 visits per year from non-residents.

The GHM's collections consist of more than 30,000 interrelated objects, with significant holdings of Pomo Indian artifacts (particularly basketry) ethnographic field notes, unpublished manuscripts, historic photographs, and the world's largest collection of Grace Carpenter Hudson paintings. The GHM's exhibitions and public programs are thematically shaped by, and linked to, its collections with their focus on early California art, Carpenter-Hudson family history, and the arts of culture of the Pomo peoples and Native peoples of North American. Additionally, the GHM also regularly presents exhibitions focused on the contemporary arts of Mendocino County.

The GHM is supported by the Sun House Guild and the Grace Hudson Museum Endowment Fund. The Guild raised approximately \$2,000,000 in private funds to build the original museum structure in the 1980s and the museum expansion in the early 2000s. This includes a major investment at the time of the expansion in a museum-specific, professional, track-lighting system – manufactured by LSI – that has provided museum-quality lighting in the galleries for over twenty years. The Sun House Guild also raises private funding in the amount of \$75,000 to \$100,000 annually to ensure that exhibitions, related public programs, and education outreach are made available to the public. While the Endowment Fund is primarily focused on managing the growth of its investment portfolio – now valued at close to \$7,000,000 – it has made annual payments to the City since 2003 to help support the City's ongoing investment in the GHM. These payments over the years total just under \$739,000. The Endowment Fund has also provided funding over the years totaling \$120,000 to help with capital improvements to both the museum building and the Sun House grounds.

Discussion: The GHM's reputation as a significant resource to researchers and other museums continues to grow. Researchers routinely request access to the museum's collections and archives to support their work on book, essay, and exhibition projects, as well as dissertations and other forms of scholarly and tribal inquiry.

Recently items from the GHM collections were loaned for exhibit to the Metropolitan Museum in New York and to the de Young Museum in San Francisco. As the GHM's reputation grows both regionally and nationally, its value as an economic driver is enhanced as well.

The GHM galleries are the public "face of the museum." Consequently, exhibit lighting is critical to providing an excellent visitor experience and establishing the GHM's legitimacy as a serious museum. The current gallery is illuminated with obsolete incandescent lights housed in fixtures that are failing at an increasing rate draining staff resources as they cannibalize parts to assemble a minimum number of working lights. Options for museum quality bulbs, either incandescent or LED, and fixtures are extremely limited.

Museum staff invested hours working with a lighting supplier to explore, test, and determine the best approach to replacing the aging system with a goal of maintaining quality, improving efficiency, and reducing operating cost. The tracks on which the lights are hung have been determined to be serviceable. Keeping the installed tracks will provide considerable cost savings but require using the existing manufacturer. Replacing incandescent with LED is environmentally preferable and will provide long term cost savings. The combination of these factors leads to a sole source vendor (Sixteen5hundred; see Attachment 1) who can provide all the required elements necessary for providing museum quality lighting to the Grace Hudson Museum at a quoted price of \$86,276.50 plus tax and shipping.

This project will demonstrate the benefits of LED lighting with signage educating the public of the actual energy savings opportunities. It provides an excellent example of the value and quality of LED lighting and is approved by the Electric Utility as a demonstration project. This project was originally programmed in the 20/21 Capital Improvement Project, but was unable to be completed in time. Therefore staff is requesting approval of a corresponding budget amendment.

Recommended Action: Approval of the sole source purchase of LED gallery lighting at the Grace Hudson Museum from Sixteen5hundred in the amount of \$86,276.50 plus tax, shipping, and handling; and approve corresponding budget amendment.

BUDGET AMENDMENT REQUIRED: Yes

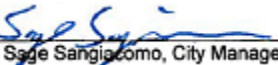
CURRENT BUDGET AMOUNT: 80626450.52139 (Public Benefit Demonstration Projects): \$25,000; 10022700.44835.18024 (Reimbursements): \$0; 10022700.80220.18024 (Museum Lighting Project): \$0

PROPOSED BUDGET AMOUNT: 80626450.52139 (Public Benefit Demonstration Projects): Add additional \$69,000; 10022700.44835.18024: -\$94,000; 10022700.80220.18024: \$94,000

FINANCING SOURCE: Public Benefit Funds-Demonstration Project

PREVIOUS CONTRACT/PURCHASE ORDER NO.: N/A

COORDINATED WITH: Mel Grandi, Electric Utility Director; Mary Horger, Financial Services Manager

Approved: 
Sage Sangiacomo, City Manager



Purchase Order

Fiscal Year 2022

Page 1 of 2

THIS NUMBER MUST APPEAR ON ALL INVOICES,
PACKAGES AND SHIPPING PAPERS.Purchase
Order #

47459-00

Delivery must be made within
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UKIAH CA 95482

Vendor Phone Number		Vendor Fax Number		Buyer		Date Ordered		Date Required	
				Seth Strader		09/02/2021			
Delivery Reference			Freight Method/Terms		Department/Location			Sales Tax Rate	
DAVID BURTON			N30		COMMUNITY SERVICES			0.000	
Item#	Description/Part No.			Qty	UOM	Unit Price		Extended Price	
1	LIGHTING SERVICES INC #LX2044-T1920-9827-WR-00-TE120W			22.0	EACH	\$571.150		\$12,565.30	
2	LIGHTING SERVICES INC #LX2020-ZE103-902704-0E-TE120W			5.0	EACH	\$435.600		\$2,178.00	
3	LIGHTING SERVICES INC #LX2020-ZE103-902712-0E-TE120W			7.0	EACH	\$435.600		\$3,049.20	
4	LIGHTING SERVICES INC #LX2020-ZE103-902725-0E-TE120W			7.0	EACH	\$435.600		\$3,049.20	
5	LIGHTING SERVICES INC #LX2030-TS907-9827P2-0E-TE120W			110.0	EACH	\$450.000		\$49,500.00	
6	LIGHTING SERVICES INC #LX-P40-REF-CLR			55.0	EACH	\$8.900		\$489.50	
7	LIGHTING SERVICES INC #LX-P16-REF-CLR			55.0	EACH	\$8.900		\$489.50	
8	LIGHTING SERVICES INC #AAA990			10.0	EACH	\$30.000		\$300.00	
9	LIGHTING SERVICES INC #AAA992			8.0	EACH	\$54.450		\$435.60	
10	LIGHTING SERVICES INC #31320 8' TRACK/1CT WHITE			4.0	EACH	\$133.350		\$533.40	
11	LIGHTING SERVICES INC #31300 END FEED/1CKT WHITE			4.0	EACH	\$40.000		\$160.00	
12	LIGHTING SERVICES INC #30303 END CAP WHITE			4.0	EACH	\$6.700		\$26.80	

By
Purchasing Supervisor

VENDOR COPY

PO Total

Page 118 of 343
\$95,970.10



Purchase Order

Fiscal Year 2022

Page 2 of 2

THIS NUMBER MUST APPEAR ON ALL INVOICES,
PACKAGES AND SHIPPING PAPERS.Purchase
Order #

47459-00

Delivery must be made within
doors of specified destination.B
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ATTN: ACCOUNTS PAYABLE
300 SEMINARY AVENUE
UKIAH, CA 95482V
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2100 POWELL ST STE 800
EMERYVILLE CA 94608S
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OCITY OF UKIAH - MUSEUM
GRACE HUDSON MUSEUM
431 S MAIN STREET
UKIAH CA 95482

Vendor Phone Number		Vendor Fax Number		Buyer		Date Ordered		Date Required	
				Seth Strader		09/02/2021			
Delivery Reference			Freight Method/Terms			Department/Location			Sales Tax Rate
DAVID BURTON			N30			COMMUNITY SERVICES			0.000
Item#	Description/Part No.				Qty	UOM	Unit Price		Extended Price
13	LIGHTING SERVICES, INC #LX2030-TS907-9830P1-0E-TE120W				30.0	EACH	\$450.000		\$13,500.00
14	TAX @ 8.875%				7657.0	DOLL	\$1.000		\$7,657.04
15	FREIGHT				2036.6	DOLL	\$1.000		\$2,036.56
REF REQ E39096 PER QUOTE #19-86501-0 DATED 8/30/21 COUNCIL APPROVED 9/1/21									

By 
Purchasing Supervisor

VENDOR COPY

PO Total

Page 119 of 343
\$95,970.10

1. **GENERALLY.** These Terms and Conditions of Sale ("Terms and Conditions") apply to all purchases by City of Ukiah. (Referred to as "Buyer"). The supplier of goods and services under this transaction is herein referred to as "Seller". The goods or service purchased are referred to as the "Purchase."

2. **TERMS EXCLUSIVE.** Buyer will order the goods or services described herein only upon the terms and conditions contained herein. Seller's acceptance of this order shall occur either through commencement of performance under this order or acknowledgment of this order. By accepting this order, Seller waives all terms and conditions contained in its quotation, acknowledgment, invoice or other documents which are different from or additional to those contained herein and all such different or additional terms and conditions shall be null and void. **SELLER MAY NOT CHANGE MATERIAL OF MANUFACTURE, SOURCES OF SUPPLY, MANUFACTURING PROCESS OR LOCATION WITHOUT THE PRIOR WRITTEN CONSENT OF BUYER.**

3. **INSPECTION.** All goods shall be received subject to Buyer's inspection and rejection. Defective goods and goods otherwise not conforming to this order shall be held for Seller's instruction and at Seller's risk, and if Seller so directs, shall be returned at Seller's expense. No defective goods shall be replaced without a new purchase order. Payment by Buyer shall not be construed as an acceptance of goods. Buyer may return to Seller any non-defective, excess goods within thirty (30) days of receiving them.

4. **CHANGES.** City may make changes within the general scope of this order in drawings and specifications for specially manufactured supplies, place of delivery, method of shipment or packing of the order by giving notice to Seller and subsequently confirming such changes in writing. If such changes affect the cost of or the time required for performance of this order, an equitable adjustment in the price or delivery or both must be made. No change by Seller is allowed without City's written approval. Any claim by Seller for an adjustment under this section must be made in writing within thirty (30) days from the date of receipt by Seller of notification of such change unless City waives this condition in writing. Nothing in this section excuses Seller from proceeding with performance of the order as changed.

5. **TERMINATION.** City may terminate this order at any time, either verbally or in writing, with or without cause. Should termination occur, City will pay Seller as full performance until such termination the unit or pro rata order price for the performed and accepted portion of the Purchase. City may provide written notice of termination for Seller's default if Seller refuses or fails to comply with this order. If Seller does not cure such failure within a reasonable time period, or fails to perform the Purchase within the time specified (or allowed by extension), Seller will be liable to City for any excess costs incurred by City.

6. **TIME EXTENSION.** Time is of the essence City may extend the time for completion if, in City's sole determination, Seller was delayed because of causes beyond Seller's control and without Seller's fault or negligence. In the event delay was caused by City, Seller's sole remedy is limited to recovering money actually and necessarily expended by Seller because of the delay; there is no right to recover anticipated profit.

7. **REMEDIES CUMULATIVE.** City's rights and remedies under this order are not exclusive and are in addition to any rights and remedies provided by law.

8. **TITLE.** Title to materials and supplies purchased under this order pass directly from Seller to City upon City's written acceptance following an actual inspection and City's opportunity to reject.

9. **PAYMENT.** City will pay Seller after receiving acceptable invoices for materials and supplies delivered and accepted or services rendered and accepted. City will not pay cartage, shipping, packaging or boxing expenses unless specified in this order.

10. **INDEMNIFICATION.** Seller agrees to indemnify and hold harmless from and against any claim, action, damages, costs (including, without limitation, attorney's fees), injuries, or liability, arising out of the Purchase or the order, or their performance. Should City be named in any suit, or should any claim be brought against it by suit or otherwise, whether the same be groundless or not, arising out of the Purchase or order, or their performance, Seller will defend City (at City's request and with counsel satisfactory to City) and indemnify City for any judgment rendered against it or any sums paid out in settlement or otherwise. For purposes of this section "City" includes City's officers, elected officials, and employees. This paragraph 9 will survive termination of this order. The requirements as to the types and limits of insurance coverage to be maintained by Seller, and any approval of such insurance by City, are not intended to and will not in any manner limit or qualify the liabilities and obligations otherwise assumed by Seller pursuant to this order, including, without limitation, to the provisions concerning indemnification.

11. **WARRANTY.** Seller agrees that the Purchase is covered by the most favorable commercial warranties the Seller gives to any customer for the same or substantially similar supplies or services, or such other more favorable warranties as is specified in this order. Warranties will be effective notwithstanding any inspection or acceptance of the Purchase by City.

12. **ASSIGNMENT.** City may assign this order. Except as to any payment due under this order, Seller may not assign or subcontract the order without City's written approval. Should City give consent, it will not relieve Seller from any obligations under this order and any transferee or subcontractor will be considered Seller's agent.

13. **INSURANCE.** Seller must provide the insurance indicated on the face sheet of this order.

14. **PERMITS.** Seller must procure all necessary permits and licenses, and abide by all federal, state, and local laws, for performing this order.

15. **INDEPENDENT CONTRACTOR.** City and Seller agree that Seller will act as an independent contractor and will have control of all work and the manner in which it is performed. Seller will be free to contract for similar service to be performed for other employers while under contract with City. Seller is not an agent or employee of City and is not entitled to participate in any pension plan, insurance, bonus or similar benefits City provides for its employees. Any provision in this order that may appear to give City the right to direct Seller as to the details of doing the work or to exercise a measure of control over the work means the Seller will follow the direction of the City as to end results of the work only.

16. **WAIVER.** City's review or acceptance of, or payment for, work product prepared by Seller under this order will not be construed to operate as a waiver of any rights City may have under this Agreement or of any cause of action arising from Seller's performance. A waiver by City of any breach of any term, covenant, or condition contained in this order will not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, or condition contained in this order, whether of the same or different character.

17. **INTERPRETATION.** This Agreement was drafted in, and will be construed in accordance with the laws of the State of California, and exclusive venue for any action involving this agreement will be in Mendocino County.



Purchase Order

Fiscal Year 2022 Page 1 of 2

THIS NUMBER MUST APPEAR ON ALL INVOICES, PACKAGES AND SHIPPING PAPERS.

Purchase Order #47459-01

BILL TO

CITY OF UKIAH
ATTN: ACCOUNTS PAYABLE
300 SEMINARY AVENUE
UKIAH, CA 95482

Delivery must be made within
doors of specified destination.

VENDOR

CONSOLIDATED ELECTRICAL DISTRIBUTORS, INC
360 TESCONI CIRCLE
SANTA ROSA CA 95401

SHIP TO

CITY OF UKIAH - MUSEUM
GRACE HUDSON MUSEUM
431 S MAIN STREET
UKIAH CA 95482

Vendor Phone Number		Vendor Fax Number	Buyer		Date Ordered	Date Required
			Seth Strader		09/02/2021	
Delivery Reference		Freight Method/Terms		Department/Location		Sales Tax Rate
DAVID BURTON		N30		COMMUNITY SERVICES		0.000
Item#	Description/Part No.	Qty	UOM	Unit Price	Extended Price	
1	LIGHTING SERVICES INC #LX2044-T1920-9827-WR-00-TE120W	22.0	EACH	\$571.150	\$12,565.30	
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4	LIGHTING SERVICES INC #LX2020-ZE103-902725-0E-TE120W	7.0	EACH	\$435.600	\$3,049.20	
5	LIGHTING SERVICES INC #LX2030-TS907-9827P2-0E-TE120W	110.0	EACH	\$450.000	\$49,500.00	
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12	LIGHTING SERVICES INC #30303 END CAP WHITE	4.0	EACH	\$6.700	\$26.80	

By Purchasing Supervisor

VENDOR COPY

PO Total

Page 121 of 343
\$93,933.54



Purchase Order

Fiscal Year 2022

Page 2 of 2

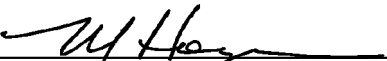
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				Seth Strader		09/02/2021			
Delivery Reference			Freight Method/Terms			Department/Location			Sales Tax Rate
DAVID BURTON			N30			COMMUNITY SERVICES			0.000
Item#	Description/Part No.				Qty	UOM	Unit Price		Extended Price
13	LIGHTING SERVICES, INC #LX2030-TS907-9830P1-0E-TE120W				30.0	EACH	\$450.000		\$13,500.00
14	TAX @ 8.875%				7657.0	DOLL	\$1.000		\$7,657.04
15	FREIGHT - ZERO'D OUT DUE TO NO DELIVERY CHARGE				1.0	DOLL	\$0.000		\$0.00
REF REQ E39096 PER QUOTE #19-86501-0 DATED 8/30/21 COUNCIL APPROVED 9/1/21 SS CO 1: CHANGED VENDOR TO REFLECT SUPPLIER AND REMOVED DELIVERY LINE									

CHANGE ORDER

By 
Purchasing Supervisor

VENDOR COPY

PO Total

Page 122 of 343
\$93,933.54

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17. **INTERPRETATION.** This Agreement was drafted in, and will be construed in accordance with the laws of the State of California, and exclusive venue for any action involving this agreement will be in Mendocino County.



AGENDA SUMMARY REPORT

SUBJECT: Council will Consider Approving the Purchase of One (1) 2022 Ford F250XL 4X4 Pickup Truck in the Amount of \$47,012.87 from Redwood Ford.

DEPARTMENT: Finance

PREPARED BY: Seth Strader, Buyer I

PRESENTER: Consent Calendar

ATTACHMENTS:

1. Justification Form
2. Request for Bid
3. Bid Tab

Summary: Council will consider approving the purchase of one (1) 2022 Ford F250XL 4X4 Pickup Truck in the Amount of \$47,012.87 from Redwood Ford.

Background: In preparation for the 21/22 Fiscal Year budget, staff prepared and presented, which was subsequently approved and adopted in the budget, a Vehicle & Heavy Equipment Request & Justification Form for the purchase of a new vehicle to replace the existing 2006 Chevy2500 HD. Please see Attachment 1 for a copy of the Equipment Request & Justification Form.

Discussion: On September 1, 2021, Request for Bid E39094 was issued for two (2) new 2021/2022 Ford F250 XL 4x4 trucks; one for the City Fire department, the other for the Ukiah Valley Fire District. The model was chosen due to the garage staff's knowledge and positive experiences with the Ford F series pickups purchased in 2019 for the same purposes, and an effort to standardize the City's fleet. The bid request was issued to Ford dealerships in the surrounding area. See Attachment 2 for a copy of the Request for Bid.

Four (4) bids were received. The lowest, responsible bidder was Redwood Ford in the amount of \$47,012.87. Please see Attachment 3 for a copy of these bid results.

It is staff's recommendation for Council to approve the purchase of one (1) 2022 Ford F250XL 4X4 Pickup Truck in the amount of \$47,012.87 from Redwood Ford. The second truck will be presented to the Ukiah Valley Fire District Board for purchase approval at their next meeting.

Recommended Action: Award the bid for one (1) 2022 Ford F250XL 4X4 Pickup Truck to Redwood Ford in the amount of \$47,012.87

BUDGET AMENDMENT REQUIRED: No

CURRENT BUDGET AMOUNT: 10021210.80100.V3165: \$75,000

PROPOSED BUDGET AMOUNT: N/A

FINANCING SOURCE: N/A

PREVIOUS CONTRACT/PURCHASE ORDER NO.: N/A

COORDINATED WITH: Doug Hutchison, Fire Chief, Dave Kirch, Fleet Maintenance Supervisor & Mary Horger, Financial Services Manager

Approved: 
Sage Sangiacomo, City Manager



Vehicle & Heavy Equipment Request & Justification

FOR FISCAL YEAR: 2021/2022

ITEM: Command/Chief Vehicle		ASSET USEFUL LIFE: 10-20 Years		ESTIMATED COST: \$75,000
SUBMITTED BY: Battalion Chief Eric Singleton				
NEW REQUEST OR REPLACEMENT OF EXISTING?: Replacement of existing				
DEPARTMENT(S)	DIVISION(S)	PROJECT CODE	ORG & OBJECT ACCOUNT CODE	PROPOSED BUDGETED AMOUNT FOR EACH DEPT/DIV
UVFA	City Fire	TBD	TBD	\$75,000.00
EXISTING VEHICLE OR EQUIPMENT REQUESTING TO BE REPLACED				
CITY EQUIPMENT #	YEAR	MODEL	VIN/SERIAL #	
3162	2006	Chevy 3/4 4X4	1GCHK29UX6E172000	
ESTIMATED LIFE IN MILEAGE/HOURS	CURRENT MILEAGE/HOURS	ORIGINAL PURCHASE PRICE		ESTIMATED SALVAGE/RESALE VALUE
100,000 / 6,000 Hours	107,084 / 3963.3 Hours			\$1,000 to \$2,000.00
CURRENT CONDITION: This vehicle is in poor condition; the vehicle was involved in a collision in 2014 in which it had significant front-end damage. The vehicle was repaired and placed back into service. The vehicle's transmission is currently slipping and will need to be replaced in a short amount of time.				
MAINTENANCE COSTS TO DATE	ADDITIONAL NEEDED REPAIRS ESTIMATE (IF APPLICABLE)			MEET CARB STANDARDS?
\$36,500.00	Transmission need to be replaced (\$4,000.00)			YES
ESTIMATED OUT-OF-SERVICE TIME			PARTS AVAILABLE	
430hrs			Some OEM/ Aftermarket	
PROPOSED VEHICLE OR HEAVY EQUIPMENT				
PROPOSED EQUIPMENT SPECIFICATIONS (ATTACH ADDITIONAL DOCUMENTATION IF NECESSARY): 2021 3/4 Ton 4X4 Pickup				
EST. MILEAGE/HOURS PER YEAR				
JUSTIFICATION/USE/NEED: This vehicle will serve as a Command/Chief vehicle, perform vital daily duties, and serve during operational incidents. Due to the transmission and other mechanical engine failures, this vehicle is unfit and unreliable, leaving team members in a possibly unsafe or life-threatening environment during fire suppression operations.				
COST/BENEFIT ANALYSIS: Based on history, the vehicles' use should extend well beyond the standard useful life of 5-10 years to most likely 15-20 years. Following NFPA standards, ten years serving as a front line vehicle and ten years as a reserve or utility vehicle. The vehicle's benefit will allow staff to perform adequate fire operational needs/duties to the City and the District.				
OTHER INDIRECT BENEFITS: None				
ALTERNATE SOLUTIONS EXPLORED: N/A				
ADDITIONAL COMMENTS: Due to the condition of the vehicle, it is to be decommissioned and placed as a surplus.				
REVIEWED & APPROVED BY:	SIGNATURE			DATE
DEPARTMENT HEAD				
FLEET MAINTENANCE SUPERVISOR				

Bids may be emailed, faxed, or hand delivered, to the contact information listed herein, and by the specified deadline, or the bid will be rejected.

Submitted by:
(Company Name
& Address)

REQ. NO. E39094

Email: sstrader@cityofukiah.com

ALL BIDS SHALL BE F.O.B. UKIAH, CA.

QUANTITY	DESCRIPTION	UNIT PRICE	EXTENDED PRICE
2 EA	2021/2022 Ford F-250-XL 4X4 Crew Cab as per Equipment Specification E39094		
		Tax (8.875 %):	
		Shipping:	
		TOTAL:	
		Payment Terms:	N30

SIGNATURE:

DATE:

LEAD TIME ARO :

PRINT NAME:**PHONE:****EMAIL:****TERMS:**

1. **LOCAL PREFERENCE:** Local Vendors shall be given an allowance of five percent (5%), up to a maximum allowance of \$2,500, on any bid for supplies, equipment and/or materials per Ukiah City Code Section 1522.D.4. A Local Vendor is defined as one which, 1) conducts business in an office or other business premises with a physical location in Mendocino County, 2) holds a valid business license issued by Mendocino County or one of the cities in Mendocino County for that business location, and 3) has conducted business in compliance with 1) and 2) for not less than six (6) months prior to requesting the preference. The City shall receive satisfactory proof that a business qualifies as a local vendor before it may receive the local preference. In the event that there is a tie bid, where one bidder is local, the other is not, and the bid is equal in price and quality, the award shall go to the Local Vendor.
2. Right is reserved to reject any and all bids.
3. Right is reserved to accept separate items unless specifically denied by bidder.
4. Right is reserved to reject a bid from any bidder who has previously failed to perform adequately for the City of Ukiah.
5. In CASE OF DEFAULT, the City of Ukiah may procure the items quoted on from other sources and hold the original bidder liable for any increased costs.
6. The price, terms, delivery point, and delivery date may individually or collectively be the basis of the awarding of the bid.
7. In submitting the bid, bidder agrees that the bid shall remain open and may not be revoked or withdrawn for 60 days from the bid due date, unless a different time period is specified in RFB.
8. Bidder agrees to perform according to its bid, if the City's acceptance is communicated to the bidder within the time specified in number 7 above.
9. For a bid submission to be accepted it must be submitted on this form.

CITY OF UKIAH
EQUIPMENT SPECIFICATION E39094
FOR TWO (2) NEW 2021/2022 FORD F-250-XL 4X4 CREW CAB, 6' 3/4"
BOX 160" WHEELBASE TRUCK

The City of Ukiah invites bids for furnishing two (2) new 2021/2022 Ford F-250-XL 4X4 Crew Cab, 6' 3/4" box, 160" wheelbase truck.

All deviations from these specifications shall be described in the bid proposal. There will be no trade-ins involved in this bid.

Bidder shall, as indicated on the Request for Bid form, state the total price for the new vehicle as specified (including any options and accessories), sales tax, destination charges and any other applicable fees or charges, FOB the City of Ukiah Corporation Yard 1320 Airport Road, Ukiah CA 95482

Only proposals from licensed dealers (new) will be considered. The City reserves the right to select and purchase a vehicle directly from the State of California Department of General Services.

Please contact Seth Strader at (707) 467-5719 or sstrader@cityofukiah.com if you have any questions regarding these specifications.

GENERAL INSTRUCTIONS TO BIDDERS

Each bidder shall attach to his bid a complete detailed description of the unit he proposes to furnish. All equipment catalogued as standard shall be furnished and included in the purchase price of the unit.

The total price shall include all equipment, accessories and optional items. In making its selection, the City will consider all factors relating to the vehicle including operating performance, operator comfort, safety, service and parts availability as well as cost.

The vehicle furnished under these specifications is to carry the standard warranty offered to the general public. A complete detailed description of the standard warranty shall be provided with the bid.

The City reserves the right to reject any or all bids and to determine which bid, in its opinion, will best serve the needs and requirements of the City.

The successful bidder shall supply the vehicle fully equipped and ready for service at the time of delivery. Dealer shall process registration and title transfer for exempt license plates to the Department of Motor Vehicles on behalf of the City of Ukiah.

General Specifications

- **PQ** – RACE RED
- **L** – 40/CNSL/40 VNYL
- **S** – MEDIUM EARTH GR
- **610A 600A** – PREF EQUIP PKG
XL TRIM
- **572** – DUAL ZONE EATC
AMFM/MP3/CLK
- **99N** – 7.3L DEV V8 ENG
- **44G** – 10-SPD AUTOMATIC
- **TDX** – LT275/70BSWAT18
- **X33 X3J** – 3.73 3.55 ELOCKING
- **90L** – PWR EQUIP GROUP
TRAILER TOW PKG
- **15W** – 12K KB WINCH
FRT LICENSE BKT
- **17S** – STX APPEAR PKG
CRUISE CONTROL
BRIGHT GRILLE
CST ALUMINUM-18
- **17X** – FX4 OFF-ROAD PK
SKID PLATES
~~11300# GVWR PKG~~
- **425** – 50 STATE EMISS
- **43C** – 110V/400W OUTLT
- **471** – CAMPER PACKAGE
- **512** – SPARE TIRE/WHL2
- **52B** – BRAKE CONTROLLER
TELE TT MIR-PWR
- **59H** – HI MNT STOP LMP
- **60B** – BLIS
JACK
- **66S** – UPFITTER SWITCH
- **67B** – 397 AMP ALTRNTR
- **76R** – REV VEH AID SEN
- **85S** – TOUGH BED
- **86M** – DUAL BATTERY
- **913** – SYNC 3

Quote Tabulation

RFB E39094 - Ford F250

ITEM #	ITEM DESCRIPTION	QTY	Redwood Ford		Hoblit Motors		National Auto Fleet Group		Watsonville Fleet Group	
			UNIT	TOTAL	UNIT	TOTAL	UNIT	TOTAL	UNIT	TOTAL
1	2021/2022 Ford F-250-XL 4X4 Crew Cab as per Equipment Specification E39094	2	\$ 43,060.00	\$ 86,120.00	\$ 44,222.00	\$ 88,444.00	\$ 45,674.34	\$ 91,348.68	\$ 47,914.65	\$ 95,829.30
2	Doc Fee	2	\$ 85.00	\$ 170.00	\$ 85.00	\$ 170.00	\$ -	\$ -	\$ -	\$ -
3	Filing Fee	2	\$ 30.00	\$ 60.00	\$ 30.00	\$ 60.00	\$ -	\$ -	\$ -	\$ -
4	Tire Fee	2	\$ 8.75	\$ 17.50	\$ 8.75	\$ 17.50	\$ 8.75	\$ 17.50	\$ -	\$ -
	SUBTOTAL			\$ 86,367.50		\$ 88,691.50		\$ 91,366.18		\$ 95,829.30
	TAX			\$ 7,658.24		\$ 7,864.49		\$ 8,107.20		\$ 8,504.85
	FREIGHT			\$ -		\$ 200.00		\$ -		\$ -
	GRAND TOTAL			\$ 94,025.74		\$ 96,755.99		\$ 99,473.38		\$ 104,334.15



AGENDA SUMMARY REPORT

SUBJECT: Approve City of Ukiah's Coordinated Responses to Grand Jury Reports: "Homelessness in Mendocino County is a Community Concern", "Meeting Mendocino County's Needs for Housing Requires Coordination and Planning", and "The Orr Street Bridge--Twelve Years of Delay."

DEPARTMENT: City Manager /
Admin

PREPARED BY: Shannon Riley, Deputy City Manager

PRESENTER: Shannon Riley, Deputy City Manager

ATTACHMENTS:

1. Report-Homelessness_in_Mendocino_County_is_a_Community_Concern_06162021
2. Report-Mendocino_Countys_Needs_for_Housing_2021
3. Report-The_Orr_Street_Bridge--Twelve_Years_of_Delay_07162021
4. PC_933.5
5. Cover_Homelessness_City Council
6. Cover_Homelessness_City Manager
7. Cover_Homelessness_Police Dept
8. Grand Jury Responses 2021 - Homelessness_Final
9. Cover_Housing
10. Grand Jury Response 2021 - Mendocino County Housing_Final
11. Cover_Orr_Street_Bridge_City Council
12. Cover_Orr_Street_Bridge_City Manager
13. Cover_Orr_Street_Bridge_CD Director
14. Cover_Orr_Street_Bridge_PW Director
15. Grand Jury Response 2021 - Orr Street Bridge_Final

Summary: The City Council will review the City's coordinated responses to three Mendocino Grand Jury Reports.

Background: The Mendocino County Grand Jury issued three reports for which required or requested responses were made of the City (Attachments 1-3; all previously forwarded to the City Council when received):

1. Homelessness in Mendocino County is a Community Concern
2. Meeting Mendocino County's Needs for Housing Requires Coordination and Planning
3. The Orr Street Bridge--Twelve Years of Delay

Each report contains Findings and Recommendations, some of which have requested or required responses from the City Council and/or specific City Staff. Historically, the City of Ukiah has responded to all findings and recommendations, even those that are just requested. Additionally, as some items solicited responses from multiple parties, the City's responses are coordinated.

California Penal Code Section 933.5 (Attachment 4) defines the limited responses that must be made to

finding and recommendations. Particularly when items are directed at agencies or matters outside of the City's jurisdiction, it can be challenging to find an allowed response that is appropriate. "Disagree" or "will not be implemented" responses are not intended to challenge the Grand Jury or other parties; rather, the item may not be within our purview to provide commentary and therefore, the allowable responses do not effectively convey the City's position. The narrative responses more effectively capture that detail.

Discussion: The City of Ukiah's Response Cover Form and narrative responses to these reports are provided as:

Attachment 5: Cover Form for City Council

Attachment 6: Cover Form for City Manager

Attachment 7: Cover Form for Police Department

Attachment 8: Narrative Response to "Homelessness in Mendocino County is a Community Concern"

Attachment 9: Cover Form for Community Development Director

Attachment 10: Narrative Response to "Meeting Mendocino County's Needs for Housing Requires Coordination and Planning. Note that this report requested responses from the Community Development Director only; therefore, this report is being provided for information only.

Attachment 11: Cover Form for City Council

Attachment 12: Cover Form for City Manager

Attachment 13: Cover Form for Community Development Director

Attachment 14: Cover Form for Public Works Director

Attachment 15: Narrative Response to "The Orr Street Bridge--Twelve Years of Delay"

Staff is requesting Council's review and approval of these responses, so that they may be submitted to the Grand Jury prior to the deadlines of October 16 and November 16, 2021.

Recommended Action: Approve City of Ukiah Coordinated Responses to Grand Jury Reports:

"Homelessness in Mendocino County is a Community Concern", "Meeting Mendocino County's Needs for Housing Requires Coordination and Planning", and "The Orr Street Bridge--Twelve Years of Delay."

BUDGET AMENDMENT REQUIRED: N/A

CURRENT BUDGET AMOUNT: N/A

PROPOSED BUDGET AMOUNT: N/A

FINANCING SOURCE: N/A

PREVIOUS CONTRACT/PURCHASE ORDER NO.: N/A

COORDINATED WITH: City Manager Sage Sangiacomo, City Attorney David Rapport, Director of Public Works and City Engineer Tim Eriksen, Director of Community Development Craig Schlatter, and Interim Police Chief Noble Waidelich

Approved: 
Sage Sangiacomo, City Manager

HOMELESSNESS IN MENDOCINO COUNTY IS A COMMUNITY CONCERN

August 16, 2021

SUMMARY

The City of Ukiah is the epicenter of County services for homelessness and transient populations in Mendocino County. Local businesses have served a growing community of people including displaced and homeless populations for the duration of social distance and masking protocols.

The COVID-19 pandemic has exposed disparities and service gaps in outcomes of the Mendocino County Homeless Services Continuum of Care (COC) services and local community policing strategies. Local governments and agencies should assess the outcomes of their strategies and look for ways to improve.

Many businesses operating around the intersection of Talmage Road and State Street have identified a rise in theft, loitering, vandalism and loss of revenue. Protecting the health and safety of frontline employees and customers is a major concern. Police dispatch calls pertaining to alleged crimes increased but options to respond in the field were severely limited.

Without viable tools for referral to COC funded services or actionable enforcement measures from police, the employees of local businesses are left unassisted to manage these problems.

BACKGROUND

Limited housing and rental inventory in the City of Ukiah and throughout the County has contributed to the establishment and growth of homeless encampments. Meeting the basic needs of food, clothing and shelter is essential. Vulnerable or addicted people have little choice in methods to make these acquisitions. Theft, loitering and pandering can be necessary for survival.

Law enforcement is tasked with the primary role of protecting the community. County and local governments, private providers and local non-profits are responsible for addressing the care of those in need through collaborative efforts and protecting the rights of the business community. During its investigation, the Grand Jury (GJ) noted that the perception of businesses and local service providers is the Ukiah Police Department (UPD) operates in a reactive role. The safety of the community is often addressed on a case-by-case basis depending on the severity of the reported occurrence.

Health and Human Services Agency (HHS) is the lead agency responsible for addressing the immediate needs of those who seek personal necessities and other assistance. The COC is a Federal, collaborative model tasked with coordinating grant funds and services to vulnerable people. The local COC includes appointed County Staff, a UPD representative, private care providers and the local business community who volunteer their time and effort.

On paper, the County, City, and the COC funded private sector work together in a collaborative effort to meet the needs of homeless families and individuals. The GJ received multiple citizen complaints pertaining to the collaboration of services and police.

METHODOLOGY

The GJ reviewed documents and interviewed key stakeholders with the County, City of Ukiah, the COC, local providers and the business community.

DISCUSSION

The GJ focused on two key areas in the investigation:

- growing impacts of the homeless community on the City of Ukiah and the response of law enforcement,
- identifying key stakeholders that are addressing current issues of homelessness County wide.

Enforcement

The UPD is the primary responder to any law enforcement call for assistance within the city limits. Both the California Highway Patrol (CHP) and Mendocino County Sheriff's Office (SO) are available to help with any emergency as needed.

All law enforcement is tasked with addressing each enforcement issue on a case-by-case basis while observing the law and protecting the rights of the parties involved.

In 2015, the City of Ukiah formed a Special Enforcement Team to address quality-of-life issues. The staffing level for this team consisted of one sergeant and two deputies. Due to budgetary and recruitment issues the team was unstaffed in August 2019 and presently remains unstaffed according to the UPD website.

In 2019, the UPD website identified the Top 10 Officer Calls city-wide. Of the approximately 25,000 reported calls 3,030 were transient-related. These calls were ranked first and accounted for 12% of the annual call volume. As reported in the Ukiah Daily Journal on October 14, 2020, transient-related calls near the intersection of State Street and Talmage Road had increased by 40% between February and August of 2020.

UPD operates with an engaging philosophy that focuses on Community Policing¹. As defined by the Community Oriented Policing Services (COPS) - a department of the United States Department of Justice - Community Policing is a way to promote organizational strategies that support the systematic use of partnerships and problem-solving techniques to proactively address the conditions that give rise to public safety issues.

¹ City of Ukiah 2020/21 Budget Report

In 2020/21 the City of Ukiah budgeted \$10,741,428 to law enforcement. In the 2021/22 proposed budget for law enforcement, the UPD is scheduled to receive \$11,249,999. Police Services is the largest department in the City's budget, even at a 62% staffing level with 26 officers. Recruiting and retaining officers is a recurring problem within the department and throughout the county.

In the budget narrative, the city deferred patrol car replacement which may result in a decreased pool of reliable patrol vehicles. This decrease in patrol vehicles may impact response time to non-life-threatening calls. The budget accounts associated with proactive or specialized enforcement have been reduced in anticipation of a limited workforce and increased service calls associated with an economic recession and the COVID-19 pandemic.

In 2020, a goal was identified by the UPD to study and evaluate co-responder models. To develop a program to serve vulnerable populations more effectively and safely in the field requires working closely with support services and community partners. As of the date of this investigation the GJ did not find a status update.

Housing

HHSA works to provide mental health and outreach services to those in need. Local non-profits work in a collaborative effort to provide for the three basic essential needs of food, shelter and clothing.

Coordinated outreach by public and private providers was sporadic. Without consistent service outreach, self-dependency and survival instinct can lead to increases in crimes of desperation.

Gaps in services often result in a greater concentration of transient people around local businesses which leads to lost clientele and revenue. The GJ investigated the factors that contribute to the increase in homelessness in the community and how those concerns can best be addressed.

In January 2017, directive CPD-17-01 Notice Establishing Additional Requirements for a COC Centralized or Coordinated Assessment System was issued from the Department of Housing and Urban Development (HUD). The notice established new requirements for the COC and recipients of COC Program and Emergency Solutions Grants Program funding. They must now develop and use a centralized or coordinated assessment system. The Notice also provides guidance that applicants should incorporate written policies and procedures to achieve outcomes for the homeless.

In April 27, 2020, the COC adopted the Strategic Plan to Address Homelessness in Mendocino County (Plan). The Strategic Planning Committee and more than 31 public and private non-profit organizations throughout the county which serve the homeless collaborated to draft the Plan. The Plan identified a need to share with the community a common agenda and plan of action to make homelessness rare, brief and a one-time experience. It also identified a fragmentation of the existing system that reduces the effectiveness of the level of service delivered, homeless-related funding and system performance. Key goals identified in the Plan

were to strengthen the collaboration between the COC, its governing body and the community at-large.

According to the Plan, poverty, leading to the inability to pay for housing is the single greatest risk factor for homelessness. It identified the trend in homelessness and proposed a strategy to meet these needs. Some key information in the Plan identified a reduction in the Point in Time (PIT) Count of 1,242 homeless in the County in 2016 to 785 in 2019. This equates to a homeless count reduction of 457. The survey also identified the homeless count in the City of Ukiah in 2019 as between 198 to 225. In studying the PIT Count process, the GJ learned that the numbers are based on a limited timeframe and a geographically restrictive area for counting the vulnerable. Since many identifiable areas of unsheltered homeless live in remote and less traveled sections of the City of Ukiah and Mendocino County, the ability to get an accurate count is problematic under the current PIT procedure.

In a February 28, 2020, communication from the State of California Business, Consumer Services and Housing Agency, Department of Housing and Community Development, Division of Financial Assistance notifying grant applicants that Federal HUD Grant funding in the amount of \$5 million in new federal funds for the Emergency Solutions Grants (ESG) program was available. Funding would be available pursuant to Subtitle B of Title IV of the McKinney-Vento Homeless Assistance Act. The ESG program provides funding for the following:

- Engaging individuals or families experiencing homelessness,
- improving the quality of Emergency Shelters (ES) for individuals and families experiencing homelessness by helping to operate these shelters, and by providing essential services to shelter residents,
- rapidly re-housing individuals and families experiencing homelessness,
- preventing families/individuals from becoming homeless. County of Mendocino System of Care receives HUD funding annually. Any service provider receiving funds are required to participate in a Coordinated Entry System (CES). The CES connects the most vulnerable persons in the community to available housing and supportive services.

To monitor and oversee the Homeless program the COC Board was established to fund administration and housing issues in the County. The COC has between 30 to 40 seated members of which 18 of those members are seated on the Board of Directors. In the organizational chart of the COC, there are two Co-Chairs that oversee the Executive Board of Directors. The COC oversees the PIT Count of individuals and families experiencing homelessness, Coordinated Entry, Permanent Housing and collaboration toward securing and maintaining HUD funded housing projects for addressing homelessness in Mendocino County.

The COC developed a rating tool for Renewal/Expansion and New Projects. The Emergency Solutions Grant (ESG) application process on the COC website was last updated on May 4, 2020. The COC selects four committee members to serve as the primary review and grading of all competitive and non-competitive applications. The Renewal/Expansion and New Project Rating Tool rates key areas to assist committee members in Housing, percentage of beds, population needs and financial information. The measuring process does not identify whether renewal applicants achieved specific goals or objectives from the previous year.

Applicants must file grant applications annually to receive funding. Upfront funding requests are rarely approved. Grant funds are commonly disbursed as a reimbursement of costs to local service providers. Program funding is applied for based on available services which are collectively limited in scope. If a service does not exist, such as hygiene stations, grant monies cannot be applied for.

FINDINGS

- F1. The Mendocino County COC website is outdated and there is no single point of contact, such as an 800 number, for those in need of homeless services.
- F2. The COC is limited to coordinating funds to locally available services which can result in service gaps for the homeless.
- F3. The breadth of locally available services does not have or require written policies and procedures to monitor the level of service being provided for the homeless which results in service outcomes for the homeless not being measured.
- F4. Gaps in the Homeless Services System of Care, such as coordinated, collaborative response teams of service providers and law enforcement, are filled by law enforcement agencies that are resource-limited and have unfilled liaison positions for effective Community Policing.
- F5. The COC has a quantitative rating system to grade service provider applicants. The rating tool does not evaluate prior objectives of an applicant to determine a history of successful outcomes. There is no rating system for similar services funded separately through County Health and Human Services.
- F6. Law Enforcement agencies are represented on the COC by the UPD. With the absence of Federal guidance on how to coordinate police with program services, there is a collaboration gap between providers and government agencies that requires creative local solutions to establish protocols, and define clear roles for service providers and agencies, to foster working relationships.
- F7. The majority of members on the COC are employees of other agencies and struggle to address the level of service needed locally without policy guidance from the Board of Supervisors, City elected officials, or other assigned staff.

RECOMMENDATIONS

The Grand Jury recommends that:

- R1. the COC update its website, expand information dissemination, and develop a toll-free number to address homeless questions and issues by January 3, 2022. (F1)
- R2. the COC develop clarity of responsibility for the issuance of funds and a process to evaluate the qualitative merits of a grant application by January 3, 2022. (F3)

- R3. the COC develop clarity of responsibility for the grant applicants that require the agencies to identify specific goals and objectives for the grant funding period by November 30, 2021. These submittals will provide a baseline rating system for the COC to determine if the applicant can provide the identified goals and objectives prior to the issuance of funds in the next grant cycle. (F5)
- R4. the COC, through local partnerships, place a high priority on addressing the hygiene needs of the homeless within 90 days of the release of this report. (F2)
- R5. the COC work with local elected officials to identify and develop a Homeless Housing element by July 1, 2022. (F2, F7)
- R6. City of Ukiah's City Council and the COC evaluate standards for partnership with HHSA and Law Enforcement within 180 days of the release of this report. (F4, F6)
- R7. County and local elected officials prioritize the development of specific objectives that meet the homeless issues identified in the Strategic Plan within 180 days of the release of this report. (F7)

REQUIRED RESPONSES

Pursuant to Penal Code § 933 and 933.05, the GJ requests responses as follows from the following elected county officials within 90 days:

- Mendocino County Board of Supervisors (F7, R7)
- City of Ukiah, City Council (F6, F7, R6, R7)

REQUESTED RESPONSES

Pursuant to Penal Code § 933 and 933.05, the GJ requests responses as follows from the following respondents:

- COC Governing Board (F1-F7, R1-R7)
- Mendocino County Chief Executive Officer (F1-F7, R1-R7)
- City of Ukiah, City Manager (F1-F7, R1-R7)
- City of Ukiah, Police Department (F3-F7, R6)

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code § 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.

MEETING MENDOCINO COUNTY'S NEEDS FOR HOUSING REQUIRES COORDINATION AND PLANNING

July 16, 2021

SUMMARY

Due to the critical lack of affordable and available housing, the Grand Jury (GJ) began investigating what was currently being done to improve the availability of housing in Mendocino County. Planning and Building Services (PBS) functions are currently limited to permitting the development of housing and ensuring that projects meet regulatory standards. PBS is not active in seeking modifications to State standards to meet the local housing needs and have experienced difficulty completing permit applications in a timely manner. All PBS functions are passive without specific direction from the Board of Supervisors (BOS).

The Mendocino County Community Development Commission (CDC) and Rural Community Housing Development Corporation (RCHDC) have been primary sources of developing new housing to address local needs. Of the cities, Ukiah has developed a creative way to adapt to the demand for new housing developments through a trust fund, supported by leasing city-owned property for market-rate construction.

It appears that the County will not meet the State assigned number of new units without local action to remove obstructions to development, increase Agency collaboration and find funds to develop new infrastructure. The GJ believes that PBS should be directed to increase its capacity to serve these functions.

BACKGROUND

While researching the issue of housing the homeless population throughout Mendocino County, the GJ became aware of a larger problem: the difficulty of developing any new housing in Mendocino County.

METHODOLOGY

The GJ researched the following documents and interviewed the following local resources:

1. Strategic Plan to Address Homelessness in Mendocino County,
2. Housing Element of the Mendocino County General Plan,
3. The Ukiah Valley Area Plan (UVAP),
4. State of California web sources on demographics,
5. Mendocino County Planning and Building Services Staff,
6. City of Ukiah Staff,
7. CDC Staff,
8. RCHDC Staff,
9. a Real Estate Broker,
10. Mendocino County Supervisors.

GLOSSARY

USC - The United States Code is made up of the official Federal statutes of the United States and contains 53 titles. It includes laws passed by Congress, also called statutes.

DISCUSSION

Vast areas of the county do not have water and sewer systems or other infrastructure that are required by Federal and State funding sources without mitigations. These areas are prone to wildfire and are currently struggling with water insecurity.

The number of housing units and structures lost during the 2017 - 2020 fires have impacted Mendocino County's housing inventory. Over 300 residential structures were destroyed or damaged during the 2017 fire season and Mendocino County Planning and Building Services (PBS) has issued 196 building permits for a combination of single-family homes, manufactured homes and accessory buildings. Of those 196 original permits, only 125 have been finalized. In subsequent fires, an additional 75 units were lost and permits for reconstruction have yet to be issued.¹

Due to COVID-19, the PBS staff has reported that new on-line options have lessened the pressure at the reception counter and allows for a more streamlined workload.

Mendocino County Council of Governments (MCOG), which normally functions as Mendocino County's Regional Transportation Agency was designated as the appropriate entity to develop the Mendocino County Regional Housing Needs Plan by the California Housing and Community Development (HCD). HCD estimates the need for new housing units in Mendocino County to be 1,845 during December 31, 2018 - August 31, 2027. 496 of those units are designated for the four incorporated areas of Fort Bragg, Point Arena, Ukiah and Willits. The remaining 1,349 are designated for the unincorporated areas of the County.²

In the Spring of 2021, the rental market rate for two to three-bedroom homes with one to two baths ranged from \$1,200 - \$2,400, not including utilities. Purchasing equal properties would range between \$390,000 - \$560,000.

Due to the enactment of Senate Bill (SB) 3, California's minimum wage increased to \$14.00 per hour, as of January 1, 2021, for employers with 26 or more employees and to \$13.00 per hour for employers with 25 or fewer employees.³ Housing costs for working families in Mendocino County is closer to half of their income rather than the 30% recommended by the U.S. Department of Housing and Urban Development (HUD).

Housing authorities and building developers attribute the shortage of housing to the difficulties of working with the current PBS system and the high cost of developing sewer, septic and water hookups in the unincorporated areas of the County, if available at all. Developers often cannot

¹ As reported by PBS Staff on 4/7/21

² MCOG - Mendocino County Regional Housing Needs Plan (2018)

³ <https://www.dds.ca.gov/rc/vendor-provider/minimum-wage/>

find sufficiently skilled workers in the building trades. More recently there are cost concerns about wildfire hardening standards for new development and 100-foot vegetation setbacks which could trigger regulatory review if certain species of oak trees are present.

Building developers complain that Mendocino County's requirement for 25% of low-income units is 15% higher than other areas in the State. The County's housing regulation currently does not allow the geographic dispersal of low-income units to be separated from market-rate projects. When a market-rate housing development is planned, builders are required to designate 25% of the units to be low-income which shifts the project cost onto the developer making the project less profitable.

Housing projects that are either currently under construction or recently completed under the permitting process of PBS have moved slowly. For example, the Orr Creek Commons Project through Redwood Community Housing Development Corporation (RCHDC) was mentioned in the City of Ukiah's City Council meeting minutes back in 2008. However, residents will not be moving in until the second half of 2021. The Vineyard Crossing Subdivision on Lovers Lane in the north end of Ukiah has been under discussion for many years and finally submitted their application in February 2017 and proposes to build 121 housing units. Vineyard Crossing is on hold pending an Environmental Impact Report (EIR). On the south end of Ukiah, near Hwy 253, the Bella Vista Development (formally known as Gardens Gate) has reapplied and filed their application in July of 2020. The process is on hold pending the California Department of Fish & Wildlife's analysis. Bella Vista is slated to create 171 housing units.

The GJ was informed that PBS permit and inspection staff see their functions as separate from each other and unrelated. There is little communication within the functions of PBS and a lack of communication within the department overall. This illustrates the lack of communication between PBS and other agencies working on housing development without specific direction from the BOS.

Historically, there has been a lack of coordination with Mendocino County's Native American Tribes when it comes to planning housing needs. Assisting the Tribes with the development of housing would help the County reach its own housing goals and meet the requirements of United States Code (USC) 4.3b as stated in the Housing Element of the County's General Plan.⁴

The GJ learned that Mendocino County's Community Development Corporation (CDC) is awarded \$500,000 of HUD funds monthly (\$6.0 million annually) to subsidize 177 rental units in the County. The funding subsidizes the difference between the beginning rental rate of \$900.00 a month and the 30% of income which the tenants are required to pay. The monies supplement rent for very low or low-income individuals or families. HUD sets the rates for housing cost and eligibility requirements for CDC. Each time the CDC opens the application process for families and individuals the CDC receives 600-700 applications during their twice a year outreach. CDC reports due to the lack of one-bedroom housing units, single people with a Housing Choice Voucher (formally called Section 8) are challenged to find a place to live.

⁴ Mendocino County's 6th Cycle Housing Element

A major housing agency that develops and manages dwellings is RCHDC. They continue to develop and manage dwellings for very low to moderate-income individuals, families, and people with special needs. Currently, RCHDC is managing 454 units in affordable housing communities around Mendocino County. RCHDC is also responsible for 208 units of self-help housing development using the United States Department of Agriculture (USDA) funding which does three things: provides pride of ownership, develops community and teaches building skills.

The County of Mendocino was awarded a Project Homekey grant from the HCD in the latter part of 2020 and was able to purchase the Best Western Hotel on Orchard Avenue in Ukiah. The funding was created to protect the homeless in California who are at high risk for serious illness and who are impacted by COVID-19. The project provides the homeless with interim or permanent long-term housing.⁵ Recently, the County of Mendocino began contracting with RCHDC to manage the converted hotel, which supports 56-units and is now Live Oak Apartments. Even though the apartments are situated in the City of Ukiah, the County of Mendocino let the City know they would be applying for the funding as the developer and administrator. This project was developed through County Health and Human Services and not PBS and is one the few County-run projects to address housing needs.

The City of Ukiah has recently been very successful in facilitating several market-rate projects, specifically on Main & Gobbi Streets. For the Main Street project, the developer utilized a trust fund established by the City specifically to encourage new housing development. The trust fund empowered the City of Ukiah to lease city owned property to the builder to construct these market-rate apartments. The monies generated from leasing the land re-funds the trust fund for future projects.

Trust funds, which can be called “In-Lieu Funds,” are successful programs to receive cash value in lieu of requiring builders to include low-income housing within their project. The monies are then placed in a trust fund to be used to underwrite other projects for low-income or special needs renters.

In August 2020, the City of Ukiah again began discussing the Brush Street Triangle, located south of the Redwood Empire Fairgrounds and the west side of Highway 101. The area has land to expand, and two new housing projects are already providing affordable housing to farm workers, seniors and primarily Housing Choice Voucher recipients. The City of Ukiah’s approach would provide a path to annexation, which furthers the development of additional affordable housing and industrial/manufacturing opportunities for employment in a location with adequate land and infrastructure.⁶

FINDINGS

F1. The areas around cities have the best developed sewer and water systems for new housing in Mendocino County. Rural areas of the County do not have adequate public infrastructure and amenities to meet HCD projections. (R1, R3)

⁵ <https://www.hcd.ca.gov/grants-funding/active-funding/homekey.shtml>

⁶ August 5, 2020 | Ukiah Daily Journal

- F2. Due to COVID-19 restrictions, PBS has developed more efficient digital options for routine matters which has created a more streamlined process to free PBS to pursue new opportunities for solving departmental issues and verifying State regulations and statistics.
- F3. MCOG is designated by the State of California Department of Housing and Community Development to coordinate the housing need allocation process for Mendocino County. By default, this has become the regional planning agency.
- F4. Lack of housing forces the price of existing housing to be unaffordable for working families as well as preventing new potential employees to choose to work in Mendocino County.
- F5. The Median income of county residents and the higher cost of goods and services does not keep pace with the cost of new single-family homes, which discourages contractors from building here when they can profit from building in other areas.
- F6. The current shortage of affordable housing will continue without Mendocino County hiring qualified housing and community development planners. Such assets would assist in locating funding sources for infrastructure improvements, attracting appropriate developers, and informing the BOS what effect proposed regulations may have on the development of new housing. (R6)
- F7. There is no formal or consistent communication between PBS and its counterparts in the cities of Fort Bragg, Point Arena, Ukiah and Willits which is indicative of the lack of planning on a regional basis in this County.
- F8. The prohibitive cost of new construction and limited income of most area residents makes new market-rate projects risky for builders.
- F9. The activation of a Mendocino County Building Trust Fund (In-Lieu fund) would give Mendocino County leverage in encouraging proactive development to meet the county's needs for infrastructure and housing projects.
- F10. Federal and State funding is targeted to urban areas and the BOS does not direct PBS to actively seek mitigations on these restrictions to acquire funding for housing projects when State & Federal funds become available.
- F11. As a result of restrictions on the use of local budget monies, Mendocino County's Native American Tribes may only be invited to the table when discretionary funds for housing are available through Federal sources.

RECOMMENDATIONS

The Grand Jury recommends that:

- R1. by January 1, 2022, County Administration provide direction to PBS to establish periodic meetings to work cooperatively with cities, infrastructure oriented special districts, and Tribal governments on meeting the needs established in the Housing Element. (F1, F7)

- R2. by January 1, 2022, PBS host bi-monthly meetings with all housing development entities including the four incorporated cities to monitor progress of goals in the Housing Element. (F7)
- R3. by FY 2022-23 County Administrators organize a coalition with cities to establish a framework for annexations through tax-sharing agreements. (F1, F9)
- R4. by FY 2022-23 the BOS establish a framework to enact Policy 4.3b of USC, which encourages the development of additional housing for Native Americans. This will help the County to meet their obligation under State law to provide housing, including for special communities by 2027. (F11)
- R5. PBS continue the development of digital systems to deal with routine applications so there is more time for researching innovative ways to plan for economic and housing development. (F2)
- R6. by December 1, 2021, the BOS direct PBS to set-up the Mendocino County Building In-Lieu Fund as a Building Trust Fund and report back to the BOS before the end of fiscal year 21-22. (F6, F9)

REQUIRED RESPONSES

Pursuant to Penal Code § 933 and 933.05, the GJ requests responses as follows from the following elected county officials within 90 days:

- Mendocino County Board of Supervisors: (All Findings and Recommendations)

REQUESTED RESPONSES

Pursuant to Penal Code § 933 and 933.05, the GJ requests responses as follows from the following respondents within 90 days:

- City of Ukiah, Community Development Department Director (F6, F7, F9, F10, R1-R3)
- County of Mendocino, Planning and Building Services Assistant Director⁷ (All Findings and Recommendations)

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code § 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.

⁷ The response is requested of the Assistant Director due to the fact that there is no one permanently assigned to the PBS Director position as of the writing of this report.

THE ORR STREET BRIDGE - TWELVE YEARS OF DELAY

July 16, 2020

SUMMARY

In 2008, Waugh Lane and Orr Street Bridges were on the Ukiah City Council docket for refurbishment. Waugh Lane was renovated in 2010, however, the Orr Street Bridge has been closed since 2009 and remains unrepaired and in a hazardous condition.

If the City realized there was disagreement between the Public Works Department (PW) and the Wagenseller Neighborhood Association (WNA) and had researched guidance from CA Public Resource Code they could have solved this problem years earlier at a much lower cost.

The result of City inaction has resulted in a blighted bridge, inoperable for any use. Conflict in determining the use of this bridge between the WNA and the PW has resulted in no action despite the funding allocation for repair. Work may be delayed further because its condition was included in a grant application for Community Development Block Grant (CDBG) funds. This grant will cover the cost of a community needs survey.

BACKGROUND

The Grand Jury (GJ) received a complaint about the condition of the Orr Street Bridge and the 12-year absence of City action after it had been closed to traffic in 2008. After a site visit, the current condition of the bridge prompted the GJ to investigate.

METHODOLOGY

The GJ visited and photographed the bridge and surrounding neighborhood. Interviews were conducted with City Administration, Staff, members of the WNA, neighbors to the north and south of the bridge, and C&S Waste Solutions staff. Documents included in the citizen complaint have been verified.

DISCUSSION

The Wagenseller neighborhood, located in the northeast section of Ukiah, is one of the City's oldest neighborhoods and is home to many working-class households. It has long streets and no parks. In addition to many rental properties and Public Housing, there also remain homes designed in early 19th Century architectural styles.

In the early 2000's, the WNA successfully organized to take on a number of neighborhood problems including, drug use, parking and traffic issues. The WNA cooperated with the Ukiah Police Department to address drug problems in the neighborhood. The Association then focused on the single-lane Orr Street bridge as it did not safely serve the amount of cut-through traffic to Brush Street.

In August 2008, the WNA attended a City Council meeting to address the Orr Street Bridge and

began their appeal to the City to change the use of the bridge to pedestrian and bicycle use only.

In 2009, a bridge constructed for the Orchard Street extension to Brush Street was opened allowing through traffic to Brush Street. The City closed the Orr Street bridge for repairs, and the WNA petitioned the city at that time to refurbish the bridge to make it safe for pedestrian and bicycle traffic. At the same meeting, the Senior Civil Engineer presented a strong case for keeping the bridge open to through traffic. Also mentioned at that meeting were the Rural Community Housing and Development Corporation (RCHDC) intentions to build affordable housing units on the County side of the bridge.

On October 6, 2010, the City Council allocated \$125,000 and directed the PW to study the Orr Street Bridge proposal for repairs. At the same time, \$130,000 was allocated to conduct repairs on the similarly constructed Waugh Lane bridge which was completed in 2010. Further consideration of the neighborhood concerns for Orr Street Bridge resulted in no action taken by the City at that time. Even after the 2014 Ukiah City Council budgeted \$254,000 for refurbishment, the bridge remains in a state of disrepair in 2021.

While waiting for action from the City, and in the years closed to traffic, the WNA began using the bridge as a pop-up park. They added a bench and plywood decking and flowers. Eventually community interest waned, with no evidence of maintenance by the City, and the condition of the bridge continued to decay. In the interim, the city staff reviewed the possibilities given the input from the WNA on bridge design but inaction followed without explanation from the City. The bridge has become an unsafe blight on the neighborhood.

Although the bridge has been deemed to have structurally sound footings and steel beams, there is currently a dangerous open hole in the decking. The asphalt surface is littered with uneven aging plywood and a rotted wood safety railing. The cost to repair the bridge is significantly less than it would be if the footings and beams were unsound.

In September 2020, the GJ reviewed a detailed packet of documentation starting in 2008 showing the history between the WNA, past City Councils and PW. Documentation included communications between the WNA and the City Council requesting that PW move forward on the WNA recommendations to close the Orr Street Bridge to vehicle access.

The PW Director expressed concern that the bridge should be able to be opened for evacuations, emergency service and public service vehicles. There are communication records from PW staff indicating that there is no turn around for garbage trucks to service the properties on Orr Street and that having the bridge closed to vehicle traffic requires the drivers of garbage trucks to back out of Orr Street into a busy roadway. The GJ asked a representative of the solid waste services provider, C&S Waste Solutions, how serious is this problem. The representative stated that their staff was capable of dealing with all of Ukiah's streets but indicated that it is never desirable to have a garbage truck back out of a dead-end street.

The Police Chief in 2018 did not see any concerns with denying vehicle access to the bridge but did have concern that the unused bridge area would attract illegal camping and other illegal activities. He also stated anything that can increase regular use will reduce illegal activity. The current condition of the bridge, its seclusion and lack of traffic, has resulted in an area of

illegal activity and loitering now in the middle of a growing neighborhood.

Recently the Regional Redwood Trail project constructed a walking bridge one block west of Orr Street. This trail through the City provides a walking bridge over Orr Creek to Brush Street, through the Wagenseller neighborhood.

A RCHDC housing project north of the bridge proposed in 2008 is soon to be opened. The 70-unit Orr Creek Commons housing project, which is a multi-use residential apartment complex for low and moderate-income individuals, families and seniors now increases the pedestrian and vehicle traffic demands on the Orr Street Bridge. This new construction from Brush Street south to the bridge includes a newly paved two-lane Orr Street with sidewalks. Construction ends abruptly at the bridge.

In mid-June of 2020, a State of California Grant Application from the City included a request for \$150,000 to study traffic and infrastructure improvements for the Wagenseller neighborhood. The City received informal acknowledgement of acceptance of this grant in November 2020. The formal approval of the Grant was received in March 2021.

Grant conditions indicate that construction could not take place until formal notification of the grant was received from the State Department of Housing and Community Development (HCD). This resulted in additional delays before the Request for Proposal (RFP) for a study could be opened.

As of the date of this report, the City continues to consider additional applications for grants to help pay for the work needed in the entire neighborhood. There is \$254,000 for repair of the bridge in the City budget allocated since 2018. The GJ was told this was being used as leverage for more grant funding. Inclusion of the bridge in this year's grant application makes excellent sense from a planning perspective but it also means additional delays of two to four years are possible before the bridge will finally be made usable. The GJ understands the city is prohibited to use CDBG funds to rehabilitate the bridge due to designated City funding for the project.¹

This long period of inaction was avoidable with available California Environmental Quality Act (CEQA) guidance in the Public Resource Code (PRC) to officially designate a Lead Agency and one or more Responsible Agencies to this project for managing an Initial Study as well as public input.²

The GJ could find no evidence that past City Councils acting in the capacity of a Lead Agency had regular follow up on their direction to staff when working with the WNA.

¹ CFR § 570.207 (2) *General government expenses*. Except as otherwise specifically authorized in this subpart or under 2 CFR part 200, subpart E, expenses required to carry out the regular responsibilities of the unit of general local government are not eligible for assistance under this part.

² CA Public Resource Code § 15051(b)(1): The Lead Agency will normally be the agency with general governmental powers, such as a city or county, rather than an agency with a single or limited purpose such as an air pollution control district or a district which will provide a public service or public utility to the project. CA PRC § 21067: "Lead agency" means the public agency which has the principal responsibility for carrying out or approving a project which may have a significant effect upon the environment. CA PRC § 21069: "Responsible agency" means a public agency, other than the lead agency, which has responsibility for carrying out or approving a project.

The City Council directed the City Engineer to lead the bridge project. This placed coordination, responsibility, and public outreach for this project on a single department when that department's staff and the WNA disagreed on the outcome. Plans were drafted but never completed for following the WNA's recommendations. Work never began and only partial explanations from PW were communicated to the WNA.

By accepting input from the public and directing staff to work with the WNA stakeholders in 2010, the City Council had changed the scope of the project to require the inclusion of more than one Agency.

FINDINGS

- F1. The extension of Orchard Avenue to Brush Street relieved the traffic and made it possible to close the Orr St bridge for repairs which provided an opportunity for the WNA to seek a change in the use of the bridge.
- F2. City Council decisions on October 6, 2010 and again on February 21, 2018 supported the WNA goals for bridge use but did not include formal assignments of Lead and Responsible Agencies which has resulted in long-term delays and increases in project scope and costs.
- F3. Since the closure of the bridge in 2009, development of housing and a new roadway on County land to the north ending abruptly at the bridge. This has accelerated the need for repairing the bridge for traffic and introduced new potential stakeholders to the project.
- F4. Project delays caused by the change in project scope have resulted in increased costs for either repairs or alterations to the Orr Street Bridge. Bridge repair estimates in 2009 were \$125,000, and in 2017 were between \$300,000-\$400,000. It is unknown what the costs for 2022 will be.
- F5. The Regional Redwood trail crossing, one block West of Orr Street, with a pedestrian bridge over Orr Creek limits the justification for a pedestrian/bike only bridge on Orr Street.
- F6. The bridge repairs have been included in the 2019 grant application for the entire Wagenseller Neighborhood which may cause delays in construction for two to four more years.
- F7. Refurbishment of the Orr Street Bridge for vehicle, pedestrian and bicycle traffic would have met all the needs of the neighborhood residents and qualified for project exemptions under CEQA in 2009.
- F8. The root cause for inaction on the bridge is that the focused outcome pursued by the WNA requires more planning and a CEQA review which can take years to complete under normal circumstances.

- F9. Project delays have led to the current blighted condition of the Orr Street Bridge.
- F10. The City Council could have formally assigned this project to the Planning Department and not Public Works after accepting recommendations from a community group.
- F11. The Planning Department was not informed of the line-item fund available for bridge repair/refurbishment in the City budget while managing the application for CDBG funds.

RECOMMENDATIONS

The Grand Jury recommends that:

- R1. the City utilize public surveys funded by the Community Development Block Grant and in the final decision on the alterations to the bridge. (F2, F3)
- R2. in future disagreements between Staff and Community Groups, the city investigate alternatives, document a decision and make quarterly progress reports. (F2, F3, F6, F10)
- R3. if plans for projects change based on need or finance, the City shall inform interested parties of delays or fundamental changes. (F4)
- R4. in areas like the Wagenseller/Brush neighborhood which straddle the City and County jurisdiction, it is essential for agencies to coordinate plans for the area. (F8, F9)
- R5. the city prevent any use of the bridge until reconstruction or refurbishment is complete and the bridge deemed safe for access from either side. (F6)
- R6. the Planning Department should be the agency that does research and seeks public input on projects that have ramifications beyond engineering and construction. (F4, F10, F11)

REQUIRED RESPONSES

Pursuant to Penal Code § 933 and 933.05, the grand jury requires responses as follows:

From the following governing bodies within 90 days:

Ukiah City Council - (All Findings, All Recommendations)

REQUESTED RESPONSES

Pursuant to Penal Code § 933 and 933.05, the grand jury requests responses as follows:

From the following respondents within 90 days:

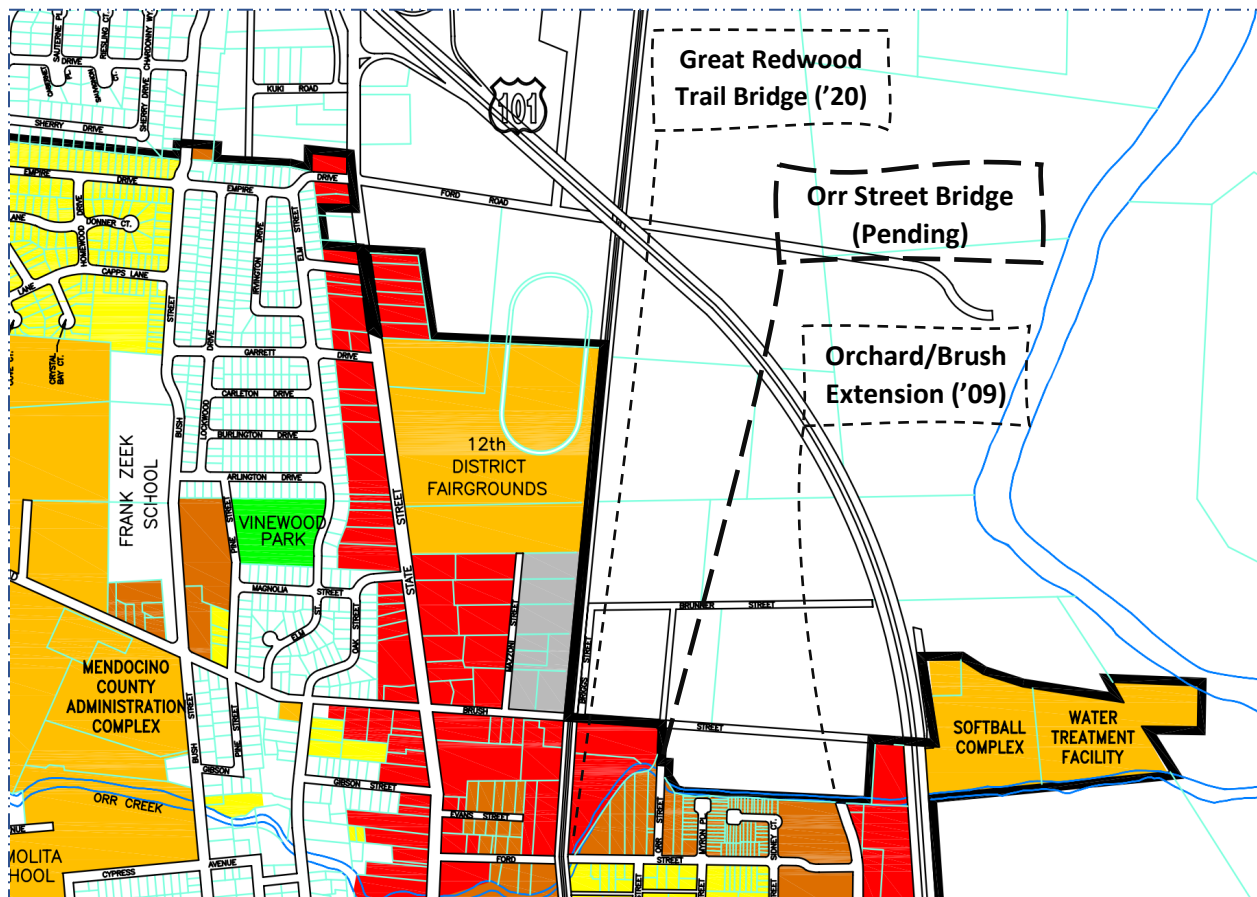
Ukiah City Manager - (All Findings) (All Recommendations)

Director, Ukiah Public Works, City Engineer - (F6-F10) (R2-R4, R6)

Community Development Director - (F2-F4, F6, F8-F11) (R1, R4-R6)

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code § 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.
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SITE PHOTOS



Northeast Ukiah bridge projects around Wagenseller neighborhood with identified completion dates. Image from City of Ukiah GIS server.

North side of Orr Street Bridge looking south into Wagenseller neighborhood. (November 2020)



South side of Orr Street
Bridge looking north toward
new housing development
in County jurisdiction.
(November 2020)



North side of Orr Street
Bridge looking south into
Wagenseller neighborhood
with restrictive signage.
(December 2020)

Orr Street development looking south toward Orr Street Bridge from the Orr Street/Brush Street intersection. (May 2020)



North side of Orr Street Bridge looking south into Wagenseller neighborhood with fence to prevent foot traffic entry into road construction from bridge. (May 2020)



North side of Orr Street Bridge looking east along Orr Creek walking trail with fence to prevent foot traffic entry from trail to road construction. (May 2020)



North side of Orr
Street Bridge looking
south into Wagenseller
neighborhood with
deck still accessible
for foot traffic.
(May 2020)



SUMMARY OF PENAL CODE §933.05

Penal Code §933.05 provides for only two (2) acceptable responses with which agencies and/or departments (respondents) may respond with respect to the **findings** of a Grand Jury report:

1. The respondent agrees with the finding.
2. The respondent disagrees wholly or partially with the findings, ***in which case the respondent shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefore.***

Penal Code §933.05 provides for only four (4) acceptable responses with which agencies and/or departments (respondents) may respond with in respect to the **recommendations** of the Grand Jury.

1. The recommendation has been implemented, with a summary regarding the implemented action.
2. The recommendation has not yet been implemented, but will be in the future, with a timeframe for implementation.
3. The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis, with a timeframe for the matter to be prepared for discussion by the officer or head of the agency/department being investigated or reviewed, including the governing body of the public agency when applicable. ***This timeframe shall not exceed six (6) months from the date of publication of the Grand Jury Report.***
4. The recommendation will not be implemented because it is not warranted or is not reasonable, with a detailed explanation therefore.

However, if a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected official, both the agency or department head and the Board of Supervisors shall respond if requested by the grand jury, but the response of the Board of Supervisors shall address only those budgetary or personnel matters over which it has some decision making authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department. (Penal Code §933.05(c))

REQUIRED RESPONSE FORM

Grand Jury Report Title : *Homelessness in Mendocino County is a Community Concern*

Report Dated : August 16, 2021

Response Form Submitted By:

Ukiah City Council
City of Ukiah
300 Seminary Avenue
Ukiah, CA 95482

Response MUST be submitted, per Penal Code §933.05, no later than: November 16, 2021

I have reviewed the report and submit my responses to the FINDINGS portion of the report as follows:

☐ I (we) agree with the Findings numbered:

☒ I (we) disagree wholly or partially with the Findings numbered below, and have *attached* a statement specifying any portion of the Finding that are disputed with an explanation of the reasons therefore.

F6, F7

I have reviewed the report and submit my responses to the RECOMMENDATIONS portion of the report as follows:

☒ The following Recommendation(s) have been implemented and **attached, as required**, is a summary describing the implemented actions:

R6, R7

☐ The following Recommendation(s) have not yet been implemented, but will be implemented in the future; **attached, as required**, is a time frame for implementation:

GRAND JURY REPORT
RESPONSE FORM
PAGE TWO

- ☐ The following Recommendation(s) require further analysis, and **attached, as required**, is an explanation and the scope and parameters of the planned analysis, and a time frame for the matter to be prepared, discussed and approved by the officer and/or director of the agency or department being investigated or reviewed: (This time frame shall not exceed six (6) months from the date of publication of the Grand Jury Report)
-

- ☐ The following Recommendations will NOT be implemented because they are not warranted and/or are not deemed reasonable; **attached, as required**, is an explanation therefore:
-

I have completed the above responses, and have attached, as required the following number of pages to this response form:

Number of Pages attached: 3

I understand that responses to Grand Jury Reports are public records. They will be posted on the Grand Jury website: www.mendocinocounty.org/government/grand-jury. The clerk of the responding agency is required to maintain a copy of the response.

I understand that I must submit this signed response form and any attachments as follows:

First Step: E-mail in pdf file format to:

- The Grand Jury Foreperson at: grandjury@mendocinocounty.org
- The Presiding Judge: grandjury@mendocino.courts.ca.gov

Second Step: Mail all originals to:

Mendocino County Grand Jury
P.O. Box 939
Ukiah, CA 95482

Printed Name: Juan Orozco

Title: Mayor

Signed: _____ Date: 10/6/21

REQUIRED RESPONSE FORM

Grand Jury Report Title : *Homelessness in Mendocino County is a Community Concern*

Report Dated : August 16, 2021

Response Form Submitted By:

Sage Sangiacomo, City Manager
City of Ukiah
300 Seminary Avenue
Ukiah, CA 95482

Response MUST be submitted, per Penal Code §933.05, no later than: November 16, 2021

I have reviewed the report and submit my responses to the FINDINGS portion of the report as follows:

☐ I (we) agree with the Findings numbered:

☒ I (we) disagree wholly or partially with the Findings numbered below, and have *attached* a statement specifying any portion of the Finding that are disputed with an explanation of the reasons therefore.

F1, F2, F3, F4, F5, F6, F7

I have reviewed the report and submit my responses to the RECOMMENDATIONS portion of the report as follows:

☒ The following Recommendation(s) have been implemented and **attached, as required**, is a summary describing the implemented actions:

R2, R6, R7

☐ The following Recommendation(s) have not yet been implemented, but will be implemented in the future; **attached, as required**, is a time frame for implementation:

GRAND JURY REPORT
RESPONSE FORM
PAGE TWO

- ☐ The following Recommendation(s) require further analysis, and **attached, as required**, is an explanation and the scope and parameters of the planned analysis, and a time frame for the matter to be prepared, discussed and approved by the officer and/or director of the agency or department being investigated or reviewed: (This time frame shall not exceed six (6) months from the date of publication of the Grand Jury Report)
-

- ☒ The following Recommendations will NOT be implemented because they are not warranted and/or are not deemed reasonable; **attached, as required**, is an explanation therefore:

R1, R3, R4, R5

I have completed the above responses, and have attached, as required the following number of pages to this response form:

Number of Pages attached: 3

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- The Presiding Judge: grandjury@mendocino.courts.ca.gov

Second Step: Mail all originals to:

Mendocino County Grand Jury
P.O. Box 939
Ukiah, CA 95482

Printed Name: Sage Sangiacomo

Title: City Manager

Signed: _____ Date: 10/6/21

REQUIRED RESPONSE FORM

Grand Jury Report Title : *Homelessness in Mendocino County is a Community Concern*

Report Dated : August 16, 2021

Response Form Submitted By:

Noble Waidelich, Interim Police Chief
City of Ukiah
300 Seminary Avenue
Ukiah, CA 95482

Response MUST be submitted, per Penal Code §933.05, no later than: November 16, 2021

I have reviewed the report and submit my responses to the FINDINGS portion of the report as follows:

☐ I (we) agree with the Findings numbered:

☒ I (we) disagree wholly or partially with the Findings numbered below, and have *attached* a statement specifying any portion of the Finding that are disputed with an explanation of the reasons therefore.

F3, F4, F5, F6, F7

I have reviewed the report and submit my responses to the RECOMMENDATIONS portion of the report as follows:

☒ The following Recommendation(s) have been implemented and **attached, as required**, is a summary describing the implemented actions:

R6

☐ The following Recommendation(s) have not yet been implemented, but will be implemented in the future; **attached, as required**, is a time frame for implementation:

GRAND JURY REPORT
RESPONSE FORM
PAGE TWO

- ☐ The following Recommendation(s) require further analysis, and **attached, as required**, is an explanation and the scope and parameters of the planned analysis, and a time frame for the matter to be prepared, discussed and approved by the officer and/or director of the agency or department being investigated or reviewed: (This time frame shall not exceed six (6) months from the date of publication of the Grand Jury Report)
-

- ☐ The following Recommendations will NOT be implemented because they are not warranted and/or are not deemed reasonable; **attached, as required**, is an explanation therefore:
-

I have completed the above responses, and have attached, as required the following number of pages to this response form:

Number of Pages attached: 3

I understand that responses to Grand Jury Reports are public records. They will be posted on the Grand Jury website: www.mendocinocounty.org/government/grand-jury. The clerk of the responding agency is required to maintain a copy of the response.

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- The Presiding Judge: grandjury@mendocino.courts.ca.gov

Second Step: Mail all originals to:

Mendocino County Grand Jury
P.O. Box 939
Ukiah, CA 95482

Printed Name: Noble Waidelich

Title: Interim Police Chief

Signed: _____ Date: 10/6/21

Mendocino County Grand Jury Report:
Homelessness in Mendocino County is a Community Concern
August 16, 2021

City of Ukiah Responses

Narrative Summary of Required/Requested Responses to Grand Jury Findings:

F1. *The Mendocino County COC website is outdated and there is no single point of contact, such as an 800 number, for those in need of homeless services. (Requested response by Ukiah City Manager.)*

Partially Disagree. The City of Ukiah does not maintain the COC website and cannot speak to how often it is updated or whether the contact information listed on the site is effective.

F2. *The COC is limited to coordinating funds to locally available services which can result in service gaps for the homeless. (Requested response by Ukiah City Manager.)*

Partially Disagree. The City of Ukiah has no opinion or knowledge of the funding limitations of the COC.

F3. *The breadth of locally available services does not have or require written policies and procedures to monitor the level of service being provided for the homeless which results in service outcomes for the homeless not being measured. (Requested response by Ukiah City Manager, Ukiah Police Department.)*

Partially Disagree. The City of Ukiah has no firsthand knowledge of this and does not administer contracts with homeless service providers.

F4. *Gaps in the Homeless Services System of Care, such as coordinated, collaborative response teams of service providers and law enforcement, are filled by law enforcement agencies that are resource-limited and have unfilled liaison positions for effective Community Policing. (Requested response by Ukiah City Manager, Ukiah Police Department.)*

Partially Disagree. The City of Ukiah agrees that there are gaps in the system of care that often fall on law enforcement. It is also true that the City of Ukiah is resource-limited and has unfilled positions. However, recent partnerships with HHSA and other County partners have resulted in the development of a part-time homeless outreach team and the prospect of resources for mental health outreach.

F5. *The COC has a quantitative rating system to grade service provider applicants. The rating tool does not evaluate prior objectives of an applicant to determine a history of successful outcomes. There is no rating system for similar services funded separately through*

County Health and Human Services. (Requested response by Ukiah City Manager, Ukiah Police Department.)

Disagree. The City of Ukiah Staff is aware of an objective rating system used to evaluate funding applications, but not one that is used to “grade” service providers.

F6. Law Enforcement agencies are represented on the COC by the UPD. With the absence of Federal guidance on how to coordinate police with program services, there is a collaboration gap between providers and government agencies that requires creative local solutions to establish protocols, and define clear roles for service providers and agencies, to foster working relationships. (Required response by Ukiah City Council. Requested response by Ukiah City Manager, Ukiah Police Department.)

Partially Disagree. It is true that UPD represents law enforcement on the COC Board and we agree that there is often a collaboration gap between providers and government agencies that requires creative local solutions. We disagree that this gap is entirely due to an absence of Federal guidance.

F7. The majority of members on the COC are employees of other agencies and struggle to address the level of service needed locally without policy guidance from the Board of Supervisors, City elected officials, or other assigned staff. (Required response by Ukiah City Council. Requested response by Ukiah City Manager, Ukiah Police Department.)

Partially Disagree. The City of Ukiah has no jurisdiction over the other agencies and/or homeless service providers, and cannot speak on their behalf.

Narrative Summary of Required/Requested Responses to Grand Jury Recommendations:

R1. The COC update its website, expand information dissemination, and develop a toll-free number to address homeless questions and issues by January 3, 2022. (Requested response by Ukiah City Manager.)

The recommendation will not be implemented by the City of Ukiah, which has no jurisdiction or control over the COC website and the Staff who administer it.

R2. The COC develop clarity of responsibility for the issuance of funds and a process to evaluate the qualitative merits of a grant application by January 3, 2022. (Requested response by Ukiah City Manager.)

The City of Ukiah believes the second part of this recommendation has been implemented by the COC; however, the lack of clarity may be resolved by Recommendation #1, the update and expansion of the COC website.

R3. The COC develop clarity of responsibility for the grant applicants that require the agencies to identify specific goals and objectives for the grant funding period by November 30, 2021. These submittals will provide a baseline rating system for the COC to determine if the

applicant can provide the identified goals and objectives prior to the issuance of funds in the next grant cycle. (Requested response by Ukiah City Manager.)

The recommendation will not be implemented by the City of Ukiah, which has no firsthand knowledge of this matter, nor does it administer funds or contracts related to the COC.

R4. The COC, through local partnerships, place a high priority on addressing the hygiene needs of the homeless within 90 days of the release of this report. (Requested response by Ukiah City Manager.)

The recommendation will not be implemented by the City of Ukiah, which does not administer funds or contracts related to the COC. The City of Ukiah agrees that addressing hygiene needs is a quality of life issue, and will continue to work collaboratively with the County and its service providers to the extent that we have jurisdiction. This collaboration is regularly occurring and ongoing.

R5. The COC work with local elected officials to identify and develop a Homeless Housing element by July 1, 2022. (Requested response by Ukiah City Manager.)

The recommendation will not be implemented by the City of Ukiah. We have no knowledge of a “Homeless Housing Element” or what it would include, nor do we believe that an additional document that is not required by HCD or HUD would be beneficial. Homelessness is addressed in the City of Ukiah’s Housing Element of its General Plan. Additionally, housing is addressed in the COC’s Strategic Plan.

R6. City of Ukiah’s City Council and the COC evaluate standards for partnership with HHSA and Law Enforcement within 180 days of the release of this report. (Required response by Ukiah City Council. Requested response by Ukiah City Manager, Ukiah Police Department.)

The recommendation has been implemented. City of Ukiah regularly collaborates with HHSA to facilitate homeless-related efforts, and welcomes additional opportunities engage and evaluate standards.

R7. County and local elected officials prioritize the development of specific objectives that meet the homeless issues identified in the Strategic Plan within 180 days of the release of this report. (Required response by Ukiah City Council. Requested response by Ukiah City Manager.)

The recommendation has been implemented. City of Ukiah Staff currently serves on the COC’s Strategic Planning Committee, which meets regularly to priority strategic plan objectives and to match them with funding sources.

REQUIRED RESPONSE FORM

Grand Jury Report Title : *Meeting Mendocino County's Needs for Housing Requires Coordination and Planning*

Report Dated : July 16, 2021

Response Form Submitted By:

Craig Schlatter, Director of Community Development
City of Ukiah
300 Seminary Avenue
Ukiah, CA 95482

Response MUST be submitted, per Penal Code §933.05, no later than: October 16, 2021

I have reviewed the report and submit my responses to the FINDINGS portion of the report as follows:

- ☒ I (we) agree with the Findings numbered:
F9
- ☒ I (we) disagree wholly or partially with the Findings numbered below, and have *attached* a statement specifying any portion of the Finding that are disputed with an explanation of the reasons therefore.
F6, F7, F10

I have reviewed the report and submit my responses to the RECOMMENDATIONS portion of the report as follows:

- ☐ The following Recommendation(s) have been implemented and **attached, as required**, is a summary describing the implemented actions:
- ☐ The following Recommendation(s) have not yet been implemented, but will be implemented in the future; **attached, as required**, is a time frame for implementation:

GRAND JURY REPORT
RESPONSE FORM
PAGE TWO

- ☐ The following Recommendation(s) require further analysis, and **attached, as required**, is an explanation and the scope and parameters of the planned analysis, and a time frame for the matter to be prepared, discussed and approved by the officer and/or director of the agency or department being investigated or reviewed: (This time frame shall not exceed six (6) months from the date of publication of the Grand Jury Report)
-

- ☒ The following Recommendations will NOT be implemented because they are not warranted and/or are not deemed reasonable; **attached, as required**, is an explanation therefore:

R1, R2, R3

I have completed the above responses, and have attached, as required the following number of pages to this response form:

Number of Pages attached: 3

I understand that responses to Grand Jury Reports are public records. They will be posted on the Grand Jury website: www.mendocinocounty.org/government/grand-jury. The clerk of the responding agency is required to maintain a copy of the response.

I understand that I must submit this signed response form and any attachments as follows:

First Step: E-mail in pdf file format to:

- The Grand Jury Foreperson at: grandjury@mendocinocounty.org
- The Presiding Judge: grandjury@mendocino.courts.ca.gov

Second Step: Mail all originals to:

Mendocino County Grand Jury
P.O. Box 939
Ukiah, CA 95482

Printed Name: Craig Schlatter

Title: Director of Community Development

Signed: _____ Date: 10/1/21

**Mendocino County Grand Jury Report:
Meeting Mendocino County's Needs for Housing
Requires Coordination and Planning
July 16, 2021**

City of Ukiah Community Development Director Responses

Narrative Summary of Requested Responses to Grand Jury Findings:

F6. The current shortage of affordable housing will continue without Mendocino County hiring qualified housing and community development planners. Such assets would assist in locating funding sources for infrastructure improvements, attracting appropriate developers, and informing the BOS what effect proposed regulations may have on the development of new housing. (Requested response by City of Ukiah Community Development Director.)

Partially disagree. The affordable housing shortage is more a function of external factors than the number of housing and community development planners employed by PBS.

F7. There is no formal or consistent communication between PBS and its counterparts in the cities of Fort Bragg, Point Arena, Ukiah and Willits which is indicative of the lack of planning on a regional basis in this County. (Requested response by City of Ukiah Community Development Director.)

Partially disagree. Although [SS1]there is a lack of consistent regional housing planning in Mendocino County, the City of Ukiah collaborates closely with PBS on other planning efforts- such as the 2021 Airport Land Use Compatibility Plan for the Ukiah Municipal Airport and the 2020 Mendocino Multi-Jurisdiction Hazard Mitigation Plan Update.

F9. The activation of a Mendocino County Building Trust Fund (In-Lieu fund) would give Mendocino County leverage in encouraging proactive development to meet the county's needs for infrastructure and housing projects. (Requested response by City of Ukiah Community Development Director.)

Agree.

F10. Federal and State funding is targeted to urban areas and the BOS does not direct PBS to actively seek mitigations on these restrictions to acquire funding for housing projects when State & Federal funds become available. (Requested response by City of Ukiah Community Development Director.)

Partially disagree. Although much of the Federal and State affordable housing funding favors (through application points) areas where adequate infrastructure and public services exist, it is often difficult, if not impossible, to seek waivers on

these restrictions or to change other facets of the Federal or State application such that the rural project is more competitive.

Denser urban areas tend to be more competitive in acquiring funding, and this is often consistent with both long-established housing policy and common sense. An isolated affordable housing project without access to adequate infrastructure, public services, and public transportation can create disadvantages for lower income persons of that community or neighborhood.

Narrative Summary of Requested Responses to Grand Jury Recommendations:

R1. By January 1, 2022, County Administration provide direction to PBS to establish periodic meetings to work cooperatively with cities, infrastructure oriented special districts, and Tribal governments on meeting the needs established in the Housing Element. (Requested response by City of Ukiah Community Development Director.)

The recommendation will not be implemented by the City of Ukiah as it is directed to County Administration which is not within the City's jurisdictional purview. However, the City of Ukiah's Community Development Department welcomes the opportunity for periodic meetings to foster collaboration with the County, special districts, and Tribal governments related to meeting the community's housing needs.

R2. By January 1, 2022, PBS host bi-monthly meetings with all housing development entities including the four incorporated cities to monitor progress of goals in the Housing Element. (Requested response by City of Ukiah Community Development Director.)

The recommendation will not be implemented by the City of Ukiah as it is directed to PBS, which is not within the City's jurisdictional purview.

Regional Housing Needs Allocation (RHNA) goals within the Housing Element are required to be tracked by each individual city and the County and annually reported to the State Department of Housing and Community Development. Because this data is public and easily attainable, bi-monthly meetings to monitor progress already reported annually would likely do little to improve regional coordination towards addressing housing production.

Perhaps a more meaningful approach would be for PBS to host bi-monthly meetings with all housing development entities and the four incorporated cities to develop a regional housing plan. Such a plan could incorporate infrastructure limitations and map out where housing is realistically appropriate, then design a step by step implementation plan with deadlines for completion.

R3. By FY 2022-23 County Administrators organize a coalition with cities to establish a framework for annexations through tax-sharing agreements. (Requested response by City of Ukiah Community Development Director.)

The recommendation will not be implemented by the City of Ukiah as it is directed to County Administration which is not within the City's jurisdictional purview. However, the City of Ukiah's Community Development Department welcomes the opportunity to work the County and other cities to establish a master tax sharing agreement for all cities and the County.

REQUIRED RESPONSE FORM

Grand Jury Report Title : *The Orr Street Bridge – Twelve Years of Delay*

Report Dated : July 16, 2021

Response Form Submitted By:

Ukiah City Council
City of Ukiah
300 Seminary Avenue
Ukiah, CA 95482

Response MUST be submitted, per Penal Code §933.05, no later than: October 16, 2021

I have reviewed the report and submit my responses to the FINDINGS portion of the report as follows:

- ☒ I (we) agree with the Findings numbered:
F5, F9
- ☒ I (we) disagree wholly or partially with the Findings numbered below, and have *attached* a statement specifying any portion of the Finding that are disputed with an explanation of the reasons therefore.
F1, F2, F3, F4, F6, F7, F8, F10, F11

I have reviewed the report and submit my responses to the RECOMMENDATIONS portion of the report as follows:

- ☒ The following Recommendation(s) have been implemented and **attached, as required**, is a summary describing the implemented actions:
R3, R4, R5
- ☐ The following Recommendation(s) have not yet been implemented, but will be implemented in the future; **attached, as required**, is a time frame for implementation:

GRAND JURY REPORT
RESPONSE FORM
PAGE TWO

- ☒ The following Recommendation(s) require further analysis, and **attached, as required**, is an explanation and the scope and parameters of the planned analysis, and a time frame for the matter to be prepared, discussed and approved by the officer and/or director of the agency or department being investigated or reviewed: (This time frame shall not exceed six (6) months from the date of publication of the Grand Jury Report)

R2

- ☒ The following Recommendations will NOT be implemented because they are not warranted and/or are not deemed reasonable; **attached, as required**, is an explanation therefore:

R6

I have completed the above responses, and have attached, as required the following number of pages to this response form:

Number of Pages attached: 4

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- The Grand Jury Foreperson at: grandjury@mendocinocounty.org
- The Presiding Judge: grandjury@mendocino.courts.ca.gov

Second Step: Mail all originals to:

Mendocino County Grand Jury
P.O. Box 939
Ukiah, CA 95482

Printed Name: Juan Orozco

Title: Mayor

Signed: _____ Date: 10/6/21

REQUIRED RESPONSE FORM

Grand Jury Report Title : *The Orr Street Bridge – Twelve Years of Delay*

Report Dated : July 16, 2021

Response Form Submitted By:

Sage Sangiacomo, City Manager
City of Ukiah
300 Seminary Avenue
Ukiah, CA 95482

Response MUST be submitted, per Penal Code §933.05, no later than: October 16, 2021

I have reviewed the report and submit my responses to the FINDINGS portion of the report as follows:

- ☒ I (we) agree with the Findings numbered:
F5, F9
- ☒ I (we) disagree wholly or partially with the Findings numbered below, and have *attached* a statement specifying any portion of the Finding that are disputed with an explanation of the reasons therefore.
F1, F2, F3, F4, F6, F7, F8, F10, F11

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GRAND JURY REPORT
RESPONSE FORM
PAGE TWO

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Second Step: Mail all originals to:

Mendocino County Grand Jury
P.O. Box 939
Ukiah, CA 95482

Printed Name: Sage Sangiacomo

Title: City Manager

Signed: _____ Date: 10/6/21

REQUIRED RESPONSE FORM

Grand Jury Report Title : *The Orr Street Bridge – Twelve Years of Delay*

Report Dated : July 16, 2021

Response Form Submitted By:

Craig Schlatter, Director of Community Development
City of Ukiah
300 Seminary Avenue
Ukiah, CA 95482

Response MUST be submitted, per Penal Code §933.05, no later than: October 16, 2021

I have reviewed the report and submit my responses to the FINDINGS portion of the report as follows:

- ☒ I (we) agree with the Findings numbered:
F9
- ☒ I (we) disagree wholly or partially with the Findings numbered below, and have *attached* a statement specifying any portion of the Finding that are disputed with an explanation of the reasons therefore.
F2, F3, F4, F6, F8, F10, F11

I have reviewed the report and submit my responses to the RECOMMENDATIONS portion of the report as follows:

- ☒ The following Recommendation(s) have been implemented and **attached, as required**, is a summary describing the implemented actions:
R1, R4, R5
- ☐ The following Recommendation(s) have not yet been implemented, but will be implemented in the future; **attached, as required**, is a time frame for implementation:

GRAND JURY REPORT
RESPONSE FORM
PAGE TWO

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-

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Second Step: Mail all originals to:

Mendocino County Grand Jury
P.O. Box 939
Ukiah, CA 95482

Printed Name: Craig Schlatter

Title: Community Development Director

Signed: _____ Date: 10/6/21

REQUIRED RESPONSE FORM

Grand Jury Report Title : *The Orr Street Bridge – Twelve Years of Delay*

Report Dated : July 16, 2021

Response Form Submitted By:

Tim Eriksen, Director of Public Works
City of Ukiah
300 Seminary Avenue
Ukiah, CA 95482

Response MUST be submitted, per Penal Code §933.05, no later than: October 16, 2021

I have reviewed the report and submit my responses to the FINDINGS portion of the report as follows:

- ☒ I (we) agree with the Findings numbered:
F9
- ☒ I (we) disagree wholly or partially with the Findings numbered below, and have *attached* a statement specifying any portion of the Finding that are disputed with an explanation of the reasons therefore.
F6, F7, F8, F10

I have reviewed the report and submit my responses to the RECOMMENDATIONS portion of the report as follows:

- ☒ The following Recommendation(s) have been implemented and **attached, as required**, is a summary describing the implemented actions:
R3, R4
- ☐ The following Recommendation(s) have not yet been implemented, but will be implemented in the future; **attached, as required**, is a time frame for implementation:

GRAND JURY REPORT
RESPONSE FORM
PAGE TWO

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R2

- ☒ The following Recommendations will NOT be implemented because they are not warranted and/or are not deemed reasonable; **attached, as required**, is an explanation therefore:

R6

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Number of Pages attached: 4

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- The Presiding Judge: grandjury@mendocino.courts.ca.gov

Second Step: Mail all originals to:

Mendocino County Grand Jury
P.O. Box 939
Ukiah, CA 95482

Printed Name: Tim Eriksen

Title: Director of Public Works

Signed: _____ Date: 10/6/21

**Mendocino County Grand Jury Report:
The Orr Street Bridge – Twelve Years of Delay
July 16, 2021**

City of Ukiah Responses

Narrative Summary of Required/Requested Responses to Grand Jury Findings:

F1. The extension of Orchard Avenue to Brush Street relieved the traffic and made it possible to close the Orr St bridge for repairs which provided an opportunity for the WNA to seek a change in the use of the bridge. (Required response by Ukiah City Council. Requested response by Ukiah City Manager.)

Wholly disagree. Orr Creek Bridge was closed by the City before the Orchard Avenue Bridge was constructed.

F2. City Council decisions on October 6, 2010 and again on February 21, 2018 supported the WNA goals for bridge use but did not include formal assignments of Lead and Responsible Agencies which has resulted in long-term delays and increases in project scope and costs. (Required response by Ukiah City Council. Requested response by Ukiah City Manager and Community Development Director.)

Partially disagree. City Council decisions may have in part supported the WNA goals for the bridge, but assignment of Lead and/or Responsible Agencies is related to and a function of the California Environmental Quality Act (CEQA) and associated regulations. This project was categorically exempt from CEQA, and although the City would be the Lead Agency for this project, this Lead Agency assignment had no bearing or impact on delays and/or increases in project scope and costs. r

F3. Since the closure of the bridge in 2009, development of housing and a new roadway on County land to the north ending abruptly at the bridge. This has accelerated the need for repairing the bridge for traffic and introduced new potential stakeholders to the project. (Required response by Ukiah City Council. Requested response by Ukiah City Manager and Community Development Director.)

Partially disagree. While the housing projects in the county may have introduced potential stakeholders to the project, this has not influenced the timing of bridge repairs.

F4. Project delays caused by the change in project scope have resulted in increased costs for either repairs or alterations to the Orr Street Bridge. Bridge repair estimates in 2009 were \$125,000, and in 2017 were between \$300,000-\$400,000. It is unknown what the costs for 2022 will be. (Required response by Ukiah City Council. Requested response by Ukiah City Manager and Community Development Director.)

Partially disagree. While it is generally true that construction costs go up over time, due in part to uncontrollable effects such as inflation and increased costs of materials, the examples cited in this Finding represent completely different projects. The 2009 proposal was for structural bridge repair only; in 2017, the scope included potential land acquisition for appropriate vehicular access. Ultimately, the Community Development Block Grant (CDBG)-funded study, “The Orr Street Bridge and Transportation Corridor Study and Plan,” plus Council’s approval will determine the final scope of work.

F5. The Regional Redwood trail crossing, one block West of Orr Street, with a pedestrian bridge over Orr Creek limits the justification for a pedestrian/bike only bridge on Orr Street. (Required response by Ukiah City Council. Requested response by Ukiah City Manager.)

Agree.

F6. The bridge repairs have been included in the 2019 grant application for the entire Wagenseller Neighborhood which may cause delays in construction for two to four more years. (Required response by Ukiah City Council. Requested response by Ukiah City Manager, Community Development Director, and Public Works Director.)

Wholly disagree. The City does not agree with this finding, as it does not accurately reflect the scope of the CDBG grant application or the project timeline.

F7. Refurbishment of the Orr Street Bridge for vehicle, pedestrian and bicycle traffic would have met all the needs of the neighborhood residents and qualified for project exemptions under CEQA in 2009. (Required response by Ukiah City Council. Requested response by Ukiah City Manager and Public Works Director.)

Wholly disagree. It is impossible to know if the 2009 project would have met the needs of all of the residents of WNA. The CDBG-funded study will help determine those needs, as it will require input and engagement with the neighborhood.

F8. The root cause for inaction on the bridge is that the focused outcome pursued by the WNA requires more planning and a CEQA review which can take years to complete under normal circumstances. (Required response by Ukiah City Council. Requested response by Ukiah City Manager, Community Development Director, and Public Works Director.)

Wholly disagree. The generalizations in this finding are unsubstantiated in the report. Further, it has not been determined the level of CEQA review that would be required.

F9. Project delays have led to the current blighted condition of the Orr Street Bridge. (Required response by Ukiah City Council. Requested response by Ukiah City Manager, Community Development Director, and Public Works Director.)

Agree.

F10. The City Council could have formally assigned this project to the Planning Department and not Public Works after accepting recommendations from a community group. (Required

response by Ukiah City Council. Requested response by Ukiah City Manager, Community Development Director, and Public Works Director.)

Partially disagree. The City Council does not typically assign workloads to specific departments. That is an administrative function, typically directed by the City Manager. Further, it would be unusual for a project making repairs or improvements to a public street to be managed by the Community Development (Planning) Department.

F11. The Planning Department was not informed of the line-item fund available for bridge repair/refurbishment in the City budget while managing the application for CDBG funds. (Required response by Ukiah City Council. Requested response by Ukiah City Manager and Community Development Director.)

Partially disagree. Capital funding including for the Orr Bridge repair/refurbishment is identified throughout city budgetary documents and has been discussed a number of times at various City Council meetings. It is common practice to apply for grant funding for projects, even when other sources of funding may be available. Further, the line-item funding in the City budget was for construction of the project compared to the CDBG award, which was only for a planning study and no construction. According to CDBG regulations, funding awarded within the planning studies allocation cannot be used for construction activities and vice-versa. Funding for construction of the project would require a separate application to CDBG under a different type of allocation.

Narrative Summary of Required/Requested Responses to Grand Jury Recommendations:

R1. the City utilize public surveys funded by the Community Development Block Grant and in the final decision on the alterations to the bridge. Requested response by Ukiah City Manager and Community Development Director.)

The recommendation has been implemented. The CDBG activities will involve completion of a plan and preparation of plans and specifications and an Engineer's Cost Estimate to be used for a future public improvement project for Orr Street.

R2. in future disagreements between Staff and Community Groups, the city investigate alternatives, document a decision and make quarterly progress reports. (Required response by Ukiah City Council. Requested response by Ukiah City Manager and Public Works Director.)

The recommendation requires further analysis, as it includes a prescriptive formula that may not be appropriate for all types of projects. In some cases, the City already provides for even more engagement than what is recommended here.

R3. if plans for projects change based on need or finance, the City shall inform interested parties of delays or fundamental changes. (Required response by Ukiah City Council. Requested response by Ukiah City Manager and Public Works Director.)

The recommendation has been implemented. The CDBG grant process will require public noticing and community engagement.

R4. in areas like the Wagenseller/Brush neighborhood which straddle the City and County jurisdiction, it is essential for agencies to coordinate plans for the area. (Required response by Ukiah City Council. Requested response by Ukiah City Manager, Community Development Director, and Public Works Director.)

The recommendation has been implemented and memorialized in specific documents and agreements, including the agreement for the development of the Orchard Bridge, the Out-of-Area Service Agreement for the RCHDC affordable housing project adjacent to the Orr Street Bridge, and others.

R5. the city prevent any use of the bridge until reconstruction or refurbishment is complete and the bridge deemed safe for access from either side. (Required response by Ukiah City Council. Requested response by Ukiah City Manager and Community Development Director.)

The recommendation has been implemented. The bridge is closed and signs prohibiting access are posted.

R6. the Planning Department should be the agency that does research and seeks public input on projects that have ramifications beyond engineering and construction. (Required response by Ukiah City Council. Requested response by Ukiah City Manager, Community Development Director, and Public Works Director.)

The recommendation will not be implemented as stated. Many City Departments engage in projects that involve research and public input; some of these projects involve multiple departments. For each project, the most appropriate lead department generally manages community outreach to ensure the team members with the greatest expertise are available for engagement.



AGENDA SUMMARY REPORT

SUBJECT: Conduct a Public Hearing; Adopt Resolution Establishing the State Street Underground District No. 6 from Norton Street to Henry Street and from Mill Street to Gobbi Street, Including the Boundaries and Proposed Schedule; and Approve the Community Development Director's Determination that the Project Qualifies for a CEQA Exemption.

DEPARTMENT: Electric Utility **PREPARED BY:** Cindy Sauers, Assistant Electric Utility Director

PRESENTER: Mel Grandi, Electric Utility Director

ATTACHMENTS:

1. Boundary Maps North and South
2. Boundary Descriptions
3. Timeline
4. 2021-10-06 Resolution State Street UG District No. 6

Summary: The City Council will conduct a Public Hearing and consider adopting a resolution establishing the State Street Underground District No. 6 from Norton Street to Henry Street and Mill Street to Gobbi Street and approve the boundaries and proposed schedule. The City Council will also consider the Community Development Director's Determination that the Project qualifies for a CEQA exemption.

Background: Pursuant to Ukiah City Code Sections 3800-3841, the City Council can establish an Underground District to require utility companies to remove or underground overhead facilities, including wires, poles and other associated equipment within the specified area and schedule. On September 4, 2013, the Ukiah City Council provided direction to the Electric Utility for developing and prioritizing six overhead to underground conversion project areas. Staff is recommending establishing Underground District No. 6 to coordinate with the Streetscape Phase 2 improvement project.

Discussion: The proposed maps and descriptions (Attachment 1 and 2) outline the district boundaries and, if established, will require overhead facilities including electric, telephone and cable TV facilities to be removed within the setback from right of way lines as described in the attachments. The boundary descriptions reflect a 25' setback from right of way lines. The existing street lights will be replaced with LED luminaires mounted on steel street light poles. Additional trenching will occur from the right of way to the service equipment on some parcels when necessary. All disturbed areas will be restored to the condition they were prior to undergrounding.

On September 20, 2021, in accordance with Ukiah City Code 3810, the City Clerk gave notice to affected property owners as shown on the last equalized assessment roll of the time, date, location

and proposed boundaries of the new Underground District to be know as Underground District No. 6, which encompasses both sides of State Street from Norton to Henry Streets and from Mill to Gobbi Streets.

As a part of consideration of the proposed project, the Community Development Director is required to make- and he has made- a determination as to the required level of environmental review required by the California Environmental Quality Act ("CEQA"). The proposed project is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15302(d), Replacement/Reconstruction and Section 15304, Minor Alterations to Land. The project includes the removal of existing utility poles and infrastructure, trenching, placement of electrical conduit in the trenches, and the restoring of the trenched areas to their previous condition. The proposed project would not have an adverse impact on environmental resources because it is located in an urban environment, no trees would be removed, all work would be performed in areas previously disturbed, and no work would be performed in any creek, stream of other sensitive environmental habitat. As such, it has been determined by the Community Development Director that the project qualifies for the aforementioned CEQA exemptions.

Staff recommends that Council authorize the formation of Underground District No. 6, with all utilities jointly paying their allocated costs for undergrounding and for customer equipment adaption, approve the boundaries and timeline (Attachment 3), adopt the corresponding Resolution (Attachment 4), and approve the Community Development Director's Determination that the project qualifies for a CEQA exemption.

Note, The Electric Utility Department is preparing a workshop item for the City Council to discuss and get direction on future undergrounding projects.

Recommended Action: Adopt Resolution establishing State Street Underground District No. 6, approve boundaries and timeline, and approve the Community Director's Determination that the Project qualifies for a CEQA exemption.

BUDGET AMENDMENT REQUIRED: No

CURRENT BUDGET AMOUNT: N/A

PROPOSED BUDGET AMOUNT: N/A

FINANCING SOURCE:

PREVIOUS CONTRACT/PURCHASE ORDER NO.:

COORDINATED WITH: Sage Sangiacomo, City Manager; Mel Grandi, Electric Utility Director

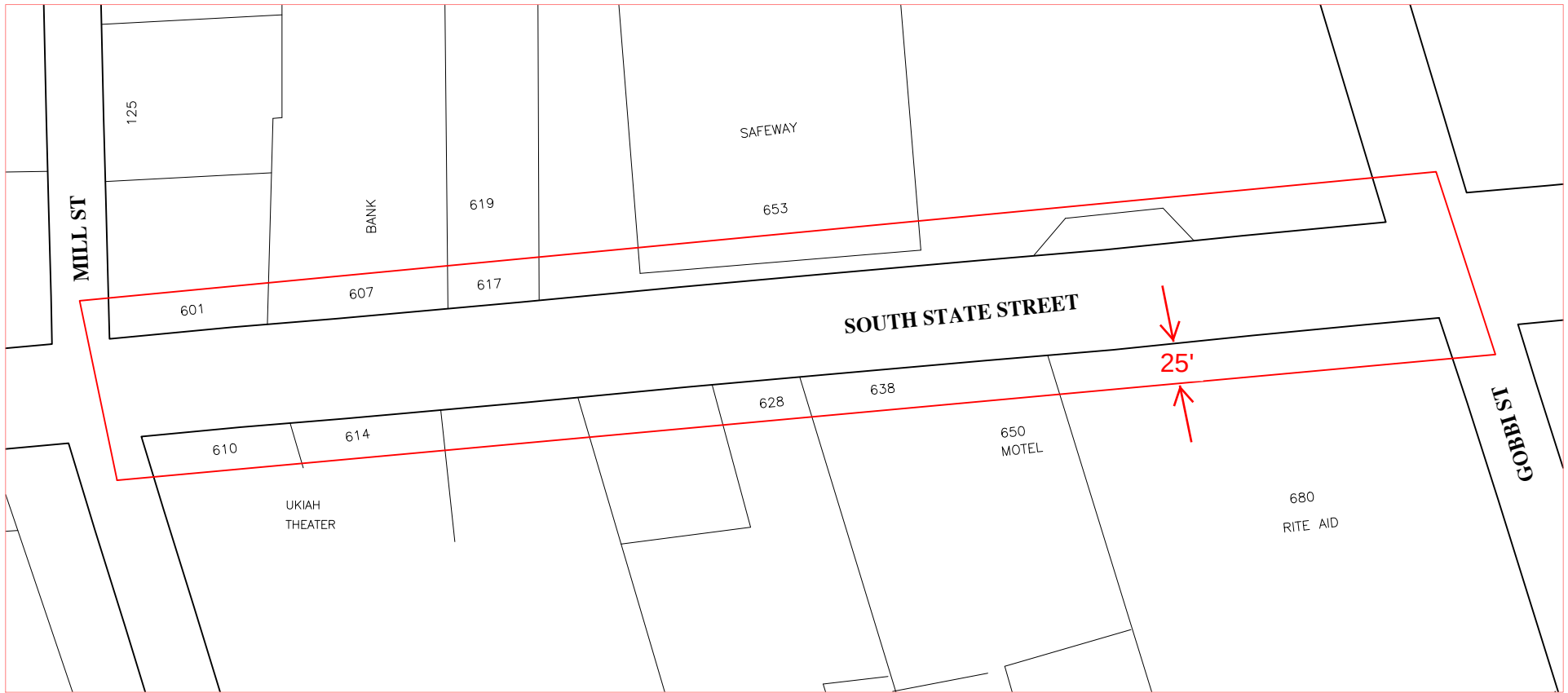
Approved: 
Sage Sangiacomo, City Manager



CITY OF UKIAH

ELECTRIC
UTILITY
DEPARTMENT

LOCATION	<u>NORTH STATE STREET - HENRY TO NORTON STREETS</u>	W.O. NO.	<u>-</u>
		GRID NO.	<u>6 & 9</u>
DESCRIPTION	<u>UNDERGROUND DISTRICT NO. 6</u>	SCALE	<u>NO SCALE</u>
	<u>PROPOSED BOUNDARY</u>	DATE	<u></u>
DRAWN BY	<u>AMS</u>	CHECKED BY	<u></u>
		APPROVED BY	<u></u>
		PAGE	<u>1 OF 2</u>



CITY OF UKIAH ELECTRIC UTILITY DEPARTMENT	LOCATION	SOUTH STATE STREET - MILL TO GOBBI STREET	W.O. NO.	-
			GRID NO.	13 & 14
	DESCRIPTION	UNDERGROUND DISTRICT NO. 6	SCALE	NO SCALE
	PROPOSED BOUNDARY		DATE	
	DRAWN BY	AMS	CHECKED BY	
	APPROVED BY		PAGE	2 OF 2

Exhibit 1

CITY OF UKIAH UNDERGROUND DISTRICT NO. 6 NORTH BOUNDARY DESCRIPTION NORTH STATE STREET – NORTON STREET TO HENRY STREET

Starting at a point located on the center line of West Henry Street and 25' West of the Westerly right-of-way line of North State Street; thence Northerly, parallel with the Westerly right-of-way line of North State Street to the Northerly property line of 528 North State Street; thence Easterly to a point 25' East of the Easterly right-of-way line of North State Street and 25' North of the Northerly right-of-way line of Norton Street; thence Southerly, parallel with the Easterly right-of-way line of North State Street, to 36' South of the Northerly property line of 401 North State Street; thence Westerly, to the point of beginning.

CITY OF UKIAH UNDERGROUND DISTRICT NO. 6 SOUTH BOUNDARY DESCRIPTION SOUTH STATE STREET – MILL STREET TO GOBBI STREET

Starting at a point located on the center line of West Mill Street and 25' West of the Westerly right-of-way line of South State Street; thence Southerly, parallel with the Westerly right-of-way line of South State Street to the center line of Gobbi Street; thence Easterly, to 25' East of the Easterly right-of-way line of South State Street; thence Northerly, parallel with the Easterly right-of-way line of South State Street, to the center line of East Mill Street, thence Westerly, to the point of beginning.

**NORTH & SOUTH STATE STREET
OVERHEAD TO UNDERGROUND CONVERSION
PROPOSED TIMELINE**

Fall/Winter 2021	Project Design and Easement Procurement.
Spring 2022	City Council Award Bid.
Summer/Fall 2022	Underground Utility Construction.
Fall 2022/Winter 2023	Ukiah Electric Utility Department install underground facilities.
Winter 2023	Ukiah Electric Utility Department to remove overhead facilities.
Spring/Summer 2023	AT&T and Comcast install underground facilities.
Fall 2023	AT&T to remove poles.

Note: Timeline Subject to Change

RESOLUTION NO. 2021-_____

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF UKIAH ESTABLISHING THE
BOUNDARIES AND OTHER PROVISIONS OF UNDERGROUND DISTRICT NO. 6-
ALONG STATE STREET FROM NORTON STREET TO HENRY STREET AND MILL
STREET TO GOBBI STEET**

WHEREAS, on September 20, 2021, in accordance with Ukiah City Code §3810, the City Clerk gave notice to affected property owners as shown on the last equalized assessment roll of the time, date, location and proposed boundaries of a new Underground District to be known as Underground District No. 6, which encompasses both sides of State Street from Norton Street to Henry Street and Mill Street to Gobbi Street, as more fully described in the attached **Exhibit 1**; and

WHEREAS, under Ukiah City Code Sections 3811 and 3820, when the City Council establishes an underground district, it must fix the time within which the removal of poles, overhead wires and associated overhead structures and the underground installation of these facilities shall be completed and when affected property owners must be ready to receive underground service; and

WHEREAS, on October 6, 2021, the City Council conducted a public hearing in accordance with Ukiah City Code §3810, to consider establishing Underground District No. 6, its proposed boundaries and the schedule for completing the undergrounding of overhead facilities, including by utilities and property owners within the proposed District. The City Council also considered whether the public necessity, health, safety or welfare requires the removal of poles, overhead wires and associated overhead structures and the underground installation of wires and facilities for supplying electric, communication or similar or associated service within the boundaries, as depicted and described in the attached **Exhibit 1**; and

WHEREAS, at least ten (10) days prior to the scheduled hearing, notice of such hearing was given to all affected property owners as shown on the last equalized assessment roll and all affected utilities in the manner and for the time required by law; and

WHEREAS, such hearing has been duly and regularly held and all persons interested have been given an opportunity to be heard;

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. The City Council finds that:

- a. State Street has been designated as a primary gateway into the City, provides access from U.S. Highway 101 through important commercial areas to the historic downtown

business district, and accordingly passes through a civic area of unique scenic interest to the general public.

- b. The undergrounding to be accomplished will avoid or eliminate an unusually heavy concentration of overhead distribution facilities.
- c. State Street is extensively used by the general public and carries a heavy volume of pedestrian and vehicular traffic.
- d. The public necessity, health, safety and welfare require the removal of poles, overhead wires and associated overhead structures and the underground installation of wires and facilities for supplying and improving electric, communication or similar or associated service within the boundaries of Underground District No. 6, as described in the attached **Exhibit 1**.

2. Based on the foregoing findings:

- a. The removal and undergrounding of electrical facilities as herein provided shall apply to all of Underground District No. 6, as described in **Exhibit 1**.
- b. All poles, overhead wires and associated overhead structures shall be removed and underground installation made in Underground District No. 6 within the following times and in the following manner:

(1) Underground installation by the utility companies, including the City of Ukiah Electric Department, AT&T and Comcast shall be completed by Fall 2023;

(2) Said utilities shall pay their allocated costs associated with undergrounding their facilities within the public right of way, including, but not limited to, the costs of removing poles and overhead wires and related facilities, furnishing and installing conduits, conductors and associated equipment, and of trenching, compacting, backfilling, and paving over said facilities;

(3) With permission of the property owner, the City Electric Department and the other utilities furnishing service to the property, including AT&T and Comcast, at the expense of the utilities, will install up to 100 feet of underground service lines and related equipment from the public right-of-way along State Street to the service equipment on the property. If the property owner does not consent in a form and within the time satisfactory to the Director of the Electric Department or his or her designee, the property owner shall install those facilities at his or her expense in compliance with specifications and project timeline adopted by the Electric Department.

3. By no later than 10 days after the adoption of this Resolution, the City Clerk shall mail a copy of this resolution and a copy of Ukiah City Code Sections 3800-3855 to affected property owners as shown on the last equalized assessment role and to affected utilities.

PASSED AND ADOPTED on October 6, 2021, by the following roll call vote:

AYES:

NOES:

ABSTAINING:

ABSENT:

Juan v. Orozco, Mayor

ATTEST:

Kristine Lawler, City Clerk

Exhibit 1

CITY OF UKIAH UNDERGROUND DISTRICT NO. 6
NORTH BOUNDARY DESCRIPTION
NORTH STATE STREET – NORTON STREET TO HENRY STREET

Starting at a point located on the center line of West Henry Street and 25' West of the Westerly right-of-way line of North State Street; thence Northerly, parallel with the Westerly right-of-way line of North State Street to the Northerly property line of 528 North State Street; thence Easterly to a point 25' East of the Easterly right-of-way line of North State Street and 25' North of the Northerly right-of-way line of Norton Street; thence Southerly, parallel with the Easterly right-of-way line of North State Street, to 36' South of the Northerly property line of 401 North State Street; thence Westerly, to the point of beginning.

CITY OF UKIAH UNDERGROUND DISTRICT NO. 6
SOUTH BOUNDARY DESCRIPTION
SOUTH STATE STREET – MILL STREET TO GOBBI STREET

Starting at a point located on the center line of West Mill Street and 25' West of the Westerly right-of-way line of South State Street; thence Southerly, parallel with the Westerly right-of-way line of South State Street to the center line of Gobbi Street; thence Easterly, to 25' East of the Easterly right-of-way line of South State Street; thence Northerly, parallel with the Easterly right-of-way line of South State Street, to the center line of East Mill Street, thence Westerly, to the point of beginning.



AGENDA SUMMARY REPORT

SUBJECT: Receive and File Fourth Quarter Financial Report.

DEPARTMENT: Finance

PREPARED BY: Dan Buffalo, Finance Director

PRESENTER: Dan Buffalo, Finance Director

ATTACHMENTS:

None

Summary: The City Council will receive a presentation on the Fourth Quarter (June 30) Financial Report for the City of Ukiah.

Background: The report provides readers with a summary of the City's financial position and activities through the fiscal year period ending June 30, 2021. This report is unaudited.

Discussion: The following link will direct readers to the report on the City's OpenGov platform, which is a dynamic and navigable presentation allowing readers to drill down into data to explore more detail than the former report offered.

<https://stories.opengov.com/ukiahca/published/yM6yyoDPI>

The report is meant to be viewed through the OpenGov platform via a web browser, preferably Google Chrome.

Recommended Action: Receive and file report.

BUDGET AMENDMENT REQUIRED: N/A

CURRENT BUDGET AMOUNT: N/A

PROPOSED BUDGET AMOUNT: N/A

FINANCING SOURCE: N/A

PREVIOUS CONTRACT/PURCHASE ORDER NO.: N/A

COORDINATED WITH: N/A

Approved: 
Sage Sangiacomo, City Manager



MEETING DATE:10/6/2021

AGENDA SUMMARY REPORT

SUBJECT:Receive Report Regarding Annual Review of Ordinance for the Regulation of Shopping Cart Containment and Retrieval, and Provide Direction as Necessary.

DEPARTMENT: Community Development

PREPARED BY:

Jesse Davis, Planning
Manager, Craig Schlatter,
Community Development
Director

PRESENTER:

Jesse Davis, Planning
Manager; Craig Schlatter,
Community Development
Director.

ATTACHMENTS:

1. Ordinance No. 1187 Shopping Cart Containment and Retrieval
2. Ordinance No. 1191 Amending Shopping Cart Containment and Retrieval Ordinance

Summary:City Council will receive a report from Staff regarding an annual review of the ordinance for the regulation of shopping cart containment and retrieval, Ordinance No. 1187.

Background:

On April 4, 2018, the Ukiah City Council adopted Ordinance No. 1187 (Attachment 1), adding Article 8 to Chapter 2, Division 2 and Article 11 to Chapter 1, Division 7 to the Ukiah City Code (UCC) to regulate shopping cart containment and retrieval. It was subsequently amended through Ordinance No. 1191 (Attachment 2).

The associated shopping cart regulations became effective May 4, 2018. On May 9, 2018, the Community Development Department (CDD) released packets informing businesses of the new ordinance and their responsibilities. The packets included a shopping cart plan template that could be used to ensure compliance with City's adopted ordinance and reduce abandoned carts.

As of January 1, 2019, 14 businesses (70%) were in compliance with shopping cart plan requirements. The remaining businesses were referred to the City Attorney's Office for code enforcement or associated legal proceedings. In general, the Ordinance appeared effective in reducing the number of abandoned carts during the first year of implementation (2019), and notably reduced cart retrieval pressures on the Ukiah Police Department (UPD). At their meeting on July 3, 2019, during the initial review of the ordinance, Council directed Staff to present an annual report moving forward to ensure the ongoing effectiveness of this ordinance.

Staff provided the second report to Council on September 2, 2020. As of this date, nine (9) businesses (45%) had submitted approved plans or statements that their plans had not changed,

and were considered in full compliance with the Ordinance. Given that two (2) years had passed since ordinance adoption, a handful of businesses were required to renew their previously approved plans. Seven (7) businesses (35%) with previously approved plans had not met their biennial plan renewal requirement and were out of compliance. Four (4) businesses (20%) still had not submitted plans that were otherwise required as of 2018. In 2020, an increased amount of time was dedicated by Staff to conduct outreach and enforcement efforts.

Upon receipt of the annual report on September 2, 2020, the City Council expressed concern regarding the amount of staff time applied to the issue and voted to restart the ad hoc originally formed to address shopping cart regulations. While the ad hoc and staff met briefly during 2020, the City's ability to address the issue was constrained due to the pandemic and staffing shortages.

Discussion:

As of September 21, 2021, only 7 businesses were fully compliant with the City of Ukiah's Shopping Cart Policy. As additional shopping cart purveyors have been identified since the last update of the City Council, the compliance rate has dropped to 30%. Staff has also seen an uptick in the number of carts stored by Department of Public Works (DPW), indicating that cart retrieval and abandonment is again becoming an issue. Based on current records, it is difficult to determine the pace at which abandoned carts are accumulating, but the total stored by the Department of Public Works increased to 143 abandoned carts as of July 21, 2021. With the addition of new staff, the (Community Development Department (CDD) spearheaded renewed compliance efforts beginning in July, 2021.

During development of the original Ordinance, it was believed that the required biennial renewal process would be relatively straightforward and involve little effort by Staff or the affected businesses. In 2020, Staff approached renewal efforts from this standpoint, sending courtesy letters to each business and making at least one follow-up call to each business that had not yet renewed their plan. While Staff received responses from the majority of businesses, these efforts required substantial time by CDD Staff and the City Attorney's Office. Given the current number of abandoned shopping carts, it is unclear if these renewal efforts were effective. While there are reasons specific to each business, a review of past correspondence indicates the difficulty of implementing store-specific policies due to regional or national brand requirements, lack of managerial authority, and changes/turnover in staff. Recent efforts to engage businesses to address abandoned carts or ineffective plans have been summarily ignored.

Within the City of Ukiah, there are 23 identified entities that utilize shopping carts as a component of their business, and that are subject to City's Shopping Cart regulations. Compliance statistics are as follows:

Fully Compliant – 7 Businesses

7 businesses (30%) maintain compliant plans, and feature less than six abandoned carts;

Partially Compliant – 3 Businesses

3 business (13%) have submitted plans that require renewal or are overdue, but have less than 6

carts abandoned.

Non-Compliant – 13 Businesses

7 businesses (30%) have never submitted a plan; 4 of these businesses were originally identified in 2018;

6 businesses (26%) maintain active plans, yet have more than 6 carts abandoned;

Business Subject to Penalties– 5 Businesses

5 businesses have been subjected to the maximum fee possible (\$300). 8 additional businesses have been identified for penalties during 2021.

While COVID restrictions likely impacted the abandonment of shopping carts during the first half of 2021, it is difficult to draw effective conclusions due to limited data pertaining to the rate of cart accumulation or the location from which the cart was collected. For example, one compliant business indicated in their 2020 renewal application that they disallowed the use of carts for an early portion of the pandemic.

While multiple City Departments are engaged in efforts to address abandoned shopping carts, ambiguity related to compliance, enforcement, and penalties has made it difficult to establish an effective and coordinated effort to achieve the primary goal of the policy which is to limit the number of shopping carts removed from storefronts.

In August, 2021, Staff attempted to obtain compliance with the 5 most egregious purveyors of abandoned shopping carts. The effort included additional phone-calls to each business, as well as certified mail informing the business to submit a more restrictive shopping cart plan and for the business to retrieve their abandoned carts from DPW. Of the businesses cited, only one initiated contact with the City, and ultimately did not provide the required plan update or collect their associated shopping carts within the specified time-frame. Staff subsequently leveraged the maximum fine possible on these entities, and continues to work with the City Attorney to facilitate additional recourses, such as non-renewal of their business license or revocation of their site development or use permit. It is unknown at the time this report was drafted, if the applied penalties will be effective in reducing the number of abandoned shopping carts collected by DPW. Depending on the successfulness of the applied fee, 8 additional businesses have been identified for follow-up and penalties during 2021.

Staff recommends Council direct staff to return with a revised ordinance to improve efficiency of the program for both City administration and store owners. consider the re-formation of an ad hoc committee to address this issue, and direct Staff to review compliance and enforcement efforts. Potential solutions for discussion and refinement include:

- Reduce or eliminate the shopping cart plan renewal requirements for compliant businesses with low-number of abandoned carts and effective enforcement plans;
- Modification of the ordinance to facilitate stricter and streamline enforcement and allow for

- more substantial fees/penalties for noncompliance;
- Identification of a principal City Department to ensure coordination of abandoned cart policy implementation;
- Enhanced City data-collection to develop more targeted policies and coordination.

Alternatively, Council can consider reconstituting an ad hoc if more direct guidance for drafting the ordinance revisions is determined to be warranted by the City Council.

Recommended Action:

Receive report from Staff, provide policy direction, and direct staff to return with a revised ordinance to improve efficiency and effectiveness of the shopping cart containment program.

Alternate Action: Reconstitute a council ad hoc if more direct guidance is desired for the ordinance revision process.

BUDGET AMENDMENT REQUIRED: N/A

CURRENT BUDGET AMOUNT: N/A

PROPOSED BUDGET AMOUNT: N/A

FINANCING SOURCE: N/A

PREVIOUS CONTRACT/PURCHASE ORDER NO.: N/A

COORDINATED WITH: Darcy Vaughn, Assistant City Attorney; Don Brown, Department of Public Works

Approved: 
Sage Sangiacomo, City Manager

ORDINANCE NO. 1187**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF UKIAH ADDING ARTICLE 8 TO CHAPTER 2, DIVISION 2 AND ARTICLE 11 TO CHAPTER 1, DIVISION 7 OF THE UKIAH CITY CODE TO REGULATE SHOPPING CART CONTAINMENT AND RETRIEVAL**

The City Council of the City of Ukiah ordains as follows:

SECTION ONE. FINDINGS AND DECLARATION OF INTENT:

The City Council of the City of Ukiah hereby finds and declares as follows:

1. Abandoned shopping carts constitute a nuisance, create potential hazards to the health and safety of the public, and interfere with pedestrian and vehicular traffic within the City.
2. The accumulation of wrecked, dismantled and abandoned shopping carts on public and private property also tends to create conditions that reduce property values, promoting blight and deterioration in the City.
3. The intent of this Ordinance is to ensure that measures are taken by businesses that own and use shopping carts to prevent the removal of shopping carts from store premises.
4. This Ordinance is based in part on California Business and Professions Code section 22435 and following.

SECTION TWO. Article 8, entitled "Shopping Cart Containment and Retrieval" is added to Chapter 2, Division 2 of the Ukiah City Code and shall read as follows.

ARTICLE 8. SHOPPING CART CONTAINMENT AND RETRIEVAL

Sections:

- 2380 Applicability.
- 2381 Definitions.
- 2382 Prohibitions.
- 2383 Shopping cart identification signs.
- 2384 Shopping cart plan.
- 2385 Enforcement.

§2380 Applicability.

This Article applies to:

- A. Each business owner in the City that provides shopping carts for customer use on the business premises; and
- B. Any person who removes or who is in possession of or who has abandoned an off- site shopping cart.

§2381 Definitions.

Administrator means the Director of Planning and Community Development or his or her designee.

Business owner or *owner* means one or more persons or any legal entity, such as, but not limited to, a corporation, limited liability company, partnership or association that owns a business that provides shopping carts for customer use on the premises.

Off-site shopping cart means a shopping cart that has been removed from the premises where it belongs in violation of the requirements of this Article.

Premises means the entire area owned or under the control of a business owner, including the parking area and for businesses in a shopping center or other development where common areas serve more than one business, the common area shared by the business with other businesses in the development.

Shopping cart or *cart* means a basket or a similar device which is mounted on wheels and is generally owned and used as part of a retail establishment and used by a customer for transporting goods.

Shopping cart plan means a document submitted to the City by the business owner, under Ukiah City Code Section 2384.C.

§2382 Prohibitions.

A. Prohibitions Applicable to Business Owners. It is unlawful and a violation of this Article for a business owner to:

1. Fail to affix an identifying sign to each shopping cart;
2. Fail to submit a shopping cart plan or request for exemption in conformance with Ukiah City Code Section 2384.B;
3. Fail to comply with an approved shopping cart plan; or
4. Allow or authorize a shopping cart to be removed from the premises, except to allow for shopping carts to be serviced or repaired by a qualified and licensed company off-site.

B. Other Prohibitions. It is unlawful and a violation of this Article for a person to:

1. Remove a shopping cart from the premises where it belongs; or
2. Possess an off-site shopping cart; or
3. Abandon an off-site shopping cart; or
4. Alter, convert, or tamper with a shopping cart, or remove any part or portion thereof or remove, obliterate or alter an identifying sign or serial numbers on a shopping cart.

§2383 Shopping cart identification signs.

The business owner shall have a sign permanently affixed to each cart in a prominent location.

The sign shall include all of the following information:

- A. The identity of the owner of the cart or the business, or both;
- B. The valid address or phone number of the business for returning the cart to the owner or business;
- C. Notice to the public that the unauthorized removal of the cart from the premises or the unauthorized possession of the cart is a violation of state law and of the Ukiah City Code; and
- D. Notice to the public that there shall be no authorized removal of the cart from the premises.

§2384 Shopping cart plan.

- A. General requirement. Each owner of a business shall submit to the Administrator, obtain approval from the Administrator, and effectively implement a shopping cart plan in accordance with this Article.
- B. Exemptions. A business owner is exempt from this Article, for two years at a time, if the owner submits an exemption request and meets all of the following requirements:
 - 1. The business has effective restraints that prohibit any carts from exiting the premises or from operating off the premises. Examples of such effective restraints include but are not limited to: poles attached to carts to keep them from passing a certain point; electronic wheel locks on all carts which prevent wheels from rolling past the perimeter of the premises; physical constraints such as bollards; and continuous use of courtesy clerks to accompany customers and return the carts to the store.
 - 2. The business secures all shopping carts during the hours the business is closed by storing carts inside or locking them outside.
- C. Contents of the shopping cart plan. The shopping cart plan shall include all of the following elements:
 - 1. Name, address and telephone number of the business, the business owner and the name and telephone number of the on-site manager.
 - 2. The number of on-site shopping carts, and a description of how the business owner intends to comply with the requirements for sign identification on carts.
 - 3. Public notices. A description of a customer education process by which the business owner will inform customers that the removal or off-site possession or abandonment of carts is a violation of state law and this Article. This information may include business signs posted in prominent places, flyers, warnings on shopping bags, direct mail, in-

store announcements, or other means demonstrated to be effective. Public notice to customers shall include signage permanently affixed to each shopping cart that identifies the owner of the cart or the retailer, or both, as set forth in Business & Professions Code Section 22435.1 and Section 2383 of this Code.

4. Employee training. A description of an annual (or more frequent) employee training program to educate existing and new employees about the shopping cart plan.
5. Loss prevention. A description of the measures that the business owner will implement to prevent the removal of shopping carts from the premises. These measures may include any of those listed in subsection B of this section or use of security personnel to prevent removal, security deposit for use of a cart, or other measures demonstrated to be effective.
6. Cart retrieval. A plan for mandatory retrieval of off-site shopping carts on at least a weekly basis, and within three business days of notice from the City under Ukiah City Code Section 2385.A. The Administrator may require retrieval on a more frequent time schedule based on the number of off-site carts from the business requiring retrieval. Cart retrieval may be done by the business owner, business employees or agents, or a cart retrieval service contracted for by the business owner or by a combination of owners. A business owner is not required to retrieve an off-site cart in someone's possession and containing personal property of the person.
7. Implementation: The plan shall describe the measures the owner intends to take to prevent the removal of shopping carts from the premises, to retrieve off-site shopping carts on at least a weekly basis, and to modify these measures should they result in circumstances that would justify revocation of the plan as set forth in Subsection G of this Section.

D. Administrator review. Within 30 days after a shopping cart plan is submitted, the Administrator shall render a decision to approve or deny the plan, or to request additional information. If a plan is rejected as incomplete or inadequate, or if additional information is needed, the Administrator shall notify the owner in writing. The owner has 30 days from the date such notification is given to submit the additional information or a complete or adequate plan, as the case may be.

The Administrator may deny a plan on any of the following grounds:

1. The plan fails to include the information required under this Article or fails to adequately address the required elements.
2. The plan fails to meet the standards contained in Subdivision C.5 to prevent removal of carts.
3. Implementation of the plan violates this Article, or a local, state or federal law.
4. The owner knowingly makes a false statement in or omits material facts from the plan, or any amendment.

E. Plan modification. The owner may submit a plan modification of any previously approved

shopping cart plan to address changed circumstances or to modify ineffective provisions. The Administrator shall review and consider the modification in the same manner set forth in Subsection D of this Section.

F. Biennial renewal. Every two years a business owner may renew an exemption or a previously approved shopping cart plan, without modification, if no more than six of the owner's shopping carts have been found off-site within the previous three months. The owner shall submit a written application for renewal by July 1st, together with the owner's statement that no more than six of the business's shopping carts have been found off-site within the previous three months.

G. Denial or revocation. The Administrator may revoke a plan approved under Subsection D of this Section, deny a renewal under Subsection F of this Section, or revoke an exemption granted under Subsection B of this Section if:

1. A shopping cart has been found on public property on seven or more occasions within the prior three-month period;
2. The owner has failed to comply with a provision of this Article;
3. The owner has knowingly made a false statement or failed to disclose material information in an application, an amendment or a report required or provided under this Article.

§2385 Enforcement.

A. Retrieval. Whenever the Administrator notifies a business owner of an off-site cart, either verbally or in writing, the owner shall retrieve the cart within three business days.

B. Violations.

The following will be subject to any enforcement procedures permitted by law, as set forth in Subsection C of this Section:

1. An owner who violates this Article or a provision of the owner's approved shopping cart plan;
2. A person who removes or possesses or abandons a shopping cart off-site;
3. A person who alters, converts, or tampers with a shopping cart; or
4. An owner of real property who allows off-site carts to remain on his, her or its real property.

C. The enforcement procedures permitted by law for violations of this Article include:

1. Revocation of an exemption under Ukiah City Code Section 2384.B.
2. The requirement for a stricter shopping cart plan.

3. Prosecution as a misdemeanor under the authority of California Business and Professions Code sections 22435.2, 22435.3 or 22435.13 or Section 6098 of this Code.
4. Imposition of a fine not exceeding (1) one hundred dollars (\$100.00) for a first violation, (2) two hundred dollars (\$200.00) for a second violation within the same year, and (3) five hundred dollars (\$500.00) for each additional violation within the same year.
5. Procedures for abatement of a nuisance under Ukiah City Code Sections 3452.K and 3402.A, the civil and criminal penalties in Ukiah City Code Section 3424, and any other applicable administrative procedures contained in the Ukiah City Code.
6. Civil action for enforcement, including to abate a public nuisance by injunction, the City Council declaring that a violation of this Article constitutes a public nuisance.
7. Proceedings for revocation of a use or site development permit, if applicable.

These enforcement procedures and penalties are cumulative with each other and any other remedy available at law or in equity, and are not mutually exclusive. Any one or more of them may apply and be used or charged in response to a single violation of this Article.

SECTION THREE. Article 11, entitled "Shopping Carts" is added to Chapter 1, Division 7 of the Ukiah City Code and shall read as follows.

ARTICLE 11. SHOPPING CARTS

Sections:

6096 Unauthorized removal, alteration, or possession of a shopping cart.

6097 Definitions.

6098 Penalty for Violation.

§6096 Unauthorized removal, alteration, or possession of a shopping cart.

It is unlawful and a public nuisance for any person to:

- A. Remove a shopping cart from the business premises where it belongs; or
- B. Possess or abandon an off-site shopping cart; or
- C. Alter, convert, or tamper with a shopping cart, remove any part or portion thereof or remove, obliterate or alter an identifying sign or serial numbers on a cart.

§6097 Definitions.

All terms in this Article shall have the meaning stated in Section 2381 of this Code.

§6098 Penalty for Violation.

In addition to the penalty prescribed in Business and Professions Code Section 22435.3 or any amendment thereof, a violation of this Article is a misdemeanor, subject to a fine not exceeding five hundred dollars (\$500.00) or imprisonment in the County jail for a period not exceeding

three (3) months, or by both such fine and imprisonment.

SECTION FOUR.

1. SEVERABILITY.

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Ordinance, or its application to any other person or circumstance. The City Council of the City of Ukiah hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

2. EFFECTIVE DATE.

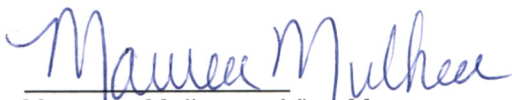
This Ordinance shall be published as required by law in a newspaper of general circulation in the City of Ukiah, and shall become effective thirty (30) days after its adoption.

Introduced by title only on March 21, 2018, by the following roll call vote:

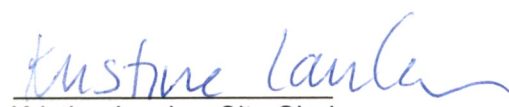
AYES: Councilmembers Brown, Scalmanini, Crane, Mulheren, and Mayor Doble
NOES: None
ABSENT: None
ABSTAIN: None

Adopted on April 4, 2018, by the following roll call vote:

AYES: Councilmembers Brown, Scalmanini, Crane, and Vice Mayor Mulheren
NOES: None
ABSENT: Mayor Doble
ABSTAIN: None


Maureen Mulheren, Vice Mayor

ATTEST:


Kristine Lawler, City Clerk

ORDINANCE NO. 1191

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF UKIAH AMENDING ARTICLE 11 TO CHAPTER 1, DIVISION 7 OF THE UKIAH CITY CODE TO REGULATE ENFORCEMENT OF SHOPPING CART CONTAINMENT AND RETRIEVAL ORDINANCE.

The City Council of the City of Ukiah ordains as follows:

SECTION ONE. Article 11, entitled "Shopping Carts" in Chapter 1, Division 7 of the Ukiah City Code shall be amended to read as follows.

ARTICLE 11. SHOPPING CARTS

Sections:

6096 Unauthorized removal, alteration, or possession of a shopping cart.

6097 Definitions.

6098 Penalty for Violation.

§6096 Unauthorized removal, alteration, or possession of a shopping cart.

It is unlawful and a public nuisance for any person to do any of the following acts, if a shopping cart or laundry cart has a permanently affixed sign in compliance with Section 2383 of this Code:

A. Remove a shopping cart from the business premises where it belongs, with the intent to temporarily or permanently deprive the business owner or business of possession of the cart; or

B. Possess or abandon an off-site shopping cart, with the intent to temporarily or permanently deprive the business owner or business of possession of the cart; or

C. Alter, convert, or tamper with a shopping cart, remove any part or portion thereof or remove, obliterate or alter an identifying sign or serial numbers on a cart, with the intent to temporarily or permanently deprive the business owner or business of possession of the cart.

§6097 Definitions.

All terms in this Article shall have the meaning stated in Section 2381 of this Code.

§6098 Penalty for Violation.

Any person who knowingly or willfully violates any provision of this Article is guilty of a misdemeanor.

SECTION FOUR.

1. SEVERABILITY.

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of

this Ordinance, or its application to any other person or circumstance. The City Council of the City of Ukiah hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

2. EFFECTIVE DATE.

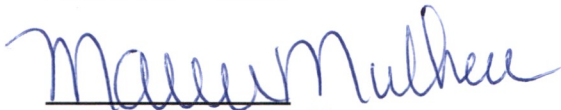
This Ordinance shall be published as required by law in a newspaper of general circulation in the City of Ukiah, and shall become effective thirty (30) days after its adoption.

Introduced by title only on November 7, 2018, by the following roll call vote:

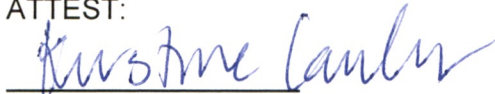
AYES: Councilmembers Brown, Scalmanini, Crane, Mulheren, and Mayor Doble
NOES: None
ABSENT: None
ABSTAIN: None

Adopted on December 5, 2018, by the following roll call vote:

AYES: Councilmembers Orozco, Brown, Scalmanini, Crane, and Mayor Mulheren
NOES: None
ABSENT: None
ABSTAIN: None


Maureen Mulheren, Mayor

ATTEST:


Kristine Lawler, City Clerk



AGENDA SUMMARY REPORT

SUBJECT: Receive Report Regarding Review of Ordinance for Development of Operating Standards for Community Gardens, Live Entertainment, Outdoor Dining, Sidewalk Cafes, and Specialty Food and Beverage Sales with Tasting; and Provide Direction to Staff as Necessary.

DEPARTMENT: Community
Development

PREPARED BY: Craig Schlatter, Community Development Director

PRESENTER: Craig Schlatter, Community Development
Director

ATTACHMENTS:

1. Ordinance No. 1167
2. Ordinance No. 1210

Summary: Council will receive an annual report from Staff on review of the Ordinance for Development and Operating Standards, located in Division 9, Chapter 2, Article 15.6 of Ukiah City Code, for community gardens, live entertainment, outdoor dining, sidewalk cafes, and specialty food and beverage sales with tasting.

Background: On August 3, 2016, City Council adopted Ordinance No. 1167 (Attachment 1), establishing development and operating standards for community gardens, live entertainment, outdoor dining, sidewalk cafes, and specialty food and beverage sales with tasting. The Ordinance also added specific definitions for outdoor dining and sidewalk cafes. Also at the August 3, 2016 meeting, Council requested a one-time review and report on Staff's implementation of the Ordinance, with a specific report of how the Ordinance impacted live entertainment applications. In each of the subsequent years, 2017, 2018, 2019, and 2020, Council directed Staff to provide additional annual reports related to Ordinance No. 1167. Below is a brief summary of these previously presented reports.

September 1, 2017 - report presented to Council. No new applications nor new inquiries had been received for activities listed within the Ordinance.

August 1, 2018 - report presented to Council. One new application for a specialty beverage tasting room with sales was received. No other new applications had been received, but three existing outdoor dining permits were renewed.

September 4, 2019 - report presented to Council. No new applications received. A few inquiries were recorded related to sidewalk cafes.

September 2, 2020- report presented to Council. No new applications were received. Three existing outdoor dining permits were renewed. Council directed that after the Downtown Streetscape project was completed Staff should implement a marketing program to raise awareness of the Ordinance.

Discussion: Since the last annual report in 2020, no new applications were received for community gardens, live entertainment, sidewalk cafes, or specialty food and beverage sales w/tastings. One of the businesses previously participating in the Outdoor Dining Program renewed its permit.

However, although only one permit was renewed under Ordinance No. 1167, on February 3, 2021, Council adopted an amendment to the development and operating standards for outdoor dining through Ordinance No. 1210 (Attachment 2) that enacted a new process and application utilized by two businesses in 2021. Ordinance No. 1210 allowed businesses to provide permanent outdoor dining structures in the public right-of-way, with approval of a Minor Use Permit from the Zoning Administrator.

Additionally, in mid-2020 and as reported in the September 2020 report, the City Director of Emergency Services (City Manager) issued an emergency order to allow businesses more flexibility during the COVID-19 pandemic. This process provides temporary flexibility and streamlines and expedites applications for mobile food vending, business signage, and the use of outdoor space (both public and private) through approval of an administrative Temporary Use Permit.

Reflecting these two updates yields the following summary statistics for September 2, 2020 - September 3, 2021:

16 Temporary Use Permits approved as follows:

10 Outdoor Dining Permits

4 Food Truck/Stands

1 Street Closure for certain dates for outdoor dining

1 for a temporary inflatable paint can for advertising

2 permanent outdoor dining applications approved by the Zoning Administrator under Ordinance No. 1210.

1 existing outdoor dining permit renewed under Ordinance No. 1167.

Staff recommends Council receive the report and provide additional direction as necessary.

Recommended Action: Receive report and provide direction to Staff as necessary.

BUDGET AMENDMENT REQUIRED: N/A

CURRENT BUDGET AMOUNT: N/A

PROPOSED BUDGET AMOUNT: N/A

FINANCING SOURCE: N/A

PREVIOUS CONTRACT/PURCHASE ORDER NO.: N/A

COORDINATED WITH: Mireya Turner, Planning Manager

Approved: 
Sage Sangiacomo, City Manager

ORDINANCE NO. 1167

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF UKIAH ADDING DIVISION 9, CHAPTER 2, ARTICLE 15.6, SECTIONS §9173, §9173.1, §9173.2, §9173.3, §9173.4, §9173.5, §9173.6 TO THE ZONING CODE RELATED TO DEVELOPMENT AND OPERATING STANDARDS FOR: COMMUNITY GARDENS, LIVE ENTERTAINMENT, OUTDOOR DINING, SIDEWALK CAFES, SPECIALTY FOOD AND BEVERAGE SALES WITH TASTING AND AMENDING SECTION §9278 ADDING DEFINITIONS OF OUTDOOR DINNING AND SIDEWALK CAFES

The City Council hereby ordains as follows:

SECTION ONE – FINDINGS

1. Pursuant to the procedures set forth in the Ukiah Municipal Code section 9265, the Official Zoning Ordinance for the City of Ukiah is amended to include development and operational standards for Community Gardens, Live Entertainment, Outdoor Dining, Sidewalk Cafes, Specialty Food and Beverage Sales with Tasting.
2. Planning Department staff prepared an initial environmental study (IS) in order to evaluate the potential impacts that could result from the Project. Due to the specificity of the standards, the IS concluded the Zoning Ordinance amendments could not have a significant effect on the environment and a Negative Declaration was prepared.
3. The Planning Commission held a duly noticed public hearing on May 11, 2016 and June 16, 2016 after giving notice of said hearing in the manner, for the period, and in the form required by the Ukiah City Code and Government Code sections 65090 and 65091 to consider the Negative Declaration for the Zoning Ordinance Amendments. At the meeting, the Planning Commission received public comment, discussed the initial environmental study, and voted 5-0 to recommend the City Council adopt the negative declaration for the Zoning Ordinance amendments.
4. At the May 11, 2016 and June 16, 2016 public hearing, the Planning Commission conducted a public hearing to consider the Zoning Ordinance Amendments. After receiving public testimony, considering the staff report, and due deliberation, the Planning Commission voted 5-0 to recommend the City Council approve the Zoning Ordinance amendments.
5. The Project is consistent with General Plan Goal ED-1 by supporting economic development, strong businesses, and CD-3 by promoting aesthetically pleasing urban landscapes, and CD-10 preserving and enhancing neighborhood character.

SECTION TWO

Article 15.6 of Chapter 2 of Division 9 of the Ukiah City Code is hereby added to read as follows.

Article 15.6. STANDARDS FOR SPECIFIC LAND USES

§9173 PURPOSE

Sections 9173.2-9173.6 in this Article 15.6 provide site planning, development, and/or operational standards for certain land uses that are allowed in certain zoning districts without discretionary review. The standards for each use are intended to mitigate any potentially adverse impacts associated with the specific use.

§9173.1 APPLICABILITY

The land uses and activities included in sections 9173.2-91.734.6 of this code shall comply with the provisions of the section applicable to the specific land use, in addition to all other applicable provisions of this article and the Ukiah City Code.

- A. Where Allowed: The uses that are subject to the standards in sections 9173.2-9173.6 of this code shall only be located in the zoning districts indicted herein.
- B. Development Standards: The standards for specific land uses included in sections 9173.2-9173.6 of this code are required and supplement those included in the Ukiah City Code. In the event of any conflict between the requirements of sections 9173.2-9173.6 of this code and those included elsewhere in the City Code, the requirements of sections 9173.2-9173.6 of this code shall control.

§9173.2 COMMUNITY GARDENS

Community gardens may be located in any zoning district provided they comply with the following standards and requirements:

- A. Days and Hours of Operation: Seven (7) days a week from seven o'clock (7:00) A.M. until dusk.
- B. Fencing: Fencing is discouraged. When fencing is required to prevent vandalism or theft, trespassing, and/or encroachment by animals, fencing shall comply with the following:
 - 1. Open Fencing: Open fencing (such as chain link, wrought iron, deer) up to seven (7) feet in height, measured from the grade adjacent to the fence to the top of the fence, is allowed at the property line or set back from the property line. This type of fencing allows the garden to be protected and maximizes the size of the garden while creating an open, pedestrian-oriented use consistent with the purposes of this code.
 - 2. Solid Fencing: Solid fencing (such as wood, masonry) is prohibited since this closes off the site to the public realm, presents a solid unbroken surface which is not pedestrian-oriented, and reduces the size of the garden.
- C. Herbicides and Pesticides: All pest and weed control shall be accomplished through organic means using the least toxic methods available. If unsure how to combat pests, weeds, and diseases organically, contact the garden team leader or other qualified professionals or organizations for guidance and resources.
- D. Motorized Equipment: Use of motorized equipment (such as weed eaters, leaf blowers, rototillers) shall be limited to weekdays from eight o'clock (8:00) A.M. to seven o'clock (7:00) P.M. and weekends and holidays recognized by the City of Ukiah from ten o'clock (10:00) A.M. to five o'clock (5:00) P.M.
- E. Noise: Compliance with the City of Ukiah noise ordinance is required, except as indicated in subsection D of this section, Motorized Equipment, which may be more restrictive.
- F. Parking: A minimum of one parking space along the street frontage of the community garden shall be provided. Vehicle use by members of the community garden should be limited to taking supplies to and from the garden, rainy or poor weather, or assisting gardeners with a disabilities Users of the garden shall be encouraged to walk or bike to the site in order to reduce the need for parking and parking impacts on neighboring uses.

- G. Signs: Signs are limited to identification, informational, and directional signs in conformance with the City of Ukiah sign ordinance requirements.
- H. Structures – Accessory: The following accessory structures are allowed: tool sheds, greenhouses, cold-frames, hoop houses, compost bins, rain barrel systems, picnic tables, benches, bike racks, garden art, and fences subject to the development standards of the zoning district in which the community garden is located and the requirements of this section. Commercially maintained portable bathrooms are allowed as accessory structures; provided, that they comply with accessibility standards and comply with the development standards of the zoning district in which the community garden is located.
- I. Water Use: Every effort shall be made to reduce water usage. Drip irrigation is required where feasible. Mulch and compost shall be used in order to reduce the amount of water needed for garden plots.
- J. Prohibitions: Smoking, drinking alcoholic beverages, using illegal drugs, and gambling are prohibited. Weapons, pets and other animals (except service animals) are also prohibited. (Ord. 1139, §2 (Exh. A, 5.030), adopted 2012)

§9173.3 LIVE ENTERTAINMENT

- A. Live entertainment uses may occur in the C-1, C-2, and P-F zoning districts provided they comply with the following standards and requirements:
 - 1. Live entertainment shall commence no earlier than 10:00 a.m. and shall end at 11:00 p.m. and is limited to two times a week.
 - 2. Live entertainment shall not violate the City of Ukiah noise ordinance
 - 3. The number of people within a building where live entertainment is performing shall not exceed the occupancy standards contained in the California Building Code or Ukiah City Code.
 - 4. Businesses desiring to have live entertainment shall provide adequate security during and after live entertainment events.
 - 5. Parking shall generally comply with the Ukiah City Code, although on-street parking within commercial zoning districts may be included in the number of parking spaces provided for the live entertainment.
 - 6. Any building proposed for live entertainment shall comply with all Fire Code requirements and shall be reviewed and approved by the Ukiah Fire Marshal.
- B. Management Plan: Prior to the conduct of live entertainment, the applicant shall submit a Management Plan addressing the items listed below. The Management Plan shall be submitted to the Director of Planning and Community Development for review and action. The Director shall distribute the Plan to the Ukiah Police and Fire Departments for review. The Management Plan shall, at a minimum, include the following:
 - 1. Potential for loitering and how the business will preclude loitering
 - 2. Adequacy of lighting for security and safety purposes.
 - 3. Adequacy of parking.
 - 4. Compatibility and suitability with the existing and allowed uses in the area and/or character of the area, including, but not limited to, proximity to sensitive land uses such as residences, schools, parks, daycare facilities, and churches.
 - 5. Details regarding how security will be provided during and after live entertainment events.

6. Likelihood the use would facilitate the vitality, economic viability, and/or provide recreational or entertainment opportunities in an existing commercial area without presenting a significant impact on health and safety.
7. Hours of operation for the business and hours of proposed live entertainment.
8. Other information deemed necessary on a case-by-case basis.

If the Management Plan is found acceptable by the Police and Fire Departments, as well as the Director of Planning and Community Development, the Director shall make corresponding findings and approve it writing.

- C. Relief from any of the standards or requirements may be sought through the Use Permit process. The Director of Planning and Community Development shall determine whether or not a certain Use Permit is minor or major. The determination shall be based, in part, on how much relief is being sought and the location of the proposed live entertainment and its potential to disrupt the area.

§9173.4 OUTDOOR DINING

On-site outdoor dining may be allowed in the C-N, C-1 and C-2 zoning districts, provided it is incidental to and part of the operation of a restaurant located on the same parcel, and it complies with the standards and requirements listed below.

- A. Purpose: The provisions of this section are intended to allow outdoor dining in association with a restaurant located on the same parcel as the outdoor dining, where the outdoor dining is clearly incidental to the adjacent restaurant use and will not negatively impact the operations and function of the existing restaurant, including parking facilities, pedestrian access and circulation, and disabled access facilities.
- B. Location of Outside Dining: Outdoor dining shall be located on the same site as the restaurant which the outdoor dining will serve. Outdoor dining facilities, such as tables, chairs, umbrellas, etc., shall not be located in pedestrian walkways, required parking spaces, or disabled access facilities (such as parking spaces, walkways, entries, etc.). Outdoor dining areas may be located in landscaped areas if located in such a manner as to not damage the landscaping.
- C. Hours of Operation: Days and hours of operation for the outdoor dining shall not extend beyond the hours of operation for the restaurant which it serves. Tables, chairs, and all other furniture used in the operation of outdoor dining shall be removed from any pedestrian walkways and stored indoors at night and whenever the cafe is not in operation.
- D. Live Entertainment: Outdoor dining shall not be used for live entertainment unless in compliance with section 9173.3 of this code.
- E. Tables, Chairs, Furniture, Signage:
 1. In order to provide adequate and safe ingress/egress, a minimum unobstructed pedestrian walkway width of forty-eight inches (48") or the width of the doors, whichever is greater, shall be maintained. The required width of the unobstructed pedestrian walkway shall extend from the front of the door(s) to the public sidewalk. A reduced width may be approved by the Building Official in compliance with the building code.
 2. A minimum of sixty inches (60") of unobstructed space shall be maintained between exits and any furniture or fixtures related to outdoor dining, or as required by the building code, whichever is greater.

3. All outdoor dining furniture, including tables, chairs, umbrellas, and planters, shall be movable.
 4. Umbrellas shall be secured with a minimum base of not less than sixty (60) pounds and shall leave a vertical clearance of seven feet (7') from the sidewalk surface.
 5. Outdoor heaters are allowed subject to fire and building code compliance. Non-live music and/or speakers may be used provided the music does not violate the City of Ukiah noise ordinance.
 6. No signage shall be allowed in the outdoor dining area except for the name of the establishment on an awning or umbrella fringe and in compliance with this section and Division 3, Chapter 7 of this code (sign ordinance).
- F. Maintenance: The property and/or business owner are responsible for maintaining all outdoor dining furnishings and the outdoor dining area in good condition, including, but not limited to, the following:
1. All outdoor dining furnishings and all exterior surfaces within the outdoor dining area shall be easily cleanable and kept clean and free of debris.
 2. The outdoor dining area and adjacent areas kept in a clean and safe condition.
- G. Food and Beverages: Outdoor dining areas may only serve food and nonalcoholic beverages prepared or stocked for sale at the adjoining indoor restaurant; provided, however, that the service of beer or wine or both, solely for on-premises consumption by customers within the outdoor dining area, may be authorized by the Planning Director and Police Department if each of the following requirements are met:
1. The outdoor dining operation is duly licensed, or prior to the service of any beer or wine, will be duly licensed by State authorities to sell beer or wine for consumption within the outdoor dining area.
 2. The authorized outdoor dining area is identified in a manner which will clearly separate and delineate it from the areas of the sidewalk that will remain open to pedestrian traffic.
 3. One or more signs, as approved as part of the encroachment permit, are posted during all times the sidewalk cafe is in operation, which shall give notice to the cafe's customers that the drinking of beer or wine or the carrying of any open container which contains beer or wine is prohibited and unlawful outside the delineated outdoor dining area.

Outdoor dining areas authorized by the Planning Department and Police Department and in compliance with the requirements of this section are exempt from section 6000 of this code.

H. Service Requirements:

1. Service areas (such as busing and service stations) may be located within the outdoor dining area. Service areas shall comply with subsection B of this section (Location of Outside Dining). Outdoor food preparation in the outdoor dining area is prohibited.

2. Restrooms for the outdoor dining area shall be provided in the adjoining indoor restaurant. Seating for the outdoor dining may be counted in determining the restroom requirements for the indoor restaurant at the discretion of the Building Official.
- I. Revocation: The outdoor dining may be revoked by the City upon finding that one or more of the requirements of this section have been violated or that the outdoor dining is being operated in a manner that constitutes a nuisance.

§9173.5 SIDEWALK CAFE

- A. A sidewalk cafe may be allowed in the C-N, C-1, and C-2 zoning districts provided it is incidental to and part of the operation of a restaurant and it complies with the standards and requirements listed below;
- B. Purpose: The provisions of this section are intended to allow a sidewalk cafe to operate in association with an allowed restaurant use, where the sidewalk cafe is clearly incidental to the restaurant use and will not negatively impact the right-of-way.
- C. Permit Requirements: A sidewalk cafe shall require the approval of an encroachment permit from the Department of Public Works and Planning and Community Development Department.
- D. Limitations and Requirements: A sidewalk cafe may be allowed only where allowed by section 9173.4 and only when the sidewalk cafe is incidental to and part of the operation of an adjacent restaurant and when in compliance with the following requirements of this section.
 1. Where Permissible: A sidewalk cafe may be located on a public sidewalk immediately adjacent to and abutting the indoor restaurant which operates the cafe; provided, that the area in which the sidewalk cafe extends is no farther along the sidewalk frontage than the operating indoor restaurant.
 2. Location of Sidewalk Cafes: Each cafe shall be confined to a defined location on the sidewalk immediately adjacent to the restaurant which operates the cafe.
 3. Hours of Operation: Sidewalk cafes may operate on days whenever fair weather would enhance outdoor dining. The hours of operation shall not exceed eight o'clock (8:00) A.M. to nine o'clock (9:00) P.M. Tables, chairs, and all other furniture used in the operation of a sidewalk cafe shall be removed from the sidewalk and stored indoors at night and whenever the cafe is not in operation. Additional hours may be authorized with Zoning Administrator approval of a minor use permit.
 4. Sidewalk Clearances: A sidewalk cafe may be allowed only where the sidewalk is wide enough to adequately accommodate the usual pedestrian traffic in the area, to comply with California State accessibility standards and federal ADA requirements, and the operation of the proposed cafe.
 5. Live Entertainment: A sidewalk cafe shall not be used for live entertainment. Live entertainment at sidewalk cafes may be authorized in compliance with section 9224.6 of this code.
- E. Tables, Chairs, Furniture, Signage:

1. All tables and chairs comprising a sidewalk cafe shall be situated in a safe fashion and away from any sidewalk or street barrier including a bollard, and shall not be within eight feet (8') feet of any designated bus stop.
 2. The dining area shall not impede the use of public furnishings such as lighting, benches, etc.
 3. In order to provide adequate and safe ingress/egress, a minimum unobstructed public sidewalk width of forty-eight inches (48") shall be maintained for the entire length of the sidewalk cafe. The required width shall extend from the front of the door(s) to the end of the sidewalk cafe.
 4. A minimum of sixty inches (60") of unobstructed space shall be maintained between exits and any furniture or fixtures related to the sidewalk cafe, or as required by the building code, whichever is greater.
 5. All sidewalk cafe furniture, including tables, chairs, umbrellas, and planters, shall be movable.
 6. Umbrellas shall be secured with a minimum base of not less than sixty (60) pounds and shall leave a vertical clearance of seven feet (7') from the sidewalk surface.
 7. Outdoor heaters are allowed subject to fire and building code compliance. Music and/or speakers may be authorized with Zoning Administrator approval of a minor use permit.
 8. No signage shall be allowed at the sidewalk cafe except for the name of the establishment on an awning or umbrella fringe and in compliance with this section and the sign ordinance (Division 3, Chapter 7 of this code).
 9. All furnishings and other items associated with the sidewalk cafe shall be removed from the sidewalk during nonoperation hours of the cafe. Storage of these items outside may be authorized with Zoning Administrator approval of a minor use permit.
 10. Any proposed seating in the vicinity of street trees shall comply with the City's Management Guidelines adopted December 1, 2010.
- F. Maintenance: The permittee is responsible for maintaining all outdoor dining furnishings and the sidewalk cafe area in good condition, including, but not limited to, the following:
1. All outdoor dining furnishings and all exterior surfaces within the sidewalk cafe area shall be easily cleanable and kept clean and free of debris.
 2. The sidewalk cafe area and adjacent areas shall be kept in a clean and safe condition.
- G. Food and Beverages: A sidewalk cafe may serve only food and nonalcoholic beverages prepared or stocked for sale at the adjoining indoor restaurant; provided, however, that the service of beer or wine or both solely for on-premises consumption by customers within the areas of the sidewalk cafe may be authorized by the Planning Director and Police Department as part of the required encroachment permit if each of the following requirements are met:

1. The sidewalk cafe operation is duly licensed, or prior to the service of any beer or wine will be duly licensed by State authorities to sell beer or wine for consumption within the area of the sidewalk cafe.
2. The area in which the sidewalk cafe is authorized is identified in a manner, as part of the encroachment permit, which will clearly separate and delineate it from the areas of the sidewalk that will remain open to pedestrian traffic.
3. One or more signs, as approved as part of the encroachment permit, are posted during all times the sidewalk cafe is in operation, which shall give notice to the cafe's customers that the drinking of beer or wine or the carrying of any open container which contains beer or wine is prohibited and unlawful outside the delineated area of the sidewalk cafe. Sidewalk cafes authorized by the Planning Department and Police Department as part of the required encroachment permit and in compliance with the requirements of this section are exempt from section 6000 of this code.

H. Service Requirements:

1. The outdoor preparation of food and busing and service stations are prohibited at the sidewalk cafe. Outdoor service station may be authorized with Zoning Administrator approval of a minor use permit.
 2. Restrooms for the sidewalk cafe shall be provided in the adjoining indoor restaurant. Seating for the sidewalk cafe may be counted in determining the restroom requirements for the indoor restaurant at the discretion of the Building Official.
 3. Trash and refuse receptacles for the sidewalk cafe shall not be permitted within the area designated for the sidewalk cafe or on adjacent sidewalk areas and the permittee shall remove trash and litter as they accumulate. Trash and/or refuse containers may be authorized within the outdoor dining area or adjacent sidewalk areas with Zoning Administrator approval of a minor use permit.
- I. Power to Prohibit Operation of the Sidewalk Cafe: Any encroachment permit issued for a sidewalk cafe shall provide that the City shall have the right and power, acting through the City Manager or designee, to prohibit the operation of a sidewalk cafe at any time because of anticipated or actual problems or conflicts in the use of the sidewalk area. Such problems may arise from, but are not limited to, scheduled festivals and similar events, or parades or marches, or repairs to the street or sidewalk, or from demonstrations or emergencies occurring in the area. To the extent possible, the permittee shall be given prior written notice of any time period during which the operation of the sidewalk cafe will be prohibited by the City, but any failure to give prior written notice shall not affect the right and power of the City to prohibit the cafe's operation at any particular time.
- J. Conditions: In connection with granting the encroachment permit for a sidewalk cafe, conditions may be imposed in granting approval as deemed necessary for the proposed operation to meet the operating requirements of this section.
- K. Modifications: In the event the City determines during the operation of an approved sidewalk cafe that additional or revised conditions are necessary in order for the sidewalk cafe to comply with the requirements of this section, the City shall have the ability to add additional conditions to the approved encroachment permit.

- L. Revocation: The encroachment permit to operate a sidewalk cafe may be revoked by the City upon finding that one or more conditions of the permit or this section have been violated or that the sidewalk cafe is being operated in a manner that constitutes a nuisance, or that the operation of the sidewalk cafe unduly impedes the movement of pedestrians past the sidewalk cafe. (Ord. 1139, §2 (Exh. A, 5.080), adopted 2012) Revocations may be appealed per the process outlined in Section 5613 of the City of Ukiah Municipal Code.

§9173.6 SPECIALTY FOOD AND BEVERAGE SALES WITH TASTINGS

Specialty food and beverage sales with tastings may be allowed in the C-N, C-1, C-2, and P-F zoning districts provided they comply with the following standards and requirements:

- A. Days and Hours of Operation: Days and hours of operation shall be limited to daily from ten o'clock (10:00) A.M. to ten o'clock (10:00) P.M. Additional hours may be authorized with Zoning Administrator approval of a minor use permit.
- B. Live Entertainment: Live entertainment is allowed in compliance with section 9173.3 of this code and may perform until eight o'clock (8:00) P.M. Other arrangements for live entertainment may be authorized with Zoning Administrator approval of a minor use permit.
- C. Outdoor Seating: Outdoor seating is allowed in compliance with the applicable requirements for outdoor dining included in section 9173.4 of this code or sidewalk cafes in section 9173.5 of this code.
- D. Minor Use Permit: An application for a minor use permit to allow additional operating hours and/or live entertainment in a manner that exceeds the operating characteristics required in this section may be authorized with Zoning Administrator approval of a minor use permit. An application for a minor use permit shall address the following considerations:
1. Potential for loitering and how the business will preclude loitering.
 2. Adequacy of lighting for security and safety purposes.
 3. Adequacy of parking.
 4. Compatibility and suitability with the existing and allowed uses in the area and/or character of the area, including but not limited to proximity to sensitive land uses such as residences, schools, parks, daycare facilities, and churches.
 5. Likelihood the use would facilitate the vitality, economic viability, and/or provide recreational or entertainment opportunities in an existing commercial area without presenting a significant impact on health and safety.
 6. Details regarding how security will be provided during and after live entertainment events.
 7. Other information deemed necessary on a case-by-case basis.
- E. Minor Use Permit Findings: The above considerations shall be incorporated as findings for approval, conditional approval, or disapproval of a use permit for a specialty food and beverage sales with tastings in addition to the findings required by Article 20 of this Code.

§9278 DEFINITIONS

OUTDOOR DINING- A designated area on the premise of a retail food establishment or restaurant, but outside the principal building, and where patrons may sit at tables while consuming food and beverages ordered from the establishment.

SIDEWALK CAFES- A designated area of a public sidewalk where patrons may sit at tables while consuming food and beverages ordered from the establishment.

SECTION THREE

1. **Severability:** If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of the Ordinance. The City Council of the City of Ukiah hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases may be held invalid or unconstitutional.
2. **Publication:** Within fifteen (15) days after its adoption, this Ordinance shall be published once in a newspaper of general circulation in the City of Ukiah. In lieu of publishing the full text of the Ordinance, the City may publish a summary of the Ordinance once 5 days prior to its adoption and again within fifteen (15) days after its adoption.
3. **Effective Date:** The ordinance and shall become effective thirty (30) days after its adoption.

Introduced by title only on July 20, 2016, by the following roll call vote:

AYES: Councilmembers Crane, Doble, Brown, and Mayor Scalmanini
NOES: None
ABSENT: Councilmember Mulheren
ABSTAIN: None

Adopted on August 3, 2016, by the following roll call vote:

AYES: Councilmembers Crane, Mulheren, Doble, Brown, and Mayor Scalmanini
NOES: None
ABSENT: None
ABSTAIN: None


Stephen G. Scalmanini, Mayor

ATTEST:


Kristine Lawler, City Clerk

ORDINANCE NO. 1210

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF UKIAH AMENDING SECTION 9224.7 OF DIVISION 9, CHAPTER 2, ARTICLE 18 OF THE CITY CODE TO REGULATE PERMANENT OUTDOOR DINING FACILITIES.

The City Council of the City of Ukiah hereby ordains as follows:

SECTION ONE.

Section 9224.7 in Division 9, Chapter 2, Article 18 of the Ukiah City Code is hereby amended to read as follows:

§9224.7 OUTDOOR DINING

On-site outdoor dining shall comply with the requirements of this section where allowed by Table 3: Allowed Uses and Permit Requirements, and only when the outdoor dining is incidental to and part of the operation of a restaurant located on the same parcel.

A. Purpose: The provisions of this section are intended to allow outdoor dining in association with a restaurant located on the same parcel as the outdoor dining, where the outdoor dining is clearly incidental to the adjacent restaurant use and will not negatively impact the operations and function of the existing restaurant, including parking facilities, pedestrian access and circulation, and disabled access facilities.

B. Location of Outside Dining: Outdoor dining shall be located on the same site as the restaurant which the outdoor dining will serve. Outdoor dining facilities, such as tables, chairs, umbrellas, etc., shall not be located in pedestrian walkways, required parking spaces, or disabled access facilities (such as parking spaces, walkways, entries, etc.) on or adjacent to said site. However, where there is sufficient clearance to accommodate the usual pedestrian traffic and to comply with applicable state and federal law, outdoor dining facilities are a permitted use in the areas described in the preceding sentence, subject to Zoning Administrator approval of a minor use permit. Outdoor dining areas may be located in landscaped areas if located in such a manner as not to damage the landscaping.

C. Hours of Operation: Days and hours of operation for the outdoor dining shall not extend beyond the hours of operation for the restaurant which it serves. Movable tables, chairs, and all other furniture used in the operation of outdoor dining shall be removed from any pedestrian walkways and stored indoors at night and whenever the cafe is not in operation.

D. Live Entertainment: Outdoor dining shall not be used for live entertainment unless in compliance with section 9224.6 of this code.

E. Structures, Tables, Chairs, Furniture, Signage:

1. In order to provide adequate and safe ingress/egress, a minimum unobstructed pedestrian walkway width of forty-eight inches (48") or the width of the

doors, whichever is greater, shall be maintained. The required width of the unobstructed pedestrian walkway shall extend from the front of the door(s) to the public sidewalk. A reduced width may be approved by the Building Official in compliance with the building code.

2. A minimum of sixty inches (60") of unobstructed space shall be maintained between exits and any structures, furniture or fixtures related to outdoor dining, or as required by the building code, whichever is greater.

3. All outdoor dining furniture, including tables, chairs, umbrellas, and planters, shall be movable. However, permanent outdoor dining furniture such as concrete tables and benches are a permitted use, subject to Zoning Administrator approval of a minor use permit.

4. Umbrellas shall be secured with a minimum base of not less than sixty (60) pounds and shall leave a vertical clearance of seven feet (7') from the sidewalk surface.

5. Outdoor heaters are allowed subject to fire and building code compliance. Non-live music and/or speakers may be authorized with Zoning Administrator approval of a minor use permit.

6. No signage shall be allowed in the outdoor dining area except for the name of the establishment on an awning or umbrella fringe and in compliance with this section and Division 3, Chapter 7 of this code (sign ordinance).

7. Permanent outdoor dining structures such as shade covers and barriers are a permitted use, subject to Zoning Administrator approval of a minor use permit.

F. Maintenance: The permittee is responsible for maintaining all outdoor dining furnishings and the outdoor dining area in good condition, including but not limited to the following:

1. All outdoor dining furnishings and all exterior surfaces within the outdoor dining area shall be easily cleanable and kept clean and free of debris.

2. The outdoor dining area and adjacent areas kept in a clean and safe condition.

G. Food and Beverages: Outdoor dining areas may only serve food and nonalcoholic beverages prepared or stocked for sale at the adjoining indoor restaurant; provided, however, that the service of beer or wine or both solely for on-premises consumption by customers within the outdoor dining area may be authorized by the Planning Director and Police Department if each of the following requirements are met:

1. The outdoor dining operation is duly licensed, or prior to the service of any beer or wine will be duly licensed by State authorities to sell beer or wine for consumption within the outdoor dining area.

2. The authorized outdoor dining area is identified in a manner which will clearly separate and delineate it from the areas of the sidewalk that will remain open to pedestrian traffic.

3. One or more signs, as approved as part of the encroachment permit, are posted during all times the sidewalk cafe is in operation, which shall give notice to the cafe's customers that the drinking of beer or wine or the carrying of any open container which contains beer or wine is prohibited and unlawful outside the delineated outdoor dining area.

Outdoor dining areas authorized by the Planning Department and Police Department and in compliance with the requirements of this section are exempt from Section 6000 of this code.

H. Service Requirements:

1. Service areas (such as busing and service stations) may be located within the outdoor dining area. Service areas shall comply with subsection B of this Section (Location of Outside Dining). Outdoor food preparation in the outdoor dining area is prohibited.

2. Restrooms for the outdoor dining area shall be provided in the adjoining indoor restaurant. Seating for the outdoor dining may be counted in determining the restroom requirements for the indoor restaurant at the discretion of the Building Official.

I. Revocation: The outdoor dining may be revoked by the City upon finding that one or more of the requirements of this Section have been violated or that the outdoor dining is being operated in a manner that constitutes a nuisance.

SECTION TWO

Table 3 in Section 9223.1 of Article 18, Chapter 2 in Division 9 of the Ukiah City Code is hereby amended to specify that the Use Category "Restaurant – outdoor dining (on site)" is a permitted use with an approved Minor Use Permit in the General Urban (GU), Urban Center (UC), and Downtown Core (DC) zoning districts.

SECTION THREE.

1. Publication: Within fifteen (15) days after its adoption, this Ordinance shall be published once in a newspaper of general circulation in the City of Ukiah. In lieu of publishing the full text of the Ordinance, the City may publish a summary of the Ordinance once 5 days prior to its adoption and again within fifteen (15) days after its adoption.

3. Effective Date: The ordinance shall become effective thirty (30) days after its adoption.

Introduced by title only on January 20, 2021, by the following roll call vote:

AYES: Councilmembers Crane, Dueñas, Brown, and Mayor Orozco
NOES: None
ABSENT: None
ABSTAIN: None

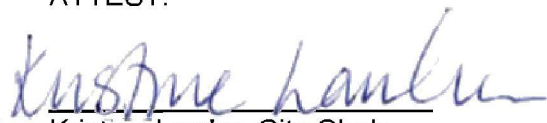
Adopted on February 3, 2021, by the following roll call vote:

AYES: Councilmembers Crane, Rodin, Duenas, and Mayor Orozco
NOES: None
ABSENT: Councilmember Brown
ABSTAIN: None



Juan V. Orozco, Mayor

ATTEST:



Kristine Lawler, City Clerk



AGENDA SUMMARY REPORT

SUBJECT: Adopt a Resolution to enter into the Third Phase Agreement for Power Purchase Agreement with South Feather Water and Power Agency and Authorize the City Manager to Execute the Agreement.

DEPARTMENT: Electric Utility

PREPARED BY: Diann Lucchetti, Administrative Secretary

PRESENTER: Mel Grandi, Electric Utility Director.

ATTACHMENTS:

1. SFWPA_NCPA_PPA_FINAL
2. SFWPA_Third_Phase_Agreement_FINAL
3. Resolution - SFWPA Third Phase Agreement

Summary: Council will consider adopting a Resolution to enter into the Third Phase Agreement for Power Purchase Agreement with South Feather Water and Power Agency (SFWPA).

Background: The City of Ukiah Electric has adopted or is adopting policies that are designed to increase the amount of energy that they provide to their retail customers from eligible renewable energy resources and carbon free resources to comply with the California Renewable Energy Resources Act and other applicable requirements. SFWPA owns and operates four existing hydroelectric generating plants operating under FERC licenses: the Forbestown Powerhouse (37.5 MW), the Kelly Ridge Powerhouse (11.0 MW), the Sly Creek Powerhouse (13.0 MW) and the Woodleaf Powerhouse (60.0 MW) (the Facility or as otherwise referred to as the South Feather Power Project) that qualify as either eligible renewable energy resources or carbon free resources.

Discussion: SFWPA has agreed to sell to Northern California Power Agency (NCPA), and NCPA has agreed to purchase from SFWPA, acting on behalf of City of Ukiah and other participating NCPA members, certain energy, capacity rights and associated environmental attributes supplied from the South Feather Power Project pursuant to the terms and conditions set forth in the Power Purchase Agreement (PPA) between South Feather Water and Power Agency and Northern California Power Agency. A copy of the PPA has been attached (Attachment 1) to this staff report for reference.

The term of the PPA includes the Initial Delivery Term that will begin on the Initial Delivery Date, and will continue uninterrupted through December 31, 2031. At the end of the Initial Delivery Term, if SFWPA does not elect to terminate the PPA, the term of the PPA will automatically extend for an additional 10-year period (the Extended Delivery Term). During the term of the PPA, NCPA will schedule and dispatch the South Feather Power Project, and SFWPA will own, operate and maintain the South Feather Power Project.

To enable NCPA to enter into the PPA on behalf of the City of Ukiah and the other participating members (individual referred to as a "Participant", and collectively referred to as the "Participants"), pursuant to the terms and conditions of the Amended and Restated Facilities Agreement, the Third Phase Agreement provides all means necessary for NCPA to fulfill obligations incurred on behalf of NCPA and the Participants pursuant to the PPA, and to enable and obligate the Participants to take delivery of and pay for such electric capacity and energy and to pay NCPA for all costs it incurs for undertaking the foregoing activities. The Third Phase Agreement specifies the rights and obligations of NCPA and the Participants regarding governance and

administration of the PPA, and obligates each Participant to pay for its Project Participation Percentage share of all Project Costs, Administrative Services Costs, scheduling coordination costs, and all other costs related to the PPA.

Upon full execution of the Third Phase Agreement, NCPA will be authorized to enter into the PPA on behalf of the Participants, and such PPA shall be deemed a NCPA Project by the NCPA Commission pursuant to the Amended and Restated Facilities Agreement.

A copy of the Third Phase Agreement (Attachment 2) and the Resolution (Attachment 3) have been attached to this staff report for reference.

Recommended Action: Adopt Resolution authorizing the City of Ukiah to enter into the Third Phase Agreement for Power Purchase Agreement with South Feather Water and Power Agency (Third Phase Agreement), including any non-substantial modifications to the Third Phase Agreement recommended and approved by the Member counsel and authorize the City Manager to execute the agreement.

BUDGET AMENDMENT REQUIRED: No

CURRENT BUDGET AMOUNT: 80026440.58101: \$2,462,402; 80026440.58102: \$4,717,141
; 80026440.58103: \$3,178,037 ; 80026440.58104: \$470,444

PROPOSED BUDGET AMOUNT: Included in the NCPA All Resources Bill budgeted and approved yearly.

FINANCING SOURCE: 80026440; Electric Administration Power Purchase

PREVIOUS CONTRACT/PURCHASE ORDER NO.: N/A

COORDINATED WITH: David Rapport, City Attorney, Sage Sangiacomo, City Manager and Northern California Power Agency (NCPA)

Approved: 
Sage Sangiacomo, City Manager

POWER PURCHASE AGREEMENT

BETWEEN

SOUTH FEATHER WATER AND POWER AGENCY

AND

NORTHERN CALIFORNIA POWER AGENCY

Dated as of [_____], 20[__]

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**POWER PURCHASE AGREEMENT
BETWEEN
NORTHERN CALIFORNIA POWER AGENCY
AND
SOUTH FEATHER WATER AND POWER AGENCY**

THIS POWER PURCHASE AGREEMENT (this “**Agreement**”), dated as of this [____] day of [____], 20[____], is being entered into by and between the NORTHERN CALIFORNIA POWER AGENCY (“**Buyer**”), a joint powers agency and a public entity organized under the laws of the State of California and created under the provisions of the California Joint Exercise of Powers Act found in Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California, beginning at California Government Code Section 6500, et. seq., (“**Act**”) and the “Amended and Restated Northern California Power Agency Joint Powers Agreement” entered into pursuant to the provisions of the Act among Buyer and Buyer’s members, dated as of January 1, 2008, and SOUTH FEATHER WATER AND POWER AGENCY, an irrigation district formed under the Irrigation District Act (Division 11 of the California Water Code) of the State of California (“**Seller**”). Each of Buyer and Seller is referred to individually in this Agreement as a “**Party**” and together as the “**Parties**.”

RECITALS

WHEREAS, Buyer’s members have adopted or are adopting policies that are designed to increase the amount of energy that they provide to their retail customers from eligible renewable energy resources and carbon free resources to comply with the California Renewable Energy Resources Act and other applicable requirements; and

WHEREAS, Seller owns and operates four existing hydroelectric generating plants operating under a FERC license (FERC Project No. 2088): the Forbestown Powerhouse (37.5 MW), the Kelly Ridge Powerhouse (11.0 MW), the Sly Creek Powerhouse (13.0) MW and the Woodleaf Powerhouse (60.0 MW) (the “Facility or as otherwise referred to as the South Feather Power Project”); and

WHEREAS, the Seller’s license for the South Feather Power Project was issued for a period ending March 31, 2009; on March 26, 2007, Seller filed an Application for a New License pursuant to the Federal Power Act and FERC’s regulations thereunder; and Seller currently operates the South Feather Power Project under an annual license issued from year-to-year under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in the Federal Power Act; and

WHEREAS, the Kelly Ridge Powerhouse and Sly Creek Powerhouse (“the Renewable Facilities”) are eligible renewable energy resource certified by the CEC; and

WHEREAS, Buyer is interested in purchasing Products from the Facilities; and

WHEREAS, Seller has agreed to sell to Buyer, and Buyer has agreed to purchase from Seller, certain energy, capacity rights and associated environmental attributes for the purchase price set forth in Appendix A; and

WHEREAS, the Parties desire to set forth the terms and conditions pursuant to which such sales and purchases shall be made.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing Recitals, which are incorporated herein, the mutual covenants and agreements herein set forth, and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

ARTICLE I DEFINITIONS AND INTERPRETATION

Section 1.1 Definitions.

The following terms in this Agreement and the appendices hereto shall have the following meanings when used with initial capitalized letters:

“**Act**” has the meaning set forth in the preamble of this Agreement.

“**Affiliate**” means, as to any Person, any other Person that, directly or indirectly, is in control of, is controlled by or is under common control with such Person or, as is appropriate given the context, is a director or officer of such Person or of an Affiliate of such Person. As used in this Agreement, “control” shall mean the possession, directly or indirectly, of the power to direct or cause the direction of management, policies or activities of a Person, whether through ownership of voting securities, by contract or otherwise.

“**Agreement**” has the meaning set forth in the preamble of this Agreement, and includes the Appendices attached hereto.

“**Agreement Term**” has the meaning set forth in Section 2.2(a).

“**Annual True-Up Credit**” has the meaning set forth in Appendix A.

“**ASME**” means American Society of Mechanical Engineers.

“**Assumed Daily Deliveries**” has the meaning set forth in Section 11.3(c).

“**ASTM**” means American Society for Testing and Materials.

“**Authorized Auditors**” means representatives of Buyer or Buyer’s Authorized Representative who are authorized to conduct audits on behalf of Buyer.

“**Authorized Representative**” means, with respect to each Party, the Person designated as such Party’s authorized representative pursuant to Section 12.1.

“**Available Generating Capacity**” means the Contract Capacity less the amount of capacity that is not available due to an outage.

“**Availability Incentive Payment**” has the meaning set forth in the CAISO Tariff.

“Availability Standard” has the meaning set forth in the CAISO Tariff.

“AWS” means American Welding Society.

“Bankruptcy” means any case, action or proceeding under any bankruptcy, reorganization, debt arrangement, insolvency or receivership law or any dissolution or liquidation proceeding commenced by or against a Person and, if such case, action or proceeding is not commenced by such Person, such case, action or proceeding shall be consented to or acquiesced in by such Person or shall result in an order for relief or shall remain undismissed for ninety (90) days.

“Base Output” has the meaning set forth in Appendix A.

“Base Output Compensation” has the meaning set forth in Appendix A.

“Base Output Monthly Payment” has the meaning set forth in Appendix A.

“Brown Act” has the meaning set forth in Section 12.21(b).

“Business Day” means any day that is not a Saturday, a Sunday, or a day on which commercial banks are authorized or required to be closed in Los Angeles, California or New York, New York.

“Buyer” has the meaning set forth in the preamble of this Agreement.

“Buyer Curtailment” has the meaning set forth in Section 6.5(b).

“Buyer Indemnatee” has the meaning set forth in Section 12.19(a).

“Cal-OSHA” means the California Occupational Safety & Health Administration.

“CAISO” means the California Independent System Operator.

“CAISO Costs” means (i) all current and future costs, expenses, fees, charges, credits and other amounts assessed by the CAISO to Seller or to Buyer in connection with the Facilities and (ii) any and all costs, expenses, fees, charges and other amounts incurred in connection with performing Scheduling services, settlement services and serving as the Scheduling Coordinator.

“CAISO Master File” has the meaning set forth in the CAISO Tariff.

“CAISO Tariff” means the CAISO FERC Electric Tariff, Fifth Replacement Volume, including the rules, protocols, procedures and standards attached thereto and any replacement thereof or successor thereto in effect.

“CAMD” means the Clean Air Markets Division of the EPA and any other state, regional or federal or intergovernmental entity or Person that is given authorization or jurisdiction or both over a program involving the registration, validation, certification or transferability of Environmental Attributes.

“Capacity Rights” means the rights, whether in existence as of the Effective Date or arising thereafter during the Agreement Term, to capacity, Resource Adequacy Attributes, Local Capacity Requirement Attributes, flexible capacity attributes, operating reserves, regulation services, and other associated attributes or reserves, or any of the foregoing as may in the future be defined by the CAISO, or any other balancing authority, reliability entity or Governmental Authority, associated with the electric generating capability of the Facilities, including the right to resell such rights.

“CEC” means California’s State Energy Resources Conservation and Development Commission, also known as the California Energy Commission.

“CEC Certified” means that the CEC has certified that the Facility is an eligible renewable energy resource in accordance with RPS Law.

“CEC Performance Standard” means, at any time, the applicable greenhouse gas emissions performance standard in effect at such time for electric generation facilities that are owned or operated (or both) by local publicly owned electric utilities, or for which a local publicly owned electric utility has entered into a contractual agreement for the purchase of power from such facilities, as established by the CEC or other Governmental Authority having jurisdiction over Buyer.

“CEQA” means the California Environmental Quality Act, California Public Resources Code §§ 21000, et seq.

“Change in Law” means a material change to any WREGIS standards, rules, or requirements, or a change to any federal, state, local or other law (including any environmental law, EPS Law or RPS Law), resolution, standard, code, rule, ordinance, directive, regulation, order, judgment, decree, ruling, determination, permit, certificate, authorization, or approval of a Governmental Authority, including the adoption of any new law, resolution, standard, code, rule, ordinance, directive, regulation, order, judgment, decree, ruling, determination, permit, certificate, authorization, or approval.

“Compliance Showings” means the applicable load serving entities compliance with the resource adequacy requirements of its applicable regulatory authority for an applicable Showing Month.

“Conditional Use Permit” means the conditional use permits for the Facility.

“Confidential Information” has the meaning set forth in Section 12.21(a).

“Contract Capacity” means the amount of installed Facility capacity set forth in Appendix B.

“Contract Price” means, for any period of time, the Contract Price set forth in Appendix A.

“Contract Year” means (a) with respect to the first (1st) Contract Year, the period beginning on the Initial Delivery Date and extending through December 31 of the calendar year in which the Initial Delivery Date occurs, (b) with respect to the second (2nd) through the twentieth (20th) Contract Years, the applicable calendar year, and (c) with respect to the twenty first (21st) Contract Year, the period beginning on January 1 of the applicable calendar year and extending through the day before the anniversary of the Initial Delivery Date.

“Costs” has the meaning set forth in Section 11.3(f)(iii).

“CPRA” has the meaning set forth in Section 12.21(b).

“Curtailement Period” means a period of time during the Delivery Term during which the generation of Facility Energy is required to be curtailed or reduced (in whole or part) as a result of an order, direction, alert, request, notice, instruction or directive from a Transmission Provider, the CAISO, WECC, NERC, or any other reliability entity due to (a) a System Emergency, (b) system improvements, curtailments, or scheduled and unscheduled repairs or maintenance at or downstream from the Point of Delivery, (c) an event of Force Majeure at or downstream from the Point of Delivery, (d) over-generation or any other reason adversely affecting the normal function and operation of the CAISO grid or a Transmission Provider’s system, as may from time to time be identified by the CAISO, the Transmission Provider, WECC, NERC, or any other reliability entity. For the avoidance of doubt, the term “Curtailement Period” shall not include curtailments directed by CAISO for economic reasons as described in Section 6.5(b) or any curtailment by Buyer pursuant to Section 6.5(b).

“Day-Ahead Market” has the meaning set forth in the CAISO Tariff.

“Deemed Generated Energy” has the meaning set forth in Section 6.5(c).

“Default” has the meaning set forth in Section 11.1.

“Defaulting Party” has the meaning set forth in Section 11.1.

“Delivery Term” has the meaning set forth in Section 2.2(b).

“Dispute” has the meaning set forth in Section 12.3(a).

“Dispute Notice” has the meaning set forth in Section 12.3(a).

“Early Termination Date” has the meaning set forth in Section 11.3(a).

“**EI**” means Edison Electric Institute.

“**Effective Date**” means the date on which Buyer and Seller have both executed this Agreement.

“**Electric Metering Devices**” means all meters, metering equipment, and data processing equipment used to measure, record, or transmit data relating to the Facility Energy. Electric Metering Devices include the metering current transformers and the metering voltage transformers.

“**Energy**” means electrical energy.

“**Environmental Attribute Reporting Rights**” means all rights to report ownership of the Environmental Attributes to any Person, including under Section 1605(b) of the Energy Policy Act of 1992, as amended from time to time or any successor statute, or any other current or future international, federal, state or local law, regulation or bill, or otherwise.

“**Environmental Attributes**” means RECs, and any and all other current or future credits, benefits, emissions reductions, offsets or allowances, howsoever entitled, named, registered, created, measured, allocated or validated (A) that are at any time recognized or deemed of value (or both) by Buyer, applicable law, or any voluntary or mandatory program of any other Governmental Authority or other Person and (B) that are attributable to (i) generation by the Facility during the Delivery Term or Replacement Energy required to be delivered by Seller to Buyer during the Delivery Term and (ii) the emissions or other environmental characteristics of such generation or such Replacement Energy or its displacement of conventional or other types of Energy generation. Environmental Attributes include any of the aforementioned arising out of legislation or regulation concerned with oxides of nitrogen, sulfur, carbon, or any other greenhouse gas or chemical compound, particulate matter, soot, or mercury, or implementing the United Nations Framework Convention on Climate Change (the “**UNFCCC**”), the Kyoto Protocol to the UNFCCC, California’s greenhouse gas legislation (including RPS Law and California Assembly Bill 32 (Global Warming Solutions Act of 2006) and any regulations implemented pursuant to that act, including any compliance instruments accepted under the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms regulations of the California Air Resources Board or any successor regulations thereto) or any similar international, federal, state or local program or crediting “early action” with a view thereto, laws or regulations involving or administered by the CAMD and all Environmental Attribute Reporting Rights, including all evidences (if any) thereof such as renewable energy certificates of any kind. Environmental Attributes for purposes of this definition are separate from the Energy produced from the Facility and do not include (a) investment tax credits, any local, state or federal production tax credits, depreciation deductions or other tax credits providing a tax benefit to Seller or any other Person based on an ownership or security interest in the Facility, (b) any other depreciation deductions and benefits, and other tax benefits arising from ownership of the Facility and (c) cash grants or other financial incentives from any local, state or federal government available to Seller with respect to the Facility.

“**EPA**” means the United States Environmental Protection Agency.

“EPS Compliance” or **“EPS Compliant”** when used with respect to the Facility, means that the Facility satisfies both the PUC Performance Standard and the CEC Performance Standard in effect at the time; *provided*, if it is impossible for the Facility to satisfy both the PUC Performance Standard and the CEC Performance Standard in effect at any time, the Facility shall be deemed EPS Compliant if it satisfies the CEC Performance Standard in effect at the time and those portions of the PUC Performance Standard in effect at the time that it is possible for the Facility to satisfy while at the same time satisfying the CEC Performance Standard in effect at the time.

“EPS Law” means Sections 8340 and 8341 of the California Public Utilities Code or its successor or comparable state or federal programs.

“Extended Delivery Term” has the meaning set forth in Section 2.2(b).

“Facility” means the four (4) hydroelectric generating facilities described in the Recitals hereto, and Appendix B, including all property interests and related Interconnection Facilities owned by Seller.

“Facility Energy” means Energy generated by the Facility, less station load, transformation losses and transmission losses to the Point of Delivery, as measured by CAISO-approved Electric Metering Devices.

“Facility Monthly Variable Output” has the meaning set forth in Appendix A.

“FERC” means the Federal Energy Regulatory Commission.

“Fixed Monthly Payment” has the meaning set forth in Appendix A.

“Force Majeure” has the meaning set forth in Section 12.6(b).

“Force Majeure Notice” has the meaning set forth in Section 12.6(a).

“Forced Outage” means the removal of service availability of the Facility, or any portion of the Facility, for emergency reasons or conditions in which the Facility, or any portion thereof, is unavailable due to unanticipated failure, including as a result of Force Majeure.

“Full Capacity Deliverability Status” or **“FCDS”** has the meaning set forth in the CAISO Tariff.

“GAAP” means generally accepted accounting principles set forth in opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other entity as may be approved by a significant segment of the accounting profession, in each case as the same are applicable to the circumstances as of the date of determination.

“**Gains**” has the meaning set forth in Section 11.3(f)(i).

“**Governmental Authority**” means any federal, state, regional, city or local government, any intergovernmental association or political subdivision thereof, or other governmental, regulatory or administrative agency, court, commission, administration, department, board, or other governmental subdivision, legislature, rulemaking board, tribunal, or other governmental authority with jurisdiction over the Parties, the Facility, or this Agreement, or any Person acting as a delegate or agent of any Governmental Authority; provided that “Governmental Authority” specifically excludes Buyer, any successor or assignee of Buyer and the Participating Members.

“**Gross Facility Energy**” means the amount of Facility Energy delivered to the Point of Delivery during a Buyer Curtailment plus the amount of MWh calculated to approximate the amount of Energy that could have been produced and delivered to the Point of Delivery during the Buyer Curtailment, based on the volume of water bypassed at the Facility during a Buyer Curtailment. For the avoidance of doubt, volumes of water bypassed at the Facility for any reason other than a Buyer Curtailment, including natural spill conditions that may occur, shall not be included in the calculation of Gross Facility Energy.

“**IEEE**” means the Institute of Electrical and Electronics Engineers.

“**Insurance**” means the policies of insurance as set forth in Appendix E.

“**Interest Rate**” has the meaning set forth in Section 9.3.

“**Initial Delivery Date**” means December 19, 2021 and is the first day of the Delivery Term.

“**Initial Delivery Term**” has the meaning set forth in Section 2.2(b).

“**ISA**” means the Instrument Society of America.

“**Interconnection Agreement**” means the interconnection agreement entered into by Seller pursuant to which the Facility will be interconnected with the Transmission System, and pursuant to which Seller’s Interconnection Facilities and any other Interconnection Facilities will be constructed, operated and maintained during the Delivery Term.

“**Interconnection Facilities**” means the interconnection facilities, control and protective devices and metering facilities required to connect the Facility with the Transmission System in accordance with the Interconnection Agreement.

“**Licensed Professional Engineer**” means an independent, professional engineer reasonably acceptable to Buyer, licensed in the State of California, and otherwise qualified to perform the work required hereunder.

“Lien” means any mortgage, deed of trust, lien, security interest, retention of title or lease for security purposes, pledge, charge, encumbrance, equity, attachment, claim, easement, right of way, covenant, condition or restriction, leasehold interest, purchase right or other right of any kind, including any option, of any other Person in or with respect to any real or personal property.

“Local Capacity Requirement Attributes” means the benefits or attributes now or existing in the future based on the procurement obligations of Buyer with respect to local resource capacity requirements as prescribed by the PUC, the CAISO or other regional entity, and that are associated with the electric generating capability of the Facility.

“Locational Marginal Price” or **“LMP”** has the meaning set forth in the CAISO Tariff.

“Losses” has the meaning set forth in Section 11.3(f)(ii).

“Major Maintenance Blockout” has the meaning set forth in Section 3.5(a).

“Month” means a calendar month commencing at 00:00 Pacific Prevailing Time on the first day of such month and ending at 24:00 Pacific Prevailing Time on the last day of such month.

“Monthly Base Output” has the meaning set forth in Appendix A.

“MW” means megawatt in alternating current, or ac.

“MWh” means megawatt-hours.

“NERC” means the North American Electric Reliability Corporation.

“Net Qualifying Capacity” has the meaning set forth in the CAISO Tariff; provided, however, the amount of Net Qualifying Capacity provided by the Facility shall be equal to the amount of Resource Adequacy Capacity that is eligible to be used by Buyer to satisfy Compliance Showing requirements, including adjustments to account for Facility availability, operational limitations and Scheduled Outages.

“Non-Defaulting Party” has the meaning set forth in Section 11.3(a).

“Non-Availability Charge” has the meaning set forth in the CAISO Tariff.

“Notice of Termination” has the meaning set forth in Section 2.2(c).

“Notifying Party” has the meaning set forth in Section 12.3(a).

“OSHA” means the Occupational Safety and Health Administration of the United States Department of Labor.

“Pacific Prevailing Time” means the local time in the State of California.

“Participating Members” means the Cities of Healdsburg, Lodi, Lompoc, Roseville, Santa Clara and Ukiah, and the San Francisco Bay Area Rapid Transit District, and the City of Oakland, acting by and through its Board of Port Commissioners.

“Party” or **“Parties”** has the meaning set forth in the preamble of this Agreement.

“Permits” means all applications, permits, licenses, franchises, certificates, concessions, consents, authorizations, certifications, self-certifications, approvals, registrations, orders, filings, entitlements and similar requirements of whatever kind and however described that are required to be filed, submitted, obtained or maintained by any Person with respect to the development, siting, design, acquisition, construction, equipping, financing, ownership, possession, shakedown, start-up, testing, operation or maintenance of the Facility, the production, sale and delivery of Products from the Facility, including Facility Energy, Capacity Rights and Environmental Attributes, or any other transactions or matter contemplated by this Agreement (including those pertaining to electrical, building, zoning, environmental and occupational safety and health requirements), including the, Conditional Use Permit, CEQA determinations and the Permits as may be applicable.

“Person” means any individual, corporation, partnership, joint venture, limited liability company, association, joint stock company, trust, unincorporated organization, entity, government or other political subdivision.

“PNode” means the CAISO Pricing Node for the Facility as defined in the CAISO Tariff to be established by CAISO, as set forth in Appendix B.

“Point of Delivery” mean the Point of Interconnection for each Facility.

“Point of Interconnection” has the meaning set forth in Appendix B.

“Present Value Rate” means, at any date, the sum of 0.50% plus the yield reported on page “USD” of the Bloomberg Financial Markets Services Screen (or, if not available, any other nationally-recognized trading screen reporting on-line intraday trading in United States government securities) at 11:00 a.m. (New York City, New York time) for the United States government securities having a maturity that most nearly matches the Remaining Term at that date.

“Products” means any and all Facility Energy, Capacity Rights, Environmental Attributes, and ancillary products, services or attributes similar to the foregoing that are or can be produced by, or are associated with, the Facility, whether now attainable or established in the future, including delivered energy, renewable attributes, operating reserves and renewable energy credits.

“Prudent Utility Practices” means those practices, methods, and acts, that are commonly used by a significant portion of the hydroelectric electric generation industry in prudent engineering and operations to design, construct, and operate and maintain electric equipment lawfully and with safety, dependability, reliability, efficiency, and economy, including any applicable practices, methods, acts, guidelines, standards and criteria of the CAISO, FERC, NERC, WECC, as each may be amended from time to time, and all applicable Requirements of Law.

Prudent Utility Practices are not intended to be limited to the optimum practice, method, or act, to the exclusion of all others, but rather is intended to include acceptable practices, methods, and acts generally accepted in the hydroelectric generation industry.

“Public Utilities Code” means the Public Utilities Code of the State of California, as may be amended from time to time.

“PUC” means the California Public Utilities Commission and any successor thereto.

“PUC Performance Standard” means, at any time, the greenhouse gas emission performance standard in effect at such time for electric generation facilities owned or operated (or both) by load-serving entities and not local publicly-owned electric utilities, or for which a load-serving entity and not a local publicly owned electric utility has entered into a contractual agreement for the purchase of power from such facilities, as established by the PUC or other Governmental Authority under the EPS Law.

“QRE” has the meaning set forth in Section 7.4.

“RA Capacity Monthly Payment” has the meaning set forth in Appendix A.

“RA Capacity Rate” has the meaning set forth in Appendix A.

“RA Deficiency Amount” means the liquidated damages payment that Seller shall pay to Buyer for an applicable RA Shortfall Month as calculated in accordance with Section 8.4.

“RA Shortfall Month” means, for purpose of calculating an RA Deficiency Amount under Section 8.4, any month which the amount of Resource Adequacy Capacity supplied from the Facility for such month was less than the Net Qualifying Capacity for such month.

“Real-Time Market” has the meaning set forth in the CAISO Tariff.

“REC” or **“Renewable Energy Credit”** means a certificate of proof associated with the generation of electricity from an eligible renewable energy resource, which certificate is issued through the accounting system established, used or approved by the CEC pursuant to the RPS Law, evidencing that one (1) MWh of Energy was generated and delivered from such eligible renewable energy resource. Such certificate is a tradable environmental commodity (also known as a “green tag” or “renewable energy certificate”) for which the owner of the REC can evidence that it has purchased Energy that is CEC Certified.

“Recipient Party” has the meaning set forth in Section 12.3(a).

“Remaining Term” means, at any date, the remaining portion of the Delivery Term at that date without regard to any early termination of this Agreement.

“Replacement RA” has the meaning set forth in Section 8.4(c).

“Requirements” means, collectively, (a) any standards or requirements of ASTM, ASME, AWS, EPA, EEI, IEEE, ISA, National Electrical Code, NERC, National Electric Safety Code, OSHA, Cal-OSHA, Uniform Building Code, or Uniform Plumbing Code applicable to the design or construction of the Facility, (b) any applicable local county fire department standards or codes, (c) Prudent Utility Practices, (d) FERC licenses, and federal and state dam safety regulations, (e) all applicable Requirements of Law, including the UCC, and (f) all other requirements of this Agreement.

“Requirement of Law” means any federal, state, local or other law (including any environmental law, EPS Law or RPS Law), resolution, standard, code, rule, ordinance, directive, regulation, order, judgment, decree, ruling, determination, permit, certificate, authorization, license or approval of a Governmental Authority, including those pertaining to electrical, building, zoning, environmental, dam safety, cyber and physical security, and occupational safety and health requirements.

“Resource Adequacy Attributes” of **“Resource Adequacy Capacity”** means the benefits or attributes, including flexible attributes, if any, now or existing in the future based on the procurement obligations of Buyer with respect to Resource Adequacy as prescribed by the PUC, the CAISO or any other regional entity, and that are associated with the electric generating capability of the Facility.

“RPS Compliance” or **“RPS Compliant”** means, when used with respect to the Facility, that all Energy generated by such facility at all times shall, together with all of the associated Environmental Attributes, qualify as a “portfolio content category 1” eligible renewable resource, as such term is defined in Public Utilities Code Section 399.12 or Section 399.16, or equivalent if the RPS Law is changed, under the RPS Law.

“RPS Law” means the California Renewable Energy Resources Act, including the California Renewables Portfolio Standard Program, Article 16 of Chapter 2.3, Division 1 of the Public Utilities Code, California Public Resources Code § 25740 through 25751, any related regulations or guidebooks promulgated by the CEC or, as applicable, the PUC or its successor or equivalent state or federal programs.

“SCADA” means the supervisory control and data acquisition system for the Facility.

“Schedule” or **“Scheduling”** means the actions of Seller and Buyer, their Authorized Representatives, the Scheduling Coordinator and the Transmission Providers, if applicable, of notifying, requesting and confirming to the CAISO the amounts of Facility Energy expected to be delivered consistent with the Scheduling Interval at the Point of Delivery on any given date during the Delivery Term, all in the manner contemplated by the CAISO Tariff.

“Scheduled Outage” means any outage with respect to the Facility other than a Forced Outage.

“Scheduled Outage Projection” has the meaning set forth in Section 3.5(a).

“Scheduling Coordinator” has the meaning set forth in the CAISO Tariff.

“Seller” has the meaning set forth in the preamble of this Agreement.

“Seller Indemnitees” has the meaning set forth in Section 12.19(b).

“Settlement Interval” has the meaning set forth in the CAISO Tariff.

“Settlement Statement” has the meaning set forth in the CAISO Tariff.

“Showing Month” means the calendar month of the Delivery Period that is subject of the related Compliance Showing.

“Subcontract” means any agreement or contract entered into on or after the Effective Date by Seller and a Person other than Buyer, which Person is providing goods or services to Seller that are related to the performance of Seller’s obligations under this Agreement. Subcontracts specifically include any agreement or contract that is referred to or defined as a “subcontract” in the policies, ordinances, codes or laws with which Seller must comply pursuant to this Agreement, or that is made with a “subcontractor” as such term is used or defined in such policies, ordinances, codes, or laws.

“Subcontractor” means any party to a Subcontract with Seller.

“System Emergency” means each of the following: (i) “System Emergency” as set forth in the CAISO Tariff and (ii) a condition or situation that in the judgment of Buyer (a) is imminently likely to endanger life or property; or (b) is imminently likely (as determined in a non-discriminatory manner) to cause a material adverse effect on the security of, reliability of, or damage to the Transmission System, Transmission Provider’s interconnection facilities (as defined in the Interconnection Agreement) or the transmission systems of others to which the Transmission System is directly connected.

“Tax” or **“Taxes”** means each federal, state, county, local and other (a) net income, gross income, gross receipts, sales, use, ad valorem, business or occupation, transfer, franchise, profits, withholding, payroll, employment, excise, property or leasehold tax and (b) customs, duty or other fee, assessment or charge of any kind whatsoever, together with any interest and any penalties, additions to tax or additional amount with respect thereto.

“Termination Notice” has the meaning set forth in Section 11.3(a).

“Termination Payment” means a payment in an amount equal to the Non-Defaulting Party’s (a) Losses, plus (b) Costs, minus (c) Gains; *provided, however*, that if such amount is a negative number, the Termination Payment shall be equal to zero.

“Transmission Provider” means the Person operating the Transmission System to and from the Point of Delivery.

“Transmission Services” means the transmission and other services required to transmit Facility Energy to or from the Point of Delivery.

“Transmission System” means the facilities utilized to provide Transmission Services.

“Unexcused Cause” has the meaning set forth in Section 12.6(b).

“UNFCCC” has the meaning set forth in the definition of “Environmental Attributes.”

“Variable Output” has the meaning set forth in Appendix A.

“Variable Output Monthly Payment” has the meaning set forth in Appendix A.

“Variable Output Rate” has the meaning set forth in Appendix A.

“Variable Output True-Up” has the meaning set forth in Appendix A.

“WECC” means the Western Electricity Coordinating Council.

“WREGIS” means Western Renewable Energy Generation Information System.

“WREGIS Certificates” has the meaning set forth in Section 7.4.

“WREGIS Operating Rules” means the rules describing the operations of the WREGIS, as published by WREGIS.

Other terms defined herein have the meanings so given when used in this Agreement with initial-capitalized letters.

Section 1.2 Interpretation. In this Agreement, unless a clear contrary intention appears:

- (a) time is of the essence;
- (b) the singular number includes the plural number and vice versa;
- (c) reference to any Person includes such Person’s successors and assigns (regardless of whether such Person’s successors and assigns are expressly referenced in the provision) but, in case of a Party hereto, only if such successors and assigns are permitted by this Agreement, and reference to a Person in a particular capacity excludes such Person in any other capacity or individually;
- (d) reference to any gender includes the other;
- (e) reference to any agreement (including this Agreement), document, act, statute, law, instrument, tariff or Requirement means such agreement, document, act, statute, law,

instrument, or tariff, or Requirement, as amended, modified, replaced or superseded and in effect from time to time in accordance with the terms thereof and, if applicable, the terms hereof, regardless of whether the reference to the agreement, document, act, statute, law, instrument, tariff, or Requirement expressly refers to amendments, modifications, replacements, or successors;

(f) reference to any Article, Section, or Appendix means such Article of this Agreement, Section of this Agreement, or such Appendix to this Agreement, as the case may be, and references in any Article or Section or definition to any clause means such clause of such Article or Section or definition;

(g) “hereunder,” “hereof,” “hereto” and words of similar import shall be deemed references to this Agreement as a whole and not to any particular Article or Section or other provision hereof or thereof;

(h) “including” (and with correlative meaning “include”) means including without limiting the generality of any description preceding such term, regardless of whether words such as “without limitation” are expressly included in the applicable provision;

(i) relative to the determination of any period of time, “from” means “from and including,” “to” means “to but excluding” and “through” means “through and including”;

(j) unless otherwise indicated, reference to time shall always refer to Pacific Prevailing Time; and reference to any “day” shall mean a calendar day, unless otherwise indicated; and

(k) the term “or” is not exclusive, regardless of whether “and/or” is used in the applicable provision.

ARTICLE II

EFFECTIVE DATE, TERM, AND EARLY TERMINATION

Section 2.1 Effective Date. This Agreement is effective as of the Effective Date. On or prior to the Effective Date, each of the following has occurred: (a) both Parties have executed and delivered this Agreement; (b) Buyer has received copies of all requisite resolutions and incumbency certificates of Seller and any other documents evidencing all actions taken by Seller to authorize the execution and delivery of this Agreement, such resolutions to be certified as of the Effective Date by an authorized representative of Seller; and (b) Seller has received copies of all requisite resolutions and incumbency certificates of Buyer authorizing the execution and delivery of this Agreement, such resolutions to be certified as of the Effective Date by an authorized official of Buyer.

Section 2.2 Term.

(a) **Agreement Term.** The term of this Agreement (the “**Agreement Term**”) shall commence on the Effective Date and end on the last day of the Delivery Term, or upon the earlier termination of this Agreement in accordance with the terms hereof.

(b) **Delivery Term.** The initial delivery term of this Agreement (the “**Initial Delivery Term**”) shall begin on the Initial Delivery Date and shall continue uninterrupted through 11:59 pm on December 31, 2031, unless sooner terminated in accordance with the terms of this Agreement. At the end of the Initial Delivery Term of this Agreement, the term of this Agreement shall automatically extend for an additional ten (10) year period (the “**Extended Delivery Term**”) unless Seller provides written Notice of Termination pursuant to Section 2.2(c), of its election to not automatically extend the term of this Agreement.

(c) **Notice of Termination.** This Agreement may be terminated by Seller at the end of the Initial Delivery Term by providing written notice to the Buyer at least three hundred sixty five (365) Calendar Days prior to the end of the Initial Delivery Term of this Agreement (“**Notice of Termination**”).

Section 2.3 Survivability. The provisions of this ARTICLE II, ARTICLE X, ARTICLE XI, Section 12.9 and Section 12.21 shall survive for a period of one year following the termination of this Agreement. The provisions of ARTICLE IX shall survive for a period of four (4) years following final payment made by Buyer hereunder or the expiration or termination date of this Agreement, whichever is later. The provisions of ARTICLE V, ARTICLE VII, and ARTICLE VIII shall continue in effect after termination to the extent necessary to provide for final billing, adjustments, and deliveries related to any period prior to termination of this Agreement.

Section 2.4 Early Termination.

(a) **Early Termination by Mutual Agreement.** This Agreement may be terminated by mutual written agreement of the Parties.

(b) **Early Termination for Default.** Upon the occurrence of a Default, the Non-Defaulting Party may terminate this Agreement as set forth in Section 11.3.

(c) **Early Termination for Force Majeure.** This Agreement may be terminated pursuant to Section 12.6(c) or Section 12.6(d).

(d) **Effect of Termination.** Except as otherwise provided herein, any early termination of this Agreement under this Section 2.4 shall be without prejudice to the rights and remedies of a Party for Defaults occurring prior to such termination.

ARTICLE III OPERATION AND MAINTENANCE OF THE FACILITY

Section 3.1 General Operational Requirements. Seller shall, at all times:

(a) At its sole expense, operate and maintain the Facility (i) in accordance with the Requirements and (ii) in a manner that is reasonably likely to result in a useful life for the Facility of not less than the Delivery Term;

(b) Use qualified and trained personnel for managing, operating and maintaining the Facility and for coordinating with Buyer, and ensure that necessary personnel are available on-site or on-call twenty-four (24) hours per day during the Delivery Term;

(c) Operate and maintain the Facility with due regard for the safety, security and reliability of the Interconnection Facilities; and

(d) Operate and maintain the Facility in accordance with the CAISO Tariff and other applicable requirements, including, but not limited to, submitting Facility technical and modeling information to the CAISO, as may be required; and

(e) Comply with operating and maintenance standards recommended or required by the Facility's equipment suppliers, and in accordance with Prudent Utility Practices.

Section 3.2 Operation and Maintenance Plan.

(a) Seller shall devise and implement a plan of inspection, maintenance, and repair for the Facility and the components thereof in order to maintain such equipment in accordance with Prudent Utility Practices, and shall keep records with respect to inspections, maintenance, and repairs thereto. The aforementioned plan and all records of such activities shall be available for inspection by Buyer during Seller's regular business hours upon reasonable notice.

(b) In addition to the other required and preventative maintenance actions required by this Agreement, Seller shall: (i) conduct regular visual equipment inspections and log significant parameters; (ii) identify and perform all preventative maintenance requirements for the following calendar year; (iii) schedule and assign routine maintenance during operations, planned outages, as well as maintenance that can be conducted in parallel; (iv) conduct periodic maintenance to various equipment; (v) conduct periodic quality assurance and quality control activities and inspections; and (vi) hire Subcontractors, as applicable to meet the Facility's maintenance, betterment, and improvement needs. Notwithstanding the requirements of this Section 3.2(b), Seller shall retain full discretion in budgeting and determining the priority in which it performs preventive maintenance in relation to Seller's other projects and actions.

Section 3.3 Decommissioning and Other Costs. Buyer shall not be responsible for any cost of decommissioning or demolition of the Facility or any environmental or other liability associated with the decommissioning or demolition of the Facility without regard to the timing or cause of the decommissioning or demolition.

Section 3.4 Environmental Credits. Seller shall, if applicable, obtain in its own name and at its own expense all pollution or environmental credits or offsets necessary to operate the Facility in compliance with any Requirement of Law; *provided* for the avoidance of doubt, Seller shall not use any Environmental Attributes to satisfy the foregoing obligation.

Section 3.5 Outages.

(a) Buyer and Seller shall cooperate to minimize Scheduled Outages during specified periods of time during each calendar year in accordance with Prudent Utility Practices and this Section 3.5 (such periods, the “**Major Maintenance Blockout**”). No later than May 1 prior the commencement of each Contract Year, Buyer shall provide Seller with its specified Major Maintenance Blockout. In the absence of such updated notification, the period of May 1 through September 30 shall apply. Seller shall attempt to minimize its Scheduled Outages during the Major Maintenance Blockout consistent with Prudent Utility Practices. No later than ninety (90) days prior to the first day of the Delivery Period, and for each calendar year thereafter, no later than four (4) months prior to the deadline for providing the CAISO Resource Adequacy filings and proposed maintenance outages for the following year as described in the CAISO Tariff, Seller shall provide Buyer and the Scheduling Coordinator with its non-binding written projection of all Scheduled Outages for the succeeding calendar year (the “**Scheduled Outage Projection**”) reflecting Seller’s attempt to minimize scheduled maintenance during the Major Maintenance Blockout. In addition, Seller shall cooperate in good faith with maintenance scheduling requests by Buyer consistent with Prudent Utility Practices, and Buyer and Seller shall strive to develop a final Scheduled Outage plan no later than three (3) months prior to the deadline for providing the CAISO Resource Adequacy filings and proposed maintenance outages for the following year as described in the CAISO Tariff. Notwithstanding the process described herein for coordination of Scheduled Outages between Buyer and Seller, both Buyer and Seller acknowledge that all Scheduled Outages submitted to the CAISO may be accepted or rejected by the CAISO as described in the CAISO Tariff. In the event the CAISO rejects a Scheduled Outage request submitted by Seller, Buyer and Seller agree to cooperate in good faith to timely coordinate and develop a revised final Scheduled Outage plan to account for any Scheduled Outages that are not approved by the CAISO. The Scheduled Outage Projection shall include information concerning all projected Scheduled Outages during such period, including (a) the anticipated start and end dates of each Scheduled Outage; (b) a description of the maintenance or repair work to be performed during the Scheduled Outage; and (c) the anticipated MW of operational capacity, if any, during the Scheduled Outage. Seller shall use commercially reasonable efforts to notify Buyer and its Scheduling Coordinator of any change in the Scheduled Outage Projection sixty-five (65) days prior to first day of the month of the originally-scheduled date of the Scheduled Outage but in no event shall Seller notify Buyer later than fifty-five (55) days prior to the first day of the month of the originally-scheduled date of the Scheduled Outage. Seller shall use commercially reasonable efforts to accommodate reasonable requests of Buyer with respect to the timing of Scheduled Outages and shall, to the extent feasible and consistent with Prudent Utility Practices, arrange for Scheduled Outages to occur between October 1 and May 1 of each year (or such other period as reasonably determined by Buyer from time to time) and coincident, to the extent known by Seller, with the Transmission Provider’s planned transmission outages, but not to overlap with the Major Maintenance Blockout. In the event of a System Emergency, Seller shall consider and decide in its discretion if it is commercially reasonable to reschedule any Scheduled Outages previously scheduled so that it does not occurs during the System Emergency. In addition, Seller shall use commercially reasonable efforts to coordinate Scheduled Outages with a total duration of 30 calendar days or less to occur within a single calendar month period.

(b) In addition to reporting outages to Buyer and the Scheduling Coordinator within any applicable time period for reporting outages under the CAISO Tariff and applicable rules and regulations of the CAISO, immediately upon identification of a situation likely to result

in a Forced Outage occurring within a twenty-four (24) hour period that is likely to cause or require removal of the Facility from service, or a reduction in the maximum output capability of the Facility by one (1) MW or more from the value most recently recorded in the generation outage reporting system for the CAISO, Seller shall notify Buyer and the Scheduling Coordinator. For all other Forced Outages, Seller shall provide Buyer and the Scheduling Coordinator with as much advance notice as practicably possible, but in all cases, shall notify Buyer and the Scheduling Coordinator within 30 minutes after the commencement of the Forced Outage. Seller shall provide detailed information concerning each Forced Outage, including (i) the start and anticipated end dates of the Forced Outage; (ii) a description of the cause of the Forced Outage; (iii) a description of the maintenance or repair work to be performed during the Forced Outage; and (iv) the anticipated MW of operational capacity, if any, during the Forced Outage. Seller shall take all reasonable measures and exercise commercially reasonable efforts to avoid Forced Outages and to limit the duration and extent of any such outages.

(c) In addition to the requirements set forth in Section 3.5(a) and Section 3.5(b), the Parties shall cooperate to develop mutually acceptable procedures for addressing Scheduled Outages and any other outages arising in connection with the Facility.

(d) In the event of any inconsistency between the provisions in this Section 3.5 and any applicable requirements of CAISO, the provisions of CAISO shall govern.

ARTICLE IV COMPLIANCE DURING OPERATIONS

Section 4.1 Buyers' Rights to Monitor in General. Buyer shall have the right, and Seller shall permit Buyer and its Authorized Representative, and any other advisors, engineers and consultants agreed by the Parties (where such agreement shall not be unreasonably withheld), to observe, inspect, and monitor the operations and activities of the Facility; provided that such activities on the part of Buyer and its Authorized Representative shall be coordinated with Seller so as to not interfere with the Facility, and as to other advisors, engineers and consultants, such third parties executing an agreement setting forth the terms and conditions required by the Parties, including insurance, indemnity and non-disclosure terms. Seller shall cause its personnel, consultants, and contractors to be available to, and cooperate in all reasonable respects with, Buyer and its Authorized Representative, advisors, engineers, and consultants at reasonable times and with prior notice for purposes of discussing any aspect of the Facility testing, performance, operation, or maintenance thereof and Buyer's exercise of its rights under this Section 4.1. Buyer's rights to access the Facility shall be subject to Seller's reasonable safety protocols.

Section 4.2 Effect of Review by Buyer. Any review by Buyer or a Buyer's Authorized Representative of the operation or maintenance of the Facility, or observation of any testing, is solely for the information of Buyer. Buyer shall have no obligation to share the results of any such review or observations with Seller, nor shall any such review or the results thereof (whether or not the results are shared with Seller), nor any failure to conduct any such review, nor any observation of testing or failure to observe testing, relieve Seller from any of its obligations under this Agreement. By making any such review or observing any such testing, Buyer makes no representation as to the economic and technical feasibility, operational capability or reliability of

the Facility. Seller shall in no way represent to any third party that any such review by Buyer or Buyer's Authorized Representative of the Facility thereof, including any review of the operation or maintenance, is a representation by Buyer as to the economic and technical feasibility, operational capability or reliability of the Facility. Seller is solely responsible for the economic and technical feasibility, operational capability and reliability thereof.

Section 4.3 No Liens. Except as otherwise permitted by this Agreement: (a) the Facility shall be owned by Seller during the Agreement Term; and (b) Seller shall not sell or otherwise dispose of or create, incur, assume or permit to exist any Lien on any portion of the Facility or any other property or assets that are related to the operation, maintenance and use of the Facility without the prior written approval of Buyer, which such written approval shall not be unreasonably withheld.

ARTICLE V PURCHASE AND SALE OF PRODUCT

Section 5.1 Purchases by Buyer. Subject to the terms and conditions of this Agreement, during the Delivery Term, Buyer will purchase and receive all the Products produced by or associated with the Facility at the Contract Price and in accordance with Appendix A, and Seller shall supply and deliver to Buyer all the Products produced by or associated with the Facility. At its sole discretion, Buyer may during the Delivery Term re-sell or use for another purpose all or a portion of the Products, provided that no such re-sale or use shall relieve Buyer of any obligations hereunder. During the Delivery Term, Buyer will have exclusive rights to offer, bid, or otherwise submit the Product from the Facility after the Point of Delivery for resale in the market or to any third party, and retain and receive any and all related revenues. Buyer has no obligation to purchase from Seller any Products for which the associated Facility Energy is not or cannot be delivered to the Point of Delivery as a result of an outage of the Facility, a Force Majeure Event, or a Curtailment Period.

Section 5.2 Sale of Environmental Attributes. During the Delivery Term, Seller shall sell and deliver to Buyer, and Buyer shall purchase and receive from Seller, all Environmental Attributes attributable to the Facility Energy generated by the Facility.

ARTICLE VI TRANSMISSION AND SCHEDULING; TITLE AND RISK OF LOSS

Section 6.1 Delivery.

(a) Energy and Capacity. Subject to the provisions of this Agreement, during the Delivery Term, Seller shall supply and deliver the Products to Buyer at the Point of Delivery, and Buyer shall take delivery of the Products at the Point of Delivery in accordance with the terms of this Agreement. Seller will be responsible for paying or satisfying when due any costs or charges imposed in connection with the delivery of Facility Energy to the Point of Delivery, including without limitation, Station Use, Electrical Losses, and any operation and maintenance charges imposed on Seller by the Transmission Provider directly relating to the Facility's operations. Buyer shall be responsible for all costs, charges and penalties, if any, imposed in connection with

the delivery of Facility Energy at and after the Point of Delivery, including without limitation transmission costs and transmission line losses. Throughout the Delivery Term, Buyer shall Schedule and dispatch the Facilities in accordance with Prudent Utility Practices and shall have the exclusive right to bid or schedule all Products from each Facility, and provide (or cause to be provided), at its own expense, and will be solely responsible for the performance of all Scheduling Coordinator services required under the term of this Agreement, the CAISO Tariff, applicable protocols and scheduling practices, and any other applicable law, rule or regulatory requirement applicable to Scheduling Coordinators, for the Facilities. The Facility Energy will be scheduled and dispatched with the CAISO by Buyer (or Buyer's designated Scheduling Coordinator for the Facility) in accordance with Appendix C.

(b) Environmental Attributes. All Environmental Attributes associated with the Facility during the Delivery Term are exclusively dedicated to and will be conveyed to Buyer. Seller represents and warrants that Seller holds the rights to all Environmental Attributes from the Facility, and Seller agrees to convey and hereby conveys all such Environmental Attributes to Buyer as included in the delivery of the Product from the Facility.

Section 6.2 Scheduling Coordinator; CAISO Cost Allocation. Buyer or Buyer's designee shall act as Scheduling Coordinator for the Facility and shall have the full right and obligation to Schedule and dispatch all Facility Energy and capacity in accordance with the CAISO Tariff and other applicable requirements. Seller shall provide the capability to implement dispatch order, including adjustments to operating constraints, such as ramp rates, megawatt output, and megavar output, in real-time by means of set points received by the SCADA system or Facility controller of Seller, provided that the dispatch order is consistent with the Facility's operational characteristics as then-currently modeled in the CAISO Master File. The Facility shall have one or more designed resource IDs with CAISO for scheduling purposes, as set forth in the CAISO Master File. Buyer shall be financially responsible for and shall pay for all CAISO Costs; provided however, that notwithstanding the foregoing, Seller shall assume all liability and reimburse Buyer for any and all costs or charges under a Settlement Statement incurred by Buyer because of Seller's failure to perform any covenant or obligation set forth in this Agreement.

Section 6.3 Interconnection Facilities. Seller shall maintain an Interconnection Agreement and applicable Interconnection Facilities with the Transmission Provider to enable the Facility to interconnect with the Transmission System at the Point of Delivery. Seller shall be solely responsible for and pay all costs and charges arising under the Interconnection Agreement in compliance with the Interconnection Agreement and applicable rules and requirements in place throughout the Delivery Term.

Section 6.4 Forecasting. Seller shall provide the forecasts described below at its sole expense and in a format reasonably acceptable to Buyer (or Buyer's designee). Seller shall use reasonable efforts to provide forecasts that are accurate and, to the extent not inconsistent with the requirements of this Agreement, shall prepare such forecasts, or cause such forecasts to be prepared, in accordance with Prudent Operating Practices.

(a) Annual Forecast of Energy. No less than forty-five (45) days before (i) the first day of the first Contract Year of the Delivery Term and (ii) at the beginning of each calendar

year for every subsequent Contract Year during the Delivery Term, Seller shall provide to Buyer a non-binding forecast of each month's average-day expected Facility Energy, and associated hydrological storage, for the following calendar year in a form reasonably requested by Buyer.

(b) Monthly Forecast of Energy and Available Generating Capacity. No less than thirty (30) days before the Initial Delivery Date, and thereafter ten (10) Business Days before the beginning of each month during the Delivery Term, Seller shall provide to Buyer a non-binding forecast of the hourly expected Facility Energy, hydrological storage, and Available Generating Capacity for each day of the following month in a form reasonably requested by Buyer ("**Monthly Delivery Forecast**").

(c) Day-Ahead Forecast. By 5:30 AM Pacific Prevailing Time on the Business Day immediately preceding the date of delivery, or as otherwise specified by Buyer consistent with Prudent Operating Practice, Seller shall provide Buyer with a non-binding forecast of (i) Available Generating Capacity and (ii) environmental requirements, including minimum water release requirements, in each case, for each hour of the immediately succeeding day ("**Day-Ahead Forecast**"). A Day-Ahead Forecast provided in a day prior to any non-Business Day(s) shall include non-binding forecasts for the immediate day, each succeeding non-Business Day and the next Business Day. Each Day-Ahead Forecast shall clearly identify, for each hour, Seller's non-binding best estimate of (i) the Available Generating Capacity and (ii) applicable requirements and minimum water release requirements.

(d) Water Transfers. Seller, in Seller's discretion, may implement temporary or long-term reservoir reoperation or other water transfers during the Delivery Term. Seller will include any such transfers in the Monthly Delivery Forecast and Day-Ahead Forecast. If a transfer is forecasted at the time the Annual Forecast is due, then Seller shall provide notice to Buyer in the Annual Forecast; otherwise, Seller will provide notice to Buyer of any potential water transfer when it is first forecasted. Buyer and the Scheduling Coordinator agree to implement any water transfers and any accompanying regulatory or legal requirements of the transfer, including refill criteria and ramping rates. Buyer and Scheduling Coordinator will neither object to Seller water transfers, nor charge an accommodation or other fee or request any other offset or payment for such transfers during the Delivery Term.

(e) Throughout the Delivery Term, Seller shall provide to Buyer and the Scheduling Coordinator the following data on a real-time basis, and in a format that reasonably allows Buyer and the Scheduling Coordinator to copy, paste or otherwise use such data:

(i) Read-only and/or write access via secure login credentials to Energy output information and operational information collected by the SCADA system for the Facility; *provided* that if Buyer or the Scheduling Coordinator is unable to access the Facility's SCADA system, then upon written request from Buyer or the Scheduling Coordinator, Seller shall provide Energy output information and operational information through such other format as may be mutually acceptable to Seller and Buyer, all as may be updated from time to time based on advancements in technology in accordance with Prudent Utility Practices; and

(ii) Read-only access to all Electric Metering Devices.

(f) Seller, Buyer and the Scheduling Coordinator shall mutually develop forecasting and Scheduling procedures in addition to those set forth in this Section 6.4 and Appendix C, in order to administer the provisions of this Agreement in compliance with all applicable Requirements and requirements of the Transmission Provider, CAISO, NERC, WECC, and any balancing authority involved in the Scheduling of Energy and capacity under this Agreement. Seller, Buyer and the Scheduling Coordinator shall promptly cooperate to make any reasonably necessary and appropriate modifications to such forecasting or Scheduling procedures as may be required from time to time.

Section 6.5 Curtailment.

(a) Seller shall reduce deliveries of Facility Energy to the Point of Delivery as soon as reasonably possible upon notice from the Scheduling Coordinator, the CAISO, a Transmission Provider, or any balancing authority or reliability entity during Curtailment Periods. Buyer shall be excused from receiving any Facility Energy from Seller and shall not be obligated to pay Seller for the amount of reduced Facility Energy arising during a Curtailment Period. If required by the Scheduling Coordinator, the CAISO, a Transmission Provider, any balancing authority or reliability entity, or if requested by Buyer, Seller shall provide the dispatch and operating capability to implement curtailments and adjust ramp rates, megawatt output, and (if applicable) megavar output in real-time by means of setpoints received by the SCADA system or Facility controller of Seller.

(b) Separate from the curtailments described in Section 6.5(a), Buyer may, upon delivering curtailment instruction to Seller, curtail deliveries of Facility Energy at any time and for the duration specified by Buyer (“**Buyer Curtailment**”). For the avoidance of doubt, if the curtailment is resulting from Buyer’s bidding and scheduling strategies and activities, including Buyer’s strategies to minimize Buyer’s exposure to negative pricing, the Facility will be deemed to have been curtailed pursuant to this Section 6.5(b), for which Buyer will be required to reimburse Seller as set forth herein. Buyer, Buyer’s real-time operators or the Scheduling Coordinator shall provide to Seller a dispatch notice or instruction in accordance with CAISO scheduling timelines set forth in the CAISO Tariff, or in accordance with the Scheduling and dispatch procedures set forth in Appendix C, of its request for curtailment under this Section 6.5(b), and Seller shall comply with such request in accordance with Prudent Utility Practices, provided that the dispatch order is consistent with the Facility’s operational characteristics as then-currently modeled in the CAISO Master File. The curtailment notice to Seller shall indicate the amount of any Facility Energy to be produced in each applicable Settlement Interval. Seller shall respond to curtailment notices (including the end of such curtailment periods) in accordance with Prudent Utility Practices. Seller shall provide the capability to implement curtailment notices, including adjustments to operating constraints, such as ramp rates, megawatt output, and megavar output, in real-time by means of set points received by the SCADA system or Facility controller of Seller. Buyer shall compensate Seller for any Deemed Generated Energy by accounted for Deemed Generated Energy as Monthly Base Output, as further set forth in Appendix A.

(c) “**Deemed Generated Energy**” means the amount of Facility Energy, expressed in MWh, that the Facility would have produced and delivered to the Point of Delivery, but for a curtailment event arising under Section 6.5(b), which amount shall be equal to (i) Gross Facility Energy, less (ii) the amount of Facility Energy delivered to the Point of Delivery during the curtailment or other event, if any; *provided* that, if the applicable difference calculated pursuant to the formula provided above is negative, the Deemed Generated Energy shall be zero (0).

(d) Within thirty (30) days after any curtailment pursuant to Section 6.5(a) and Section 6.5(b), Buyer shall provide Seller with all necessary information needed and reasonably requested by Seller, whether from Buyer or CAISO, including CAISO “flags” with respect to the curtailments, for Seller to determine if compensation is owed to Seller by Buyer pursuant to Section 6.5(b).

Section 6.6 No Payment. Buyer shall not be obligated to pay Seller for any Facility Energy that is not or cannot be delivered to the Point of Delivery for any reason (including Force Majeure), except as otherwise stated in Section 6.5(b).

Section 6.7 Title; Risk of Loss. As between the Parties, Seller shall be deemed to be in exclusive control (and responsible for any damages or injury caused thereby) of all Energy prior to the Point of Delivery, and Buyer shall be deemed to be in exclusive control (and responsible for any damages or injury caused thereby), of the Energy at and from the Point of Delivery. Seller warrants that it will deliver all Products, including all of the associated Environmental Attributes, to Buyer free and clear of all Liens created by any Person other than Buyer.

Section 6.8 RPS and EPS Compliance.

(a) Seller warrants and guarantees that during the Delivery Period the Facility Energy produced by each Facility that is CEC Certified as of the Effective Date, and at all times thereafter until the expiration or earlier termination of the Agreement, the Facility (including the Facility Energy and the associated Environmental Attributes) shall be both RPS Compliant and EPS Compliant (if EPS Law is applicable to the Facility), except if the Facility fails to be RPS Compliant or EPS Compliant (if EPS Law is applicable to the Facility) as a result of (i) a Change in Law making it impossible, after the use of commercially reasonable efforts as required under Section 6.8(b), for the Facility to be RPS Compliant or EPS Complaint, or (ii) any repeal of the RPS Law or EPS Law.

(b) If a Change in Law occurs after the Initial Delivery Date that (i) does not repeal the RPS Law or the EPS Law, (ii) causes the Facility to cease to be RPS Compliant and/or EPS Compliant and (iii) reduces the value to Buyer of the Environmental Attributes, then Seller shall use commercially reasonable efforts to comply with such Change in Law and cause the Facility to be RPS Compliant and EPS Compliant. To the extent a Change in Law occurs after the execution of this Agreement that causes this representation and warranty to be materially false or misleading, it shall not be an Event of Default if Seller has used commercially reasonable efforts to comply with such Change in Law. The term “commercially reasonable efforts” as used in this Section 6.8 means efforts consistent with the subject to Section 6.9.

(c) Subject to Section 7.1, Seller shall also take all other reasonable actions necessary to ensure that the Facility Energy is tracked for purposes of satisfying the RPS Law, as may be amended or supplemented by the PUC or CEC from time to time.

Section 6.9 Compliance Expenditure Cap. If a Change in Law occurring after the Effective Date has increased Seller's known or reasonably expected costs to comply with Seller's obligations under this Agreement with respect to obtaining, maintaining, conveying or effectuating Buyer's use of (as applicable) any Products, then the Parties agree that the maximum aggregate amount of out-of-pocket costs and expenses ("**Compliance Costs**") Seller shall be required to bear during the Delivery Term to comply with all of such obligations shall be capped at twenty-five thousand dollars (\$25,000.00) per MW of Contract Capacity ("**Compliance Expenditure Cap**"). Seller's internal administrative costs associated with obtaining, maintaining, conveying or effectuating Buyer's use of (as applicable) any Product are excluded from the Compliance Expenditure Cap.

Any actions required for Seller to comply with its obligations set forth in the first paragraph above, the Compliance Costs of which will be included in the Compliance Expenditure Cap, shall be referred to collectively as the "**Compliance Actions**." Seller will determine, in Seller's reasonable discretion, the implementation schedule for Compliance Actions.

If Seller reasonably anticipates the need to incur Compliance Costs in excess of the Compliance Expenditure Cap in order to take any Compliance Action Seller shall provide Notice to Buyer of such anticipated Compliance Costs.

Buyer will have sixty (60) days to evaluate such Notice (during which time period Seller is not obligated to take any Compliance Actions described in the Notice) and shall, within such time, either (1) agree to reimburse Seller for all of the Compliance Costs that exceed the Compliance Expenditure Cap (such Buyer-agreed upon costs, the "**Accepted Compliance Costs**"), or (2) waive Seller's obligation to take such Compliance Actions, or any part thereof for which Buyer has not agreed to reimburse Seller. If Buyer does not respond to a Notice given by Seller under this Section 6.9 within sixty (60) days after Buyer's receipt of same, Buyer shall be deemed to have waived its rights to require Seller to take the Compliance Actions that are the subject of the Notice, and Seller shall have no further obligation to take, and no liability for any failure to take, these Compliance Actions for the remainder of the Term.

If Buyer agrees to reimburse Seller for the Accepted Compliance Costs, then Seller shall endeavor in good faith to expeditiously implement the Compliance Actions covered by the Accepted Compliance Costs as agreed upon by the Parties and Buyer shall reimburse Seller for Seller's actual costs to effect the Compliance Actions, not to exceed the Accepted Compliance Costs, within sixty (60) days of Buyer's receipt of any invoice from Seller.

ARTICLE VII ENVIRONMENTAL ATTRIBUTES

Section 7.1 Transfer of Environmental Attributes. For and in consideration of Buyer entering into this Agreement, and in addition to the agreement by and between Buyer and Seller

to purchase and sell Facility Energy on the terms and conditions set forth herein, Seller shall transfer to Buyer, and Buyer shall receive from Seller, all right, title, and interest in and to all Environmental Attributes, whether now existing or acquired by Seller or that hereafter come into existence or are acquired by Seller during the Delivery Term associated with the Facility Energy. Seller agrees to transfer and make such Environmental Attributes available to Buyer immediately to the fullest extent allowed by applicable law upon Seller's production or acquisition of the Environmental Attributes. Seller represents and covenants that it has not assigned, transferred, conveyed, encumbered, sold or otherwise disposed of and shall not assign, transfer, convey, encumber, sell or otherwise dispose of all or any portion of such Environmental Attributes to any Person other than Buyer or attempt to do any of the foregoing with respect to any of the Environmental Attributes except with respect to any sales by Seller pursuant to Section 5.1. Buyer and Seller acknowledge and agree that the consideration for the transfer of Environmental Attributes is contained within the Contract Price.

Section 7.2 Reporting of Ownership of Environmental Attributes. During the Agreement Term, Seller shall not report to any Person that the Environmental Attributes granted hereunder to Buyer belong to any Person other than Buyer, and Buyer may report under any program that such Environmental Attributes purchased hereunder belong to it except with respect to any sales by Seller pursuant to Section 5.1, and during a Force Majeure.

Section 7.3 Environmental Attributes. Upon the request of Buyer or Buyer's Authorized Representative, Seller shall take all reasonable actions and execute all documents or instruments necessary under applicable law regulations, guidebooks promulgated by the CEC or PUC, bilateral arrangements or other voluntary Environmental Attribute programs of any kind, as applicable, to maximize the attribution, accrual, realization, generation, production, recognition and validation of Environmental Attributes throughout the Agreement Term and Seller shall file with the CEC and any other applicable Persons all materials and documents required to demonstrate that the Facility is entitled to be CEC Certified.

Section 7.4 WREGIS. In furtherance and not in limitation of Section 7.3, prior to Seller's first delivery of Facility Energy hereunder, Seller shall register with WREGIS to evidence the transfer of any Environmental Attributes under applicable law or any voluntary program ("**WREGIS Certificates**") associated with Facility Energy in accordance with WREGIS reporting protocols and WREGIS Operating Rules and shall register the Facility with WREGIS. After the Facility is registered with WREGIS, at the option of Buyer's Authorized Representative, Seller shall transfer WREGIS Certificates using the Forward Certificate Transfer method as described in WREGIS Operating Rules from Seller's WREGIS account to Buyer's WREGIS accounts, as designated by Buyer's Authorized Representative. Seller shall be responsible for WREGIS Certificate issuance fees and WREGIS expenses associated with registering the Facility, maintaining its account, acquiring and arranging for a Qualified Reporting Entity ("**QRE**") and any applicable QRE agreements, and transferring WREGIS Certificates to Buyer, Buyer's Authorized Representative, or any other designees. Buyer shall be responsible for its WREGIS expenses associated with maintaining its own account, or the accounts of its designees, if any, and subsequent transferring or retiring by it of WREGIS Certificates, or Seller's fees for the retirement of WREGIS Certificates on behalf of Buyer. Forward Certificate Transfers shall occur monthly based on the certificate creation timeline established by the WREGIS Operating Rules. Seller shall

be responsible for, at its expense, validating and disputing data with WREGIS prior to WREGIS Certificate creation each Month. In addition to the foregoing, Seller shall document the production and transfer of Environmental Attributes under this Agreement to Buyer by delivering to Buyer an attestation in substantially the form attached as Appendix D for the Environmental Attributes associated with Facility Energy, if any, measured in whole MWh, or by such other method as Buyer shall designate.

Section 7.5 Further Assurances. In addition to and not in limitation of Section 7.4, Seller shall document the production of Environmental Attributes by delivering with each invoice to Buyer an attestation for the Environmental Attributes associated with Facility Energy, if any, for the preceding Month in the form of the attestation set forth as Appendix D. At Buyer's Authorized Representative's request, the Parties shall execute all reasonable documents and instruments and take commercially reasonable actions in order to effect the transfer of the Environmental Attributes specified in this Agreement to Buyer and to maximize the attribution, accrual, realization, generation, production, recognition and validation of Environmental Attributes throughout the Agreement Term. In the event of the promulgation of a scheme involving Environmental Attributes administered by CAMD, upon notification by CAMD that any transfers contemplated by this Agreement shall not be recorded, each Party shall promptly cooperate in taking all reasonable actions necessary so that such transfer can be recorded. Each Party shall promptly give the other Party copies of all documents it submits to CAMD to effectuate any transfers.

ARTICLE VIII CAPACITY RIGHTS

Section 8.1 Capacity Rights. For and in consideration of Buyer entering into this Agreement, and in addition to the agreement by Buyer and Seller to purchase and sell Facility Energy and Environmental Attributes on the terms and conditions set forth herein, Seller hereby transfers to Buyer, and Buyer hereby accepts from Seller, all of Seller's rights, title and interest in and to the Capacity Rights. The consideration for the transfer of Capacity Rights, if any, is contained within the Contract Price. In no event shall Buyer have any obligation or liability whatsoever for any debt pertaining to the Facility by virtue of Buyer's ownership of the Capacity Rights or otherwise. Throughout the Delivery Term, Seller shall use commercially reasonable efforts to maintain eligibility for Full Capacity Deliverability Status for the Facility from the CAISO and shall perform all actions necessary to ensure that the Facility qualifies to provide Resource Adequacy Benefits to Seller.

Section 8.2 Covenant Regarding Capacity Rights. Seller represents and covenants that it has not assigned, transferred, conveyed, encumbered, sold or otherwise disposed of and shall not in the future assign, transfer, convey, encumber, sell or otherwise dispose of any of the Capacity Rights to any Person other than Buyer or attempt to do any of the foregoing with respect to any of the Capacity Rights. During the Agreement Term, Seller shall not report to any Person that any of the Capacity Rights belong to any Person other than Buyer. Buyer may, at its own risk and expense, report to any Person that the Capacity Rights belongs to it.

Section 8.3 Further Assurances. Seller shall execute and deliver such documents and instruments and take such other action as reasonably required by the CAISO and as Buyer's Authorized Representative may reasonably request to effect recognition and transfer of the Capacity Rights to Buyer. Seller shall bear the costs associated therewith.

Section 8.4 Resource Adequacy Failure.

(a) RA Deficiency Determination. For each RA Shortfall Month, Seller shall pay to Buyer the RA Deficiency Amount as liquidated damages or provide Replacement RA, in each case, as the sole and exclusive remedy for the Capacity Rights Seller failed to convey to Buyer.

(b) RA Deficiency Amount Calculation. Commencing on the Initial Delivery Date, for each RA Shortfall Month, Seller shall pay to Buyer an amount (the "**RA Deficiency Amount**") equal to the product of the difference, expressed in kW, of (i) the Net Qualifying Capacity for such month, minus (ii) the amount of Resource Adequacy Capacity supplied from the Facility for such month, multiplied by the RA Capacity Rate; *provided* that Seller may, as an alternative to paying RA Deficiency Amounts, provide Replacement RA in the amount of (X) the Net Qualifying Capacity with respect to such month, minus (Y) the amount of Resource Adequacy Capacity supplied from the Facility with respect to such month, provided that any Replacement RA capacity is communicated by Seller to Buyer with Replacement RA product information in a written notice at least sixty-five (65) days before the relevant deadlines for the corresponding Compliance Showings applicable to the relevant Showing Month.

(c) Option to Provide Replacement RA. If Seller desires to provide replacement Resource Adequacy Capacity for any Showing Month from a different generating unit other than the Facility (the "**Replacement RA**"), then Seller may provide Buyer with Replacement RA from one or more replacement units, provided that in each case the Replacement RA is supplied from like-for-like replacement units that provide Buyer with equivalent Capacity Attributes as the Facility.

(d) Availability Standards. Seller agrees that the Facility may be subject to the terms of the Availability Standards, Non-Availability Charges, and Availability Incentive Payments as contemplated in the CAISO Tariff. Furthermore, the Parties agree that any Availability Incentive Payments are for the benefit of the Buyer and for Buyer's account and that any Non-Availability Charges are the responsibility of the Buyer and for Buyer's account; provided however, that notwithstanding the foregoing, Seller shall assume all liability and reimburse Buyer for any and all Non-Availability Charges incurred by Buyer because of Seller's failure to perform any covenant or obligation set forth in this Agreement.

ARTICLE IX

BILLING; PAYMENT; AUDITS; METERING; ATTESTATIONS; POLICIES

Section 9.1 Billing and Payment. Billing and payment for all Products shall be as set forth in this ARTICLE IX.

Section 9.2 Calculation of Energy Delivered; Invoices and Payment.

(a) Not later than the tenth (10th) day of each Month, commencing with the next Month following the Month in which Facility Energy is first delivered by Seller and received by Buyer pursuant to the terms and conditions of this Agreement, Seller shall deliver to Buyer an invoice showing the amount due for the preceding Month from Buyer to Seller for Facility Energy, Capacity Rights and Environmental Attributes. Seller shall calculate the amount of Facility Energy from meter readings at the Electric Metering Devices maintained pursuant to Section 9.6, adjusting for any applicable station load, transformation losses and transmission losses to the Point of Delivery in accordance with a methodology agreed to by Buyer. Each invoice shall show the title of the Agreement and, if applicable, the Agreement number, the name, address and identifying information of Seller and the identification of material, equipment or services covered by the invoices, and shall be sent to the address set forth in Appendix F or such other address as Buyer may provide to Seller. Seller shall separately provide in such invoice for any other amounts due to Seller, including amounts due under Section 6.5. Any electronic information delivered by Seller under this ARTICLE IX shall be in a format such as Microsoft Excel (or its equivalent) that allows Buyer to cut, paste or otherwise readily use and work with such information or documentation or as otherwise mutually agreed by the Parties.

(b) Concurrently with the delivery of each Monthly invoice, Seller shall deliver attestations of all Environmental Attribute transfers (including those transferred with WREGIS) substantially in the form set forth in Appendix D.

(c) Subject to Section 9.2(d) and Section 9.3, not later than the twenty-fifth (25th) day after receipt by Buyer of Seller's Monthly invoice (or the next succeeding Business Day, if the twenty-fifth (25th) day is not a Business Day), Buyer shall pay to Seller, by wire transfer of immediately available funds to an account specified by Seller or by any other means agreed to by the Parties from time to time, the amount set forth as due in such Monthly invoice.

(d) Notwithstanding Section 9.2(c), if Buyer believes that it has insufficient information to verify the amount of Deemed Generated Energy calculated by Seller in the invoice, or if Buyer requires additional time to verify such information, Buyer shall notify Seller thereof within twenty-five (25) days after receipt of an invoice from Seller, and timely pay the amounts set forth in such Monthly invoice not related to Deemed Generated Energy. Within thirty (30) days after receipt by Buyer of additional information regarding such Deemed Generated Energy calculation, or on the date mutually agreed to by the Parties, Buyer shall pay to Seller the amount specified in the invoice or notify Seller of any discrepancies with respect to its calculation of the Deemed Generated Energy, in which event such invoice shall be subject to the provisions of Section 9.3.

(e) Seller shall, in subsequent invoices, adjust previously invoiced amounts to reflect (i) adjustments pursuant to Section 9.3, or (ii) adjustments, reconciliations or final settlements with WREGIS occurring after the date of the initial invoice, or any other adjustments agreed to by the Parties (which shall be without interest of any kind), *provided* that Buyer shall not be required to make invoice payments if the invoice is received more than one (1) year after the billing period.

(f) Except with respect to disputed invoices where the dispute is first raised within six months after the applicable Monthly billing period and for any adjustments made pursuant to Section 9.2(e) and Section 9.6(a), Buyer shall not be required to make invoice payments if the invoice is received more than six (6) Months after the applicable Monthly billing period.

Section 9.3 Disputed Invoices. If any portion of any invoice is in dispute, the undisputed amount shall be paid when due. The Party disputing a payment shall promptly notify the other Party of the basis for the dispute, setting forth the details of such dispute in reasonable specificity. Disputes shall be discussed directly by the Parties' Authorized Representatives, who shall use reasonable efforts to amicably and promptly resolve such Disputes, and any failure to agree shall be subject to resolution in accordance with Section 12.3. Upon resolution of any Dispute, if all or part of the disputed amount is later determined to have been due, then the Party owing such payment or refund shall pay within ten (10) days after receipt of notice of such determination the amount determined to be due plus interest thereon at the Interest Rate from the due date until the date of payment. For purposes of this Section 9.3, "**Interest Rate**" shall mean the lesser of (i) two percent (2%) above the per annum Prime Rate reported daily in *The Wall Street Journal*, or (ii) the maximum rate permitted by applicable Requirements of Law.

Section 9.4 Right of Setoff. In addition to any right now or hereafter granted under applicable law and not by way of limitation of any such rights, each Party shall have the right at any time or from time to time without notice to other Party or to any other Person, any such notice being hereby expressly waived, to set off against any amount due a Party from the other Party under this Agreement or otherwise any amount due such Party from the other Party under this Agreement or otherwise, including any amounts due because of breach of this Agreement or any other obligation.

Section 9.5 Records and Audits. Seller shall maintain, and the Authorized Auditors shall have access to, all records and data pertaining to the performance and management of this Agreement (including compliance with the Requirements) and related Subcontracts, and as necessary to properly reflect all costs claimed to have been incurred hereunder and thereunder, including (a) in their original form, all (i) documents provided to Seller in the ordinary course of business for the Facility, (ii) documents for billing, costs, metering, and Environmental Attributes, (iii) books, records, documents, reports, deliverables, employee time sheets, accounting procedures and practices, and (iv) records of financial transactions, and (b) other evidence, regardless of form (for example, machine readable media such as disk or tape, etc.) or type (for example, databases, applications software, database management software, or utilities). If Seller is required to submit cost or pricing data in connection with this Agreement, Seller shall maintain all records and documents necessary to permit adequate evaluation of the cost or pricing data submitted, along with the computations and projections used. In the event of a Dispute, records that relate to the Agreement, Dispute, litigation or costs, or items to which an audit exception has been taken, shall be maintained by both Buyer and Seller. All records shall be retained, and shall be subject to examination and audit by the Authorized Auditors, for a period of not less than four (4) years following final payment made by Buyer hereunder, the expiration or termination date of this Agreement, or final settlement of all disputes, claims, or litigation, whichever is later. Seller

shall make said records or, to the extent accepted by the Authorized Auditors, photographs, micro-photographs, or other authentic reproductions thereof, available to the Authorized Auditors at Seller's principal business office or any other of Seller's offices as mutually agreed upon by Buyer and Seller, at all reasonable times and without charge. The Authorized Auditors may reproduce, photocopy, download, transcribe, and the like any such records. Any information provided by Seller on machine-readable media shall be provided in a format accessible and readable by the Authorized Auditors. Seller shall not, however, be required to furnish the Authorized Auditors with commonly available software. Seller shall be subject at any time with fourteen (14) days prior written notice to audits or examinations by Authorized Auditors, relating to all billings and required to verify compliance with all Agreement requirements relative to practices, methods, procedures, performance, compensation, and documentation. Examinations and audits shall be performed using generally accepted auditing practices and principles and applicable governmental audit standards. If Seller utilizes or is subject to Federal Acquisition Regulation, Part 30 and 31, et seq. accounting procedures, or a portion thereof, examinations and audits shall utilize such information. To the extent that an Authorized Auditor's examination or audit reveals inaccurate, incomplete or non-current records, or records are unavailable, the records shall be considered defective. Consistent with standard auditing procedures, Seller shall be provided fifteen (15) days to review an Authorized Auditor's examination results or audit and respond to Buyer prior to the examination's or audit's finalization and public release. Seller shall contractually require all Subcontractors performing services under this Agreement to comply with the provisions of this Section 9.5 by inserting this Section 9.5 into each Subcontract.

Section 9.6 Electric Metering Devices.

(a) Facility Energy shall be measured using a CAISO-approved revenue-quality Electric Metering Device that complies with the CAISO Tariff and relevant protocols and is dedicated exclusively to the Facility. The Electric Metering Device may be installed on the low-side of Seller's transformer and will include adjustments to reflect losses to the Point of Delivery. Seller shall arrange and bear all costs associated with the installation of the Electric Metering Devices needed for the registration, recording and transmission of information regarding the Facility Energy. Seller hereby agrees to provide a mutually agreed set of meter data to Buyer, which data shall be accessible to, and usable by, Buyer. In addition to providing Buyer with its meter data, Seller shall use commercially reasonable efforts to support any efforts by Buyer to obtain CAISO meter data applicable to the Facility and all inspection, testing and calibration data and reports from the CAISO. If the CAISO makes any adjustment to any CAISO meter data for a given time period not exceeding three (3) months, Seller agrees that it shall submit revised Monthly invoices, pursuant to this ARTICLE IX covering the entire applicable time period in order to fully conform such adjustments to the meter data. Seller shall submit any revised invoices no later than thirty (30) days after the date on which the CAISO provides Seller with binding adjustments to the meter data.

(b) Seller or its Authorized Representative, at no expense to Buyer, shall inspect and test all Electric Metering Devices upon installation and at least annually thereafter. Seller shall provide Buyer with reasonable advance notice of, and permit representatives of Buyer to witness and verify, such inspections and tests. Upon reasonable request by Buyer, Seller or its Authorized Representative shall perform additional inspections or tests of any Electric Metering

Device and shall permit a qualified representative of Buyer to inspect or witness the testing of any Electric Metering Device. The actual expense of any additional inspection or testing reasonably requested shall be borne by Seller. Seller shall provide copies of any inspection or testing reports to Buyer.

(c) If an Electric Metering Device fails to register, or if the measurement made by an Electric Metering Device is found upon testing to be inaccurate by more than plus or minus one percent (+/- 1.0%), an adjustment shall be made to correct all measurements made by the inaccurate or defective Electric Metering Device for both the amount of the inaccuracy and the period of the inaccuracy, such adjustment to be made by the Scheduling Coordinator. To the extent that the adjustment period covers a period of deliveries for which payment has already been made by Buyer, Buyer shall use the corrected measurements as determined in accordance with this Section 9.6 to recompute the amount due for the period of the inaccuracy and shall subtract the previous payments by Buyer for this period from such recomputed amount. If the difference is a positive number, the difference shall be paid by Buyer to Seller; if the difference is a negative number, that difference shall be paid by Seller to Buyer, or at the direction of Buyer, may take the form of an offset to payments due to Seller from Buyer. Payment of such difference by the owing Party shall be made not later than thirty (30) days after the owing Party receives notice of the amount due, unless Buyer elects payment via an offset.

Section 9.7 Taxes. Seller shall be responsible for and shall pay, before the due dates therefor, any and all federal, state, and local Taxes incurred by it as a result of entering into this Agreement and all Taxes imposed or assessed with respect to the Facility, or any other assets of Seller, the Products or the transaction arising before or at the Point of Delivery. Buyer shall pay or cause to be paid all Taxes on or with respect to the Products or the transaction from (but excluding) the Point of Delivery to Buyer. If Seller is required by a Requirement of Law to remit or pay Taxes that are the responsibility of Buyer hereunder, Buyer shall promptly reimburse Seller for such Taxes. If Buyer is required by Requirement of Law to remit or pay Taxes that are Seller's responsibility hereunder, Buyer may deduct such amounts from payments to Seller hereunder; if Buyer elects not to deduct such amounts from Seller's payments, Seller shall promptly reimburse Buyer for such amounts upon request. Nothing shall obligate or cause a Party to pay or be liable to pay any Taxes for which it is exempt under law. A Party that is exempt at any time and for any reason from one or more Taxes shall bear the risk that such exemption shall be lost or the benefit of such execution be reduced.

ARTICLE X REPRESENTATIONS, WARRANTIES AND COVENANTS

Section 10.1 Representations and Warranties of Buyer. Buyer makes the following representations and warranties to Seller as of the Effective Date and continuing throughout the Delivery Term:

(a) Buyer is a validly existing California joint powers authority, and has the legal power and authority to own its properties, to carry on its business as now being conducted and to enter into this Agreement, and to carry out the transactions contemplated hereby, and to

perform and carry out all covenants and obligations on its part to be performed under and pursuant to this Agreement.

(b) The execution, delivery and performance by Buyer of this Agreement (i) have been duly authorized by all necessary action, and does not and will not require any consent or approval of Buyer's regulatory or governing bodies, other than that which has been obtained; and (ii) does not violate any federal, state, and local law, including the California Government Code and similar laws.

(c) This Agreement constitutes the legal, valid and binding obligation of Buyer enforceable in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization or similar laws relating to or affecting the enforcement of creditors' rights generally or by general equitable principles, regardless of whether such enforceability is considered in a proceeding in equity or at law.

Section 10.2 Representations and Warranties of Seller. Except as otherwise set forth in this Agreement, Seller makes each of the following representations and warranties to Buyer as of the Effective Date and continuing throughout the Delivery Term.

(a) Seller is an independent special district formed under the Irrigation District Act (Division 11 of the California Water Code) of the State of California, and has legal power and authority under the Irrigation District Act (Division 11 of the California Water Code) of the State of California to carry on its business as now being conducted and to enter into this Agreement, and to carry out the transactions contemplated hereby, and to perform and carry out all covenants and obligations on its part to be performed under and pursuant to this Agreement.

(b) Seller owns and operates the Facility and has not assigned, transferred, conveyed, sold or otherwise disposed of the Facility.

(c) Seller owns or has contractual right to all of the water rights necessary to operate the Facility in accordance with the Agreement.

(d) Seller has filed an Application for a New License for the South Feather Power Project pursuant to the Federal Power Act and FERC's regulations thereunder; and Seller had filed an application with FERC for approval of this Agreement pursuant to Section 22 of the Federal Power Act, 16 U.S.C. § 815.

(e) Except for Seller's need to obtain the regulatory approval addressed in Section 11.1(h), the execution, delivery and performance by Seller of this Agreement (i) have been duly authorized by all necessary action, and does not and will not require any consent or approval of Seller's regulatory or governing bodies, other than that which has been obtained; and (ii) does not violate any federal, state, and local law, including the California Government Code and similar laws.

(f) This Agreement constitutes the legal, valid and binding obligation of Seller enforceable in accordance with its terms, except as such enforceability may be limited by

bankruptcy, insolvency, reorganization or similar laws relating to or affecting the enforcement of creditors' rights generally or by general equitable principles, regardless of whether such enforceability is considered in a proceeding in equity or at law.

(g) The Parties note Seller's pending application for regulatory approval addressed in Section 11.1(h). Assuming receipt of that approval, the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby and thereby and the fulfillment of and compliance with the provisions of this Agreement, does not conflict with or constitute a breach of or a default under, any of the terms, conditions or provisions of any Requirement of Law, or any organizational documents, agreement, deed of trust, mortgage, loan agreement, other evidence of indebtedness or any other agreement or instrument to which Seller is a party or by which it or any of its property is bound, or result in a breach of or a default under any of the foregoing or result in or require the creation or imposition of any Lien upon any of the properties or assets of Seller (except as contemplated hereby), and Seller has obtained all Permits and licenses required for the operation, and maintenance of the Facility in accordance with the Requirements and the performance of Seller's obligations hereunder to which Seller is a party, or such Permits and licenses are reasonably expected to be timely obtained in the ordinary course of business.

(h) Other than Seller's pending application for regulatory approval addressed in Section 11.1(h), there is no pending, or to the knowledge of Seller, threatened action or proceeding affecting Seller before any Governmental Authority, which purports to affect the legality, validity or enforceability of this Agreement.

(i) In 2005 Seller and a neighboring water provider, North Yuba Water District, settled a longstanding dispute through agreement that, among other terms, requires Seller to share fifty percent (50%) of the annual net revenue, if any, from the generation of hydroelectric power from certain facilities. Neither the 2005 Agreement, nor litigation concerning the 2005 Agreement titled North Yuba Water District vs. South Feather Water and Power Agency, Superior Court of the State of California, County of Butte, Case No. 21CV01563 and any related cases affects the legality, validity or enforceability of this Agreement.

(j) Assuming receipt of the regulatory approval described in Section 11.1(h), Seller is not in violation of any Requirement of Law, which violations, individually or in the aggregate, would reasonably be expected to result in a material adverse effect on the business, assets, operations, condition (financial or otherwise) or prospects of Seller, or the ability of Seller to perform any of its obligations under this Agreement.

(k) Assuming receipt of the regulatory approval addressed in Section 11.1(h), Seller owns or possesses or will acquire all patents, rights to patents, trademarks, copyrights and licenses necessary for the performance by Seller of its obligations under this Agreement, and, to Seller's knowledge, Seller's use thereof does not infringe on the intellectual property rights of third parties.

(l) Seller has not assigned, transferred, conveyed, encumbered, sold or otherwise disposed of the Products except as provided herein.

(m) The Facility is located in the State of California.

(n) Seller will be responsible for obtaining all permits necessary to enter into this Agreement and operate the Facility and Seller will be the applicant on any CEQA documents.

ARTICLE XI

DEFAULT; TERMINATION AND REMEDIES; PERFORMANCE DAMAGE

Section 11.1 Default. Each of the following events or circumstances shall constitute a “*Default*” by the responsible Party (the “*Defaulting Party*”):

(a) **Payment Default.** Failure by a Party to make any payment under this Agreement when and as due (other than payments disputed in good faith) that is not cured within thirty (30) days after receipt of notice thereof from the other Party (which amount shall include payment of interest from the due date at the Interest Rate).

(b) **Performance Default.** Failure by a Party to perform any of its duties or obligations under this Agreement (other than any failure that is separately listed as a Default of Seller under this Section 11.1) that is not cured within thirty (30) days after receipt of notice thereof from the other Party; *provided* that if such failure is curable, but cannot be cured within such thirty (30) day period despite reasonable commercial efforts and such failure is not a failure to make a payment when due, such Party shall have up to sixty (60) additional days to cure.

(c) **Breach of Representation and Warranty.** Any representation, warranty, certification or other statement made by a Party in this Agreement that is false or inaccurate at the time made and materially and adversely affects the Party’s ability to perform its obligations hereunder; *provided* that no Default shall exist if such falsity or inaccuracy is remedied within thirty (30) days after receipt of notice thereof from another Party; and further provided that if such falsity or inaccuracy is curable, but cannot be cured within such thirty (30) day period despite reasonable commercial efforts, such Party shall have up to sixty (60) additional days to cure.

(d) **Bankruptcy.** Bankruptcy of Buyer or Seller.

(e) **Insurance Default.** The failure of Seller to maintain and provide acceptable evidence of the required Insurance for the required period of coverage as set forth in Appendix E that is not cured within five (5) Business Days after receipt of notice of such failure from Buyer.

(f) **Fundamental Change.** Except as permitted by Section 12.7, a Party makes an assignment of its rights or delegation of its obligations under this Agreement.

(g) **Casualty.** Seller fails to meet its obligations under Section 12.19(d).

(h) **Adverse Regulatory Determination Default.** The Parties recognize that Seller requires regulatory approval from FERC to sell and deliver power from the South Feather

Power Project for periods extending beyond the date of termination of Seller's annual license for the Project. The Parties also recognize that the ten-year term for this Agreement is necessary for Buyer to receive the full benefit of this Agreement. Accordingly, Seller must receive by March 31, 2022, either (1) a new FERC license for the South Feather Power Project for a term at least exceeding the Initial Delivery Term of this Agreement, or (2) FERC approval of this Agreement under Section 22 of the Federal Power Act. Seller has applied for both. Failure to receive one of these approvals by March 31, 2022 shall constitute a Default. The Parties recognize that they cannot predict the timing in which FERC will act, and that FERC action could cure the Default. If Seller continues to operate under a new annual license after March 31, 2022, Seller shall have until December 31, 2022 to cure the Default. Further extensions to the time period for curing the Default may be agreed by the Parties. In the event that such an Adverse Regulatory Determination Default is not cured, no Termination Payment shall be due to either Party.

Section 11.2 Default Remedy.

(a) If Buyer is in Default for nonpayment, subject to any duty or obligation under this Agreement, Seller may, at its option, suspend performance hereunder or continue to provide services pursuant to its obligations under this Agreement; *provided* that nothing in this Section 11.2(a) shall affect Seller's rights and remedies set forth in this Section 11.2. Seller's continued service to Buyer shall not act to relieve Buyer of any of its duties or obligations under this Agreement.

(b) Notwithstanding any other provision herein, if any Default has occurred and is continuing, the affected Party may, whether or not the dispute resolution procedure set forth in Section 12.3 has been invoked or completed, bring an action in any court of competent jurisdiction as set forth in Section 12.3 seeking injunctive relief in accordance with applicable rules of civil procedure.

(c) Except as expressly limited by this Agreement, if a Default has occurred and is continuing and Buyer is the Defaulting Party, Seller may without further notice exercise any rights and remedies provided herein or otherwise available at law or in equity including a termination of this Agreement pursuant to Section 11.3. No failure of Seller to exercise, and no delay in exercising, any right, remedy or power hereunder shall operate as a waiver thereof, nor shall any single or partial exercise by Seller of any other right, remedy or power hereunder preclude any other or future exercise of any right, remedy or power.

(d) Except as expressly limited by this Agreement, if a Default has occurred and is continuing and Seller is the Defaulting Party, Buyer may without further notice exercise any rights and remedies provided for herein, or otherwise available at law or equity, including termination of this Agreement pursuant to Section 11.3. No failure of Buyer to exercise, and no delay in exercising, any right, remedy or power hereunder shall operate as a waiver thereof, nor shall any single or partial exercise by Buyer of any right, remedy or power hereunder preclude any other or future exercise of any right, remedy or power by Buyer.

Section 11.3 Termination for Default.

(a) If a Default occurs, the Party that is not the Defaulting Party (the “**Non-Defaulting Party**”) may, for so long as the Default is continuing and, to the extent permitted by applicable law, without limiting any other rights or remedies available to the Non-Defaulting Party under this Agreement, by notice by it (“**Termination Notice**”) to the Defaulting Party (i) establish a date (which shall be no earlier than the date of such notice and no later than twenty (20) days after the date of such notice) (“**Early Termination Date**”) on which this Agreement shall terminate, and (ii) withhold any payments due in respect of this Agreement; *provided*, upon the occurrence of any Default of the type described in Section 11.1(d), this Agreement shall automatically terminate, without notice or other action by either Party as if an Early Termination Date had been declared immediately prior to such event.

(b) If an Early Termination Date has been designated, the Non-Defaulting Party shall appoint a qualified independent third party to calculate in a commercially reasonable manner its Gains, Losses and Costs resulting from the termination of this Agreement and the resulting Termination Payment. The Gains, Losses and Costs relating to the Products that would have been required to be delivered under this Agreement had it not been terminated shall be determined by comparing the amounts Buyer would have paid for the Products under this Agreement to the equivalent quantities and relevant market prices, either quoted by one or more bona fide third party offers, or which are reasonably expected by the Non-Defaulting Party to be available in the market under a replacement contract for this Agreement covering the same products and having a term equal to the Remaining Term at the date of the Termination Notice, adjusted to account for differences in transmission, if any. To ascertain the market prices of a replacement contract, the Non-Defaulting Party may consider, among other valuations, quotations from dealers in Energy contracts and bona fide third party offers. The Non-Defaulting Party shall not be required to enter into any such replacement agreement in order to determine its Gains, Losses and Costs or the Termination Payment.

(c) For purposes of the Non-Defaulting Party’s determination of its Gains, Losses and Costs and the Termination Payment, it shall be assumed, regardless of the facts, that Seller would have sold, and Buyer would have purchased, each day during the Remaining Term (i) Facility Energy in an amount equal to the Assumed Daily Deliveries, (ii) the Environmental Attributes associated therewith, and (iii) all other components of the Products. The “**Assumed Daily Deliveries**” shall be an amount equal to the average daily amount of Facility Energy forecasted to be delivered during an average hydrological period by Seller, during the Delivery Term, if any.

(d) The Non-Defaulting Party shall notify the Defaulting Party of the Termination Payment, which notice shall include a written statement explaining in reasonable detail the calculation of such amount. If the Termination Payment is a positive number, the Defaulting Party shall, within ten (10) Business Days after receipt of such notice, pay the Termination Payment to the Non-Defaulting Party, together with interest accrued at the Interest Rate from the Early Termination Date until paid.

(e) If the Defaulting Party disagrees with the calculation of the Termination Payment and the Parties cannot otherwise resolve their differences, the calculation of the Termination Payment shall be submitted to the dispute resolution process provided in Section 12.3.

Following resolution of the dispute, the Defaulting Party shall pay the full amount of the Termination Payment (if any) as determined by such resolution as and when required, but no later than thirty (30) days following the date of such resolution, together with all interest, at the Interest Rate, that accrued from the Early Termination Date until the date the Termination Payment is paid.

(f) For purposes of this Agreement:

(i) “**Gains**” means, with respect to a Party, an amount equal to the present value of the economic benefit (exclusive of Costs), if any, resulting from the termination of its obligations under this Agreement, determined in a commercially reasonable manner;

(ii) “**Losses**” means, with respect to a Party, an amount equal to the present value of the economic loss (exclusive of Costs), if any, resulting from the termination of its obligations under this Agreement, determined in a commercially reasonable manner;

(iii) “**Costs**” means, with respect to a Party, brokerage fees, commissions and other similar transaction costs and expenses reasonably incurred in terminating any arrangement pursuant to which it has hedged its obligations or in entering into new arrangements which replace this Agreement, excluding attorneys’ fees, if any, incurred in connection with enforcing its rights under this Agreement. Each Party shall use reasonable efforts to mitigate or eliminate its Costs.

(iv) In no event shall a Party’s Gains, Losses or Costs include any penalties or similar charges imposed by the Non-Defaulting Party.

(v) The Present Value Rate shall be used as the discount rate in all present value calculations required to determine Gains, Losses and Costs.

(g) At the time for payment of any amount due under this Section 11.3 each Party shall pay to the other Party, all additional amounts, if any, payable by it under this Agreement (including any amounts withheld pursuant to Section 11.3(a)).

(h) Notwithstanding the forgoing provisions of Section 11.3, in no event shall a termination payment be due to a Defaulting Party.

ARTICLE XII MISCELLANEOUS

Section 12.1 Authorized Representative. Each Party shall designate an authorized representative who shall be authorized to act on its behalf with respect to those matters contained herein (each an “**Authorized Representative**”), which shall be the functions and responsibilities of such Authorized Representatives. Each Party may also designate an alternate who may act for the Authorized Representative. Within thirty (30) days after execution of this Agreement, each Party shall notify the other Party of the identity of its Authorized Representative, and alternates if

designated, and shall promptly notify the other Party of any subsequent changes in such designation. The Authorized Representatives shall have no authority to alter, modify, or delete any of the provisions of this Agreement. To the extent that an Authorized Representative's contact information is not provided in Appendix E, at the time a Party designates such Authorized Representative, such Party shall concurrently provide written notice to the other Party of such Authorized Representative's contact information.

Section 12.2 Notices. With the exception of billing invoices pursuant to Article 9 and day-to-day ordinary course and operational communications, all notices, requests, demands, consents, approvals, waivers and other communications which are required under this Agreement shall be (a) in writing (regardless of whether the applicable provision expressly requires a writing), (b) deemed properly sent if delivered in person or sent by facsimile transmission, reliable overnight courier, or sent by registered or certified mail, postage prepaid to the persons specified in Appendix E, and (c) deemed delivered, given and received on the date of delivery, in the case of facsimile transmission, or on the date of receipt or rejection in the case of delivery in person, by reliable overnight courier, or by registered or certified mail. In addition to the foregoing, the Parties may agree in writing at any time to deliver notices, requests, demands, consents, approvals, waivers and other communications through alternate methods, such as electronic mail.

Section 12.3 Dispute Resolution.

(a) In the event of any claim, controversy or dispute between the Parties arising out of or relating to or in connection with this Agreement (including any dispute concerning the validity of this Agreement or the scope and interpretation of this Section 12.3) (a “**Dispute**”), either Party (the “**Notifying Party**”) may deliver to the other Party (the “**Recipient Party**”) notice of the Dispute with a detailed description of the underlying circumstances of such Dispute (a “**Dispute Notice**”). The Dispute Notice shall include a schedule of the availability of the Notifying Party's senior officers (having a title of senior vice president (or its equivalent) or higher) duly authorized to settle the Dispute, or, in the case of Seller, authorized to recommend settlement to Seller's Board of Directors, during the thirty (30) day period following the delivery of the Dispute Notice.

(b) The Recipient Party shall, within five (5) Business Days following receipt of the Dispute Notice, provide to the Notifying Party a parallel schedule of availability of the Recipient Party's senior officers (having a title of senior vice president (or its equivalent) or higher) duly authorized to settle the Dispute, or, in the case of Seller, authorized to recommend settlement to the Seller's Board of Directors. Following delivery of the respective senior officers' schedules of availability, the senior officers of the Parties shall meet and confer as often as they deem reasonably necessary during the remainder of the thirty (30) day period in good faith negotiations to resolve the Dispute to the satisfaction of each Party.

(c) In the event a Dispute is not resolved pursuant to the procedures set forth in Section 12.3(a) and Section 12.3(b) by the expiration of the thirty (30) day period set forth in Section 12.3(a), then a Party may pursue any legal remedy available to it in accordance with the provisions of Section 12.12 and Section 12.13 of this Agreement.

(d) In addition to the Dispute resolution process set forth in this Section 12.3, the Parties shall comply with California law governing claims against public entities and presentment of such claims, if applicable.

Section 12.4 Further Assurances; Change in Electric Market Design.

(a) Each Party agrees to execute and deliver all further instruments and documents, and take all further actions not inconsistent with the provisions of this Agreement that may be reasonably necessary to effectuate the purposes and intent of this Agreement.

(b) If a change in the CAISO Tariff renders this Agreement or any provisions hereof incapable of being performed or administered, then either Party may request that Buyer and Seller enter into negotiations to make the minimum changes to this Agreement necessary to make this Agreement capable of being performed and administered, while attempting to preserve to the maximum extent possible the benefits, burdens, and obligations set forth in this Agreement as of the Effective Date. Upon delivery of such a request, Buyer and Seller shall engage in such negotiations in good faith. If Buyer and Seller are unable, within sixty (60) days after delivery of such request, to agree upon changes to this Agreement or to resolve issues relating to changes to this Agreement, then either Party may submit issues pertaining to changes to this Agreement to the Dispute resolution process set forth in Section 12.3. Notwithstanding the foregoing, a change in cost shall not in and of itself be deemed to render this Agreement or any of the provisions hereof incapable of being performed or administered, or constitute, or form the basis of, a Force Majeure.

Section 12.5 No Dedication of Facilities. Any undertaking by one Party to the other Party under any provisions of this Agreement shall not constitute the dedication of the Facility or any portion thereof of either Party to the public or to the other Party or any other Person, and it is understood and agreed that any such undertaking by either Party shall cease upon the termination of such Party's obligations under this Agreement.

Section 12.6 Force Majeure.

(a) A Party shall not be considered to be in Default in the performance of any of its obligations under this Agreement when and to the extent such Party's performance is prevented by a Force Majeure that, despite the exercise of due diligence, such Party is unable to prevent or mitigate, *provided* the Party has given a written detailed description of the full particulars of the Force Majeure to the other Party reasonably promptly after becoming aware thereof (and in any event within fourteen (14) days after the initial occurrence of the claimed Force Majeure event) (the "***Force Majeure Notice***"), which notice shall include information with respect to the nature, cause and date and time of commencement of such event, and the anticipated scope and duration of the delay. The Party providing such Force Majeure Notice shall be excused from fulfilling its obligations under this Agreement until such time as the Force Majeure has ceased to prevent performance or other remedial action is taken, at which time such Party shall promptly notify the other Party of the resumption of its obligations under this Agreement. If Seller is unable to deliver, or Buyer is unable to receive, Facility Energy due to a Force Majeure, then Buyer shall have no obligation to pay Seller for Facility Energy not delivered or received by reason thereof. In no event shall Buyer be obligated to compensate Seller or any other Person for any losses,

expenses or liabilities that Seller or such other Person may sustain as a consequence of any Force Majeure.

(b) The term “**Force Majeure**” means any act of God (including fire, flood, earthquake, extremely severe storm, lightning strike, tornado, volcanic eruption, hurricane or other natural disaster), labor disturbance, pandemic, strike or lockout of a national scope, act of the public enemy, war, insurrection, riot, explosion, terrorist activities or any order, regulation or restriction imposed by Governmental Authority, military or lawfully established civilian authorities, or other occurrence that (i) prevents one Party from performing any of its obligations under this Agreement, (ii) could not reasonably be anticipated as of the date of this Agreement, (iii) is not within the reasonable control of, or the result of negligence, willful misconduct, breach of contract, intentional act or omission or wrongdoing on the part of the affected Party (or any subcontractor or Affiliate of that Party, or any Person under the control of that Party or any of its subcontractors or Affiliates, or any Person for whose acts such subcontractor or Affiliate is responsible), and (iv) by the exercise of due diligence the affected Party is unable to overcome or avoid or cause to be avoided; *provided*, nothing in clause (iv) above shall be construed so as to require a Party to accede or agree to any provision not satisfactory to it in order to settle and terminate a strike or labor dispute in which it may be involved. Any Party rendered unable to fulfill any of its obligations by reason of a Force Majeure shall exercise due diligence to remove such inability with reasonable dispatch within a reasonable time period and mitigate the effects of the Force Majeure. The relief from performance shall be of no greater scope and of no longer duration than is required by the Force Majeure. Without limiting the generality of the foregoing, a Force Majeure does not include any of the following (each an “**Unexcused Cause**”): (1) any requirement to comply with a RPS Law or any change (whether voluntary or mandatory) in any RPS Law, or other Change in Law, that may affect the value of the Products; (2) events arising from the failure by Seller to operate or maintain the Facility in accordance with this Agreement; (3) any increase of any kind in any cost; (4) delays in or inability of a Party to obtain financing or other economic hardship of any kind; (5) Seller’s ability to sell any Facility Energy at a price in excess of those provided in this Agreement or Buyer’s ability to purchase Product or any part thereof at a price lower than those provided in this Agreement; (6) curtailment or other interruption of any Transmission Service, including public safety power shutoffs by the Transmission Provider; (7) failure of third parties to provide goods or services essential to a Party’s performance; (8) Facility or equipment failure of a kind that is not caused by Force Majeure; or (9) any changes in the financial condition of Buyer or Seller affecting the affected Party’s ability to perform its obligations under this Agreement.

(c) Buyer may terminate this Agreement if (i) a Force Majeure event occurs that diminishes the production of the Facility by more than fifty percent (50%) of the Contract Capacity for a period of eighteen (18) consecutive months, or (ii) the Facility is rendered inoperable and an independent engineer that is mutually acceptable to both Parties determines that the Facility cannot be repaired or replaced within a period not to exceed twenty four (24) months following the date of the occurrence of the Force Majeure event.

(d) Seller may terminate this Agreement if a Force Majeure event occurs that renders Buyer’s facilities that are used to Schedule and dispatch the Facility inoperable for a period of eighteen (18) consecutive months.

(e) Any termination of this Agreement under Section 12.6(c) or Section 12.6(d) shall be “no-fault” and neither Party shall have any liability or obligation to the other Party arising out of such termination. Notwithstanding the foregoing, upon any such termination, each Party shall pay the other Party for any and all amounts hereunder that may be owing, or other outstanding payments due in the ordinary course that occurred prior to the termination. The exercise by Buyer of its right to terminate the Agreement shall not render Buyer or Seller liable for any losses or damages incurred by the other Party whatsoever.

Section 12.7 Assignment of Agreement. Except as otherwise set forth in this Agreement, a Party shall not assign any of its rights, or delegate any of its obligations, in or under this Agreement, without the prior written consent of the other Party, and such consent not to be unreasonably withheld. Any purported assignment or delegation in violation of this provision shall be null and void and of no force or effect.

Section 12.8 Ambiguity. The Parties acknowledge that this Agreement was jointly prepared by them, by and through their respective legal counsel, and any uncertainty or ambiguity existing herein shall not be interpreted against either Party on the basis that the Party drafted the language, but otherwise shall be interpreted according to the application of the rules on interpretation of contracts.

Section 12.9 Attorneys’ Fees & Costs. Both Parties agree that in any action to enforce the terms of this Agreement that each Party shall be responsible for its own attorneys’ fees and costs. Each of the Parties to this Agreement was represented by its respective legal counsel during the negotiation and execution of this Agreement.

Section 12.10 Voluntary Execution. Both Parties acknowledge that they have read and fully understand the content and effect of this Agreement and that the provisions of this Agreement have been reviewed and approved by their respective counsel. The Parties further acknowledge that they have executed this Agreement voluntarily, subject only to the advice of their own counsel, and do not rely on any promise, inducement, representation or warranty that is not expressly stated herein.

Section 12.11 Entire Agreement; Amendments. This Agreement (including all Appendices and Exhibits) contains the entire understanding concerning the subject matter herein and supersedes and replaces any prior negotiations, discussions or agreements between the Parties, or any of them, concerning that subject matter, whether written or oral, except as expressly provided for herein. This is a fully integrated document. Each Party acknowledges that no other party, representative or agent, has made any promise, representation or warranty, express or implied, that is not expressly contained in this Agreement that induced the other Party to sign this document. This Agreement may be amended or modified only by an instrument in writing signed by each Party; provided, however, Appendix C contains detailed principles, descriptions and procedures for Scheduling and operation of the Facility, and Appendix C may be amended from time to time upon mutual written consent of the Authorized Representative of each Party.

Section 12.12 Governing Law. This Agreement was made and entered into in the County of Placer, California and shall be governed by, interpreted and enforced in accordance with the laws of the State of California, without regard to conflict of law principles.

Section 12.13 Venue. All litigation arising out of, or relating to this Agreement, shall be brought in a state or federal court in the County of Placer or the County of Butte in the State of California. The Parties irrevocably agree to submit to the exclusive jurisdiction of such courts and waive any defense of forum non conveniens.

Section 12.14 Execution in Counterparts. This Agreement may be executed in counterparts and upon execution by each signatory, each executed counterpart shall have the same force and effect as an original instrument and as if all signatories had signed the same instrument. Any signature page of this Agreement may be detached from any counterpart of this Agreement without impairing the legal effect of any signature thereon, and may be attached to another counterpart of this Agreement identical in form hereto by having attached to it one or more signature pages.

Section 12.15 Effect of Section Headings. Section headings appearing in this Agreement are inserted for convenience only and shall not be construed as interpretations of text.

Section 12.16 Waiver; Available Remedies. The failure of either Party to this Agreement to enforce or insist upon compliance with or strict performance of any of the terms or conditions hereof, or to take advantage of any of its rights hereunder, shall not constitute a waiver or relinquishment of any such terms, conditions or rights, but the same shall be and remain at all times in full force and effect. Except to the extent this Agreement expressly provides an exclusive remedy for a breach, nothing contained herein shall preclude either Party from seeking and obtaining any available remedies hereunder, including recovery of damages caused by the breach of this Agreement and specific performance or injunctive relief, or any other remedy given under this Agreement or now or hereafter existing in law or equity or otherwise. Seller acknowledges that money damages may not be an adequate remedy for violations of this Agreement and that Buyer may, in its sole discretion seek and obtain from a court of competent jurisdiction specific performance or injunctive or such other relief as such court may deem just and proper to enforce this Agreement or to prevent any violation hereof. Seller hereby waives any objection to specific performance or injunctive relief; provided that where this Agreement provides an exclusive remedy, then specific performance and injunctive relief are not available. The rights granted herein are cumulative except where otherwise provided herein.

Section 12.17 Relationship of the Parties. This Agreement shall not be interpreted to create an association, joint venture or partnership between the Parties hereto or to impose any partnership obligation or liability upon either Party. Neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as an agent or representative of, the other Party.

Section 12.18 Third Party Beneficiaries. The provisions of this Agreement are solely for the benefit of the Parties. Nothing in this Agreement, whether express or implied, shall be construed to give to, or be deemed to create in, any other Person, whether as a third party

beneficiary of this Agreement or otherwise, any legal or equitable right, remedy or claim in respect of this Agreement or any covenant, condition, provision, duty, obligation or undertaking contained or established herein. This Agreement shall not be construed in any respect to be a contract in whole or in part for the benefit of any Person that is not a party hereto.

Section 12.19 Indemnification; Damage or Destruction; Insurance; Condemnation; Limit of Liability.

(a) **Indemnification by Seller.** Seller undertakes and agrees to indemnify and hold harmless Buyer, Participating Members, and all of their respective commissioners, officers, agents, employees, advisors, and Authorized Representatives and assigns and successors in interest (collectively, “**Buyer Indemnitees**”) and, at the option of Buyer, to defend such Buyer Indemnitees from and against any and all suits and causes of action (including proceedings before administrative agencies), claims, charges, damages, demands, judgments, civil fines and penalties, other monetary remedies or losses of any kind or nature whatsoever, for death, bodily injury or personal injury to any person, including Seller’s employees and agents, or third persons, or damage or destruction to any property of either Party or third persons, in any manner arising by reason of any breach of this Agreement by Seller, any failure of a representation, warranty or guarantee of Seller hereunder to be true in all material respects, the negligent acts, errors, omissions or willful misconduct incident to the performance of this Agreement on the part of Seller, or any of the Seller’s officers, agents, employees, or subcontractors of any tier, except to the extent caused by the gross negligence or willful misconduct of any such Seller Indemnitee. Any liability of Seller shall be limited to the extent of actual coverage and coverage limits of the insurance policies described in Appendix E.

(b) **Indemnification by Buyer.** Buyer undertakes and agrees to indemnify and hold harmless Seller, and all of its respective officers, agents, employees, directors, advisors, and Authorized Representatives and assigns and successors in interest (collectively, “**Seller Indemnitees**”) and, at the option of Seller, to defend such Seller Indemnitees from and against any and all suits and causes of action (including proceedings before administrative agencies), claims, charges, damages, demands, judgments, civil fines and penalties, other monetary remedies or losses of any kind or nature whatsoever, for death, bodily injury or personal injury to any person, including Buyer’s employees and agents, or third persons, or damage or destruction to any property of either Party or third persons, in any manner arising by reason of any breach of this Agreement by Buyer, any failure of a representation, warranty or guarantee of Buyer hereunder to be true in all material respects, the negligent acts, errors, omissions or willful misconduct incident to the performance of this Agreement on the part of Buyer, or any of the Buyer’s officers, agents, employees, or subcontractors of any tier, except to the extent caused by the gross negligence or willful misconduct of any such Buyer Indemnitee. Any liability of Buyer shall be limited to the lesser of the extent of actual coverage and coverage limits of Buyer’s insurance policies or the minimum insurance requirements for Seller described in Appendix E.

(c) **Notice.** The Parties shall give each other prompt notice of the making of any claim or the commencement of any action, suit or proceeding covered by the provisions of this Section 12.19.

(d) **Damage or Destruction.** If there is a casualty event or other event causing the destruction of the Facility that renders the Facility incapable of generating 50% or more of the Contract Capacity, Seller shall, within four (4) months of such event, enter into a contract for the design of a replacement facility designed to be capable of satisfying the obligations of Seller under this Agreement.

(e) **Insurance.** Seller shall obtain and maintain the Insurance coverages listed in Appendix E.

(f) **Condemnation or Other Taking.** Throughout the Agreement Term, Seller shall immediately notify buyer of the institution of any proceeding for the condemnation or other taking of the Facility, the Facility assets, or any portion thereof, including the occurrence of any hearing associated therewith. Buyer may participate in any such proceeding and Seller shall deliver to Buyer all instruments necessary or required by Buyer to permit such participation. Without Buyer's prior written consent, Seller (i) shall not agree to any compensation or award, and (ii) shall not take any action or fail to take any action which would cause the compensation to be determined.

(g) **Limitation of Liability.** EXCEPT TO THE EXTENT INCLUDED IN THE LIQUIDATED DAMAGES, INDEMNIFICATION OBLIGATIONS RELATED TO THIRD PARTY CLAIMS, OR OTHER SPECIFIC CHARGES EXPRESSLY PROVIDED FOR HEREIN, IN NO EVENT SHALL EITHER PARTY OR ITS INDEMNITEES, BE LIABLE FOR SPECIAL, INCIDENTAL, EXEMPLARY, INDIRECT, PUNITIVE OR CONSEQUENTIAL DAMAGES, LOST PROFITS OR OTHER COSTS, BUSINESS INTERRUPTION DAMAGES RELATED TO OR ARISING OUT OF A PARTY'S PERFORMANCE OR NON-PERFORMANCE OF THIS AGREEMENT, WHETHER BASED ON OR CLAIMED UNDER STATUTE, CONTRACT, TORT (INCLUDING SUCH PARTY'S OWN NEGLIGENCE) OR ANY OTHER THEORY OF LIABILITY AT LAW OR IN EQUITY. IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES OF SUCH DAMAGES, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT, CONTRIBUTORY, CONCURRENT, OR ACTIVE OR PASSIVE. THE PARTIES HEREBY WAIVE ANY RIGHT TO CONTEST SUCH PAYMENTS AS AN UNREASONABLE PENALTY.

(h) To the extent any damages required to be paid hereunder are liquidated, the Parties acknowledge that the damages are difficult or impossible to determine, and that the liquidated damages constitute a reasonable approximation of the anticipated harm or loss.

(i) Regardless of the indemnitees provided in Section 12.19(a) of this Agreement, Seller shall defend and indemnify Buyer regarding the Scheduling and dispatch actions performed by Buyer in accordance with Article VI and Appendix C of this Agreement.

Section 12.20 Severability. In the event any of the terms, covenants or conditions of this Agreement, or the application of any such terms, covenants or conditions, shall be held invalid, illegal or unenforceable by any court having jurisdiction, all other terms, covenants and conditions

of this Agreement and their application not adversely affected thereby shall remain in force and effect, *provided* that the remaining valid and enforceable provisions materially retain the essence of the Parties' original bargain.

Section 12.21 Confidentiality.

(a) The Parties will keep confidential all confidential or trade secret information made available to them in connection with this Agreement, to the extent possible, consistent with applicable laws, including the California Public Records Act. Confidential or trade secret information shall be marked or expressly identified as such ("**Confidential Information**").

(b) Notwithstanding the foregoing or any other provision of this Agreement, the Parties acknowledge that Buyer and Seller are subject to disclosure as required by the California Public Records Act, Cal. Govt. Code §§ 6250 et seq. ("**CPRA**") and the Ralph M. Brown Act, Cal. Govt. Code §§ 54950 et seq. ("**Brown Act**").

(c) If a Party ("Receiving Party") receives a request from a Third Party for access to, or inspection, disclosure or copying of, any of the other Party's (the "Supplying Party") confidential data or information ("Disclosure Request"), then the Receiving Party shall provide notice and a copy of the Disclosure Request to the Supplying Party within three (3) Business Days of receipt of the Disclosure Request. Within three (3) Business Days of receipt of such notice, the Supplying Party shall provide notice to the Receiving Party either:

(i) that the Supplying Party believes there are reasonable legal grounds for denying or objecting to the Disclosure Request, and the Supplying Party requests the Receiving Party to deny or object to the Disclosure Request with respect to identified confidential information. In such case, the Receiving Party shall deny the Disclosure Request and the Supplying Party shall defend the denial of the Disclosure Request at its sole cost, and it shall indemnify the Receiving Party for all costs associated with denying or objecting to the Disclosure Request. Such indemnification by the Supplying Party of the Receiving Party shall include all of the Receiving Party's costs reasonably incurred with respect to denial of or objection to the Disclosure Request, including but not limited to costs, penalties, attorney's fees awarded against the Receiving Party and the Receiving Party's attorney's fees; or

(ii) the Receiving Party may grant the Disclosure Request without any liability by the Receiving Party to the Supplying Party.

Section 12.22 Mobile-Sierra. The Parties hereby stipulate and agree that this Agreement was entered into as a result of arm's-length negotiations between the Parties. Further, the Parties believe that, to the extent the sale of Energy under this Agreement is subject to Sections 205 and 206 of the Federal Power Act, 16 U.S.C. Sections 824d and 824e, the rates, terms and conditions of this Agreement are just and reasonable within the meanings of Sections 205 and 206 of the Federal Power Act, and that the rates, terms and conditions of this Agreement will remain so during the Agreement Term. Notwithstanding any provision of this Agreement, the Parties waive all rights to challenge the validity of this Agreement or whether it is just and reasonable for and with

respect to the Agreement Term, under Sections 205 and 206 of the Federal Power Act, and to request the FERC to revise the terms and conditions and the rates or services specified in this Agreement, and hereby agree not to seek, nor support any third party in seeking, to prospectively or retroactively revise the rates, terms or conditions of this Agreement through application or complaint to FERC or any other state or federal agency, board, court or tribunal, related in any manner as to whether such rates, terms or conditions are just and reasonable or in the public interest under the Federal Power Act, absent prior written agreement of the Parties. The Parties also agree that, absent prior agreement in writing by the Parties to a proposed change, the standard of review for changes to any rate, charge, classification, term or condition of this Agreement, whether proposed by a Party (to the extent that any provision of this Section is unenforceable or ineffective as to such Party), a non-party or the FERC acting *sua sponte* shall be the “public interest” application of the “just and reasonable” standard of review that requires FERC to find an “unequivocal public necessity” or “extraordinary circumstances where the public will be severely harmed” to modify a contract, as set forth in *United Gas Pipe Line Co. v. Mobile Gas Service Corp.*, 350 U.S. 332 (1956) and *Federal Power Commission v. Sierra Pacific Power Co.*, 350 U.S. 348 (1956), and clarified by *Morgan Stanley Capital Group, Inc. v. Public Util. Dist. No. 1 of Snohomish*, 554 U.S. 527 at 550-51 (2008) and *NRG Power Marketing, LLC v. Maine Public Utilities Comm’n*, 558 U.S. 165 (2010).

Buyer and Seller were represented by legal counsel during the negotiation and execution of this Agreement and the Parties have executed this Agreement as of the dates set forth below, effective as of the Effective Date.

BUYER:

NORTHERN CALIFORNIA POWER
AGENCY

By: Randy S. Howard
Its: General Manager
Date: _____

Approved as to Form:

By: _____
Its: General Counsel
Date: _____

SELLER:

SOUTH FEATHER WATER AND POWER
AGENCY

By: _____
Its: _____
Date: _____

Approved as to Form:

By: _____
Its: General Counsel
Date: _____

**APPENDIX A
TO POWER PURCHASE AGREEMENT,
DATED AS OF [____], 20[____]
BETWEEN
NORTHERN CALIFORNIA POWER AGENCY
AND
SOUTH FEATHER WATER AND POWER AGENCY**

CONTRACT PRICE

Buyer shall compensate Seller for the Product in accordance with this Appendix A.

For the period beginning on the Initial Delivery Date through 11:59 pm on December 31, 2021, the Contract Price of the Product shall be equal to \$35.00/MWh.

For the Delivery Term after 11:59 pm on December 31, 2021, the Contract Price of the Product shall be as described below:

- 1) Contract Price. The Contract Price of the Product shall be equal to the Fixed Monthly Payment plus the Variable Output Monthly Payment, as further described herein:

- i. The Fixed Monthly Payment (“**Fixed Monthly Payment**”) Buyer shall pay to Seller each calendar month during the Delivery Term, subject to the terms of this Agreement, shall be equal to RA Capacity Monthly Payment (“**RA Capacity Monthly Payment**”) plus Base Output Monthly Payment, calculated as follows:

1. RA Capacity Monthly Payment = Facility Monthly Net Qualifying Capacity * RA Capacity Rate

Where RA Capacity Rate is \$6.25 per kW-month

2. Base Output Monthly Payment

For each full Contract Year, Buyer shall pay to Seller Six Million Seven Hundred Twenty Six Thousand Seven Hundred Twenty Dollars (\$6,726,720.00) (“**Base Output Compensation**”) in twelve equal monthly installments (“**Base Output Monthly Payment**”). The Base Output Monthly Payment represents Buyer’s prepayment for the initial 192,192.00 MWh of Facility Energy plus Deemed Generated Energy (“**Base Output**”) produced by the Facility during each Contract Year. Base Output is assumed to be produced each calendar month as shown in Table A below (“**Monthly Base Output**”):

Table A – Base Output

Calendar Month	Monthly Base Output (MWh)	Base Output Monthly Payment
January	16,016.00	\$ 560,560.00
February	16,016.00	\$ 560,560.00
March	16,016.00	\$ 560,560.00
April	16,016.00	\$ 560,560.00
May	16,016.00	\$ 560,560.00
June	16,016.00	\$ 560,560.00
July	16,016.00	\$ 560,560.00
August	16,016.00	\$ 560,560.00
September	16,016.00	\$ 560,560.00
October	16,016.00	\$ 560,560.00
November	16,016.00	\$ 560,560.00
December	16,016.00	\$ 560,560.00
Total	192,192.00	\$ 6,726,720.00

- ii. The Variable Output Monthly Payment (“**Variable Output Monthly Payment**”) Buyer shall pay to Seller each calendar month during the Delivery Term, subject to the terms of this Agreement, shall be calculated as follows:

1. Variable Output Monthly Payment

During each full Contract Year, Buyer shall compensate Seller for each MWh of Facility Energy produced in excess of Base Output (“**Variable Output**”) multiplied by the Variable Output Rate. For example, if during a full Contract Year the Facility produced 477,369.00 MWh of Facility Energy, Buyer would pay to Seller \$9,690,314.46 ((477,369.00 MWh – 192,192.00 MWh) * \$33.98/MWh) for Variable Output produced for that full Contract Year. Buyer and Seller acknowledge that actual month Facility production is variable, whereby the amount of Facility Energy produced each calendar month may be greater than, or less than, Monthly Base Output; therefore, Buyer and Seller shall calculate the Variable Output Monthly Payment amount adjusted for a monthly true-up calculation to account for actual monthly Facility Energy production, as follows:

Variable Output Monthly Payment = Facility Monthly Variable Output * Variable Output Rate; where:

- a. Variable Output Rate is \$33.98 per MWh; and
- b. Facility Monthly Variable Output (“**Facility Monthly Variable Output**”) is equal to the amount of Facility Energy produced each calendar month that is in excess to the amount of Monthly Base Output anticipated to be produced for the same calendar month, as reflected in Table A of this Appendix A; provided, however, if the amount of Facility Energy produced during a calendar month is less than the amount of Monthly Base Output anticipated to be produced for the same calendar month, as reflected in Table A of this Appendix A, Monthly Variable Output shall be zero MWh, and the amount of Monthly Base Output that is greater than the amount of Facility Energy produced during a calendar month shall be “rolled forward” and added to the amount of Monthly Base Output anticipated to be produced in the next succeeding calendar month (“**Variable Output True-up**”), for the purpose of calculating Facility Monthly Variable Output for the next succeeding calendar month. For the purpose of clarity, the following examples of the Variable Output True Up calculation are provided below:

Variable Output True-Up Example A

Calendar Month	Facility Energy (MWh)	Monthly Base Output (MWh)	Deemed Generated Energy (MWh)	Variable Output True-Up (MWh)	Facility Monthly Variable Output (MWh)	Variable Output Rate (\$/MWh)	Facility Output Monthly Payment
January	30,000.00	16,016.00	-	-	13,984.00	\$ 33.98	\$ 475,176.32
February	15,000.00	16,016.00	-	1,016.00	-	\$ 33.98	\$ -
March	30,000.00	17,032.00	-	-	12,968.00	\$ 33.98	\$ 440,652.64
April	30,000.00	16,016.00	-	-	13,984.00	\$ 33.98	\$ 475,176.32

Variable Output True-Up Example B

Calendar Month	Facility Energy (MWh)	Monthly Base Output (MWh)	Deemed Generated Energy (MWh)	Variable Output True-Up (MWh)	Facility Monthly Variable Output (MWh)	Variable Output Rate (\$/MWh)	Facility Output Monthly Payment
January	30,000.00	16,016.00	-	-	13,984.00	\$ 33.98	\$ 475,176.32
February	15,000.00	16,016.00	-	1,016.00	-	\$ 33.98	\$ -
March	15,000.00	17,032.00	-	2,032.00	-	\$ 33.98	\$ -
April	30,000.00	18,048.00	-	-	11,952.00	\$ 33.98	\$ 406,128.96

Variable Output True-Up Example C

Calendar Month	Facility Energy (MWh)	Monthly Base Output (MWh)	Deemed Generated Energy (MWh)	Variable Output True-Up (MWh)	Facility Monthly Variable Output (MWh)	Variable Output Rate (\$/MWh)	Facility Output Monthly Payment
January	30,000.00	16,016.00	-	-	13,984.00	\$ 33.98	\$ 475,176.32
February	30,000.00	16,016.00	-	-	13,984.00	\$ 33.98	\$ 475,176.32
March	30,000.00	16,016.00	-	-	13,984.00	\$ 33.98	\$ 475,176.32
April	30,000.00	16,016.00	-	-	13,984.00	\$ 33.98	\$ 475,176.32

A final annual true-up credit (“**Annual True-Up Credit**”) will be calculated at the end of each Calendar Year and paid by Seller to Buyer to account for any outstanding Variable Output True-Up amount, if any, as follows:

Annual True-Up Credit = Outstanding Variable Output True-Up amount *
Variable Output Rate

For the purpose of clarity, an example of the Annual True-Up Credit calculation is provided below:

Annual True-Up Credit Example

Calendar Month	Facility Energy (MWh)	Monthly Base Output (MWh)	Deemed Generated Energy (MWh)	Variable Output True-Up (MWh)	Facility Monthly Variable Output (MWh)	Variable Output Rate (\$/MWh)	Facility Output Monthly Payment
November	30,000.00	16,016.00	-	-	13,984.00	\$ 33.98	\$ 475,176.32
December	15,000.00	16,016.00	-	1,016.00	-	\$ 33.98	\$ -

Annual True-Up Credit = 1,016.00 MWh * \$33.98 = \$34,523.68

Notwithstanding the Monthly Variable Output True-Up and Annual True-Up described in this Appendix A, if the Facility produces a total amount of Facility Energy during a Calendar Year that is less than Base Output, Buyer's obligation to pay Seller total Base Output Compensation in a Calendar Year shall not be reduced.

APPENDIX B
TO POWER PURCHASE AGREEMENT,
DATED AS OF [____], 20[__]
BETWEEN
NORTHERN CALIFORNIA POWER AGENCY
AND
SOUTH FEATHER WATER AND POWER AGENCY

FACILITY DESCRIPTION

The Facilities of the South Feather Power Project are located in Butte County on the South Feather river and include:

1. Name of Facility: South Feather Power Project
2. Location:
Kelly Ridge Powerhouse: 39° 31'54.4"N 121° 29'28.6"W
Forbestown Powerhouse: 39° 33'03.4"N 121° 16'43.3"W
Woodleaf Powerhouse: 39° 33'14.0"N 121° 12'15.0"W
Sly Creek Powerhouse: 39° 34'49.5"N 121° 07'10.1"W
3. Description of Facilities:

Facility Name	Contract Capacity (MW)	CAISO Resource ID	PNode	CEC RPS ID
Forbestown	37.5	FORBST_7_UNIT 1	FORBSTWN_7_B1	N/A
Kelly Ridge	11.0	KELYRG_6_UNIT	KELLYRDG_7_B1	60266
Sly Creek	13.0	SLYCRK_1_UNIT 1	SLYCREEK_7_B1	60267
Woodleaf	60.0	WDLEAF_7_UNIT 1	WOODLEAF_7_B1	N/A

2. Owner: South Feather Water and Power Agency
3. Operator: Seller
4. Scheduling Coordinator: Buyer
4. Point of Interconnection: The Point of Interconnection for each Facility shall mean the point, as set forth in this Appendix B and the Interconnection Agreement, where the Interconnection Facilities connect to the Transmission Providers Transmission System. The Point of Interconnection for each Facility is further described herein:

WOODLEAF POWERHOUSE, SLY CREEK POWERHOUSE, AND FORBESTOWN POWERHOUSE POINTS OF INTERCONNECTION

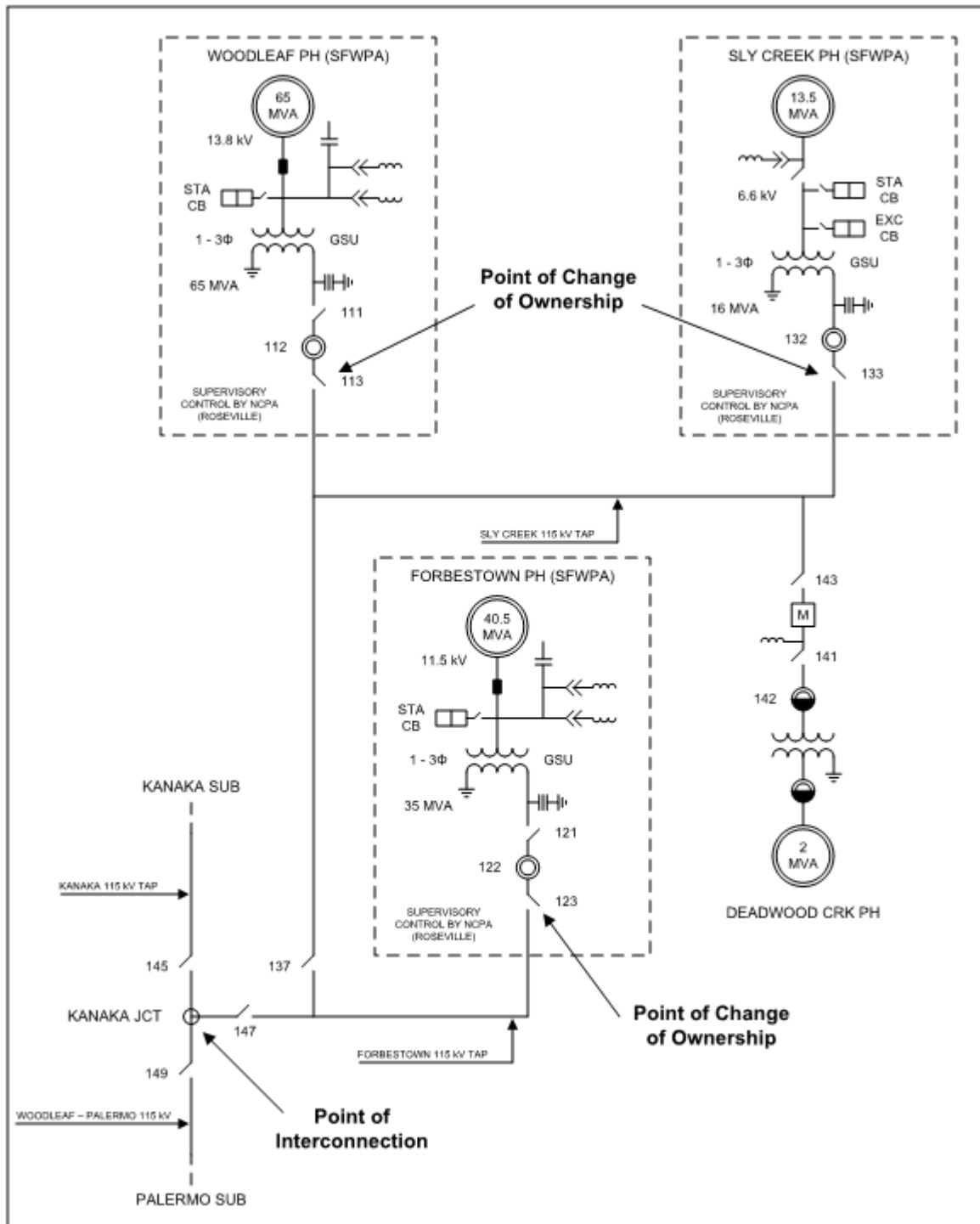


Figure 1. 115 kV Single Line Diagram

KELLY RIDGE POWERHOUSE POINTS OF INTERCONNECTION

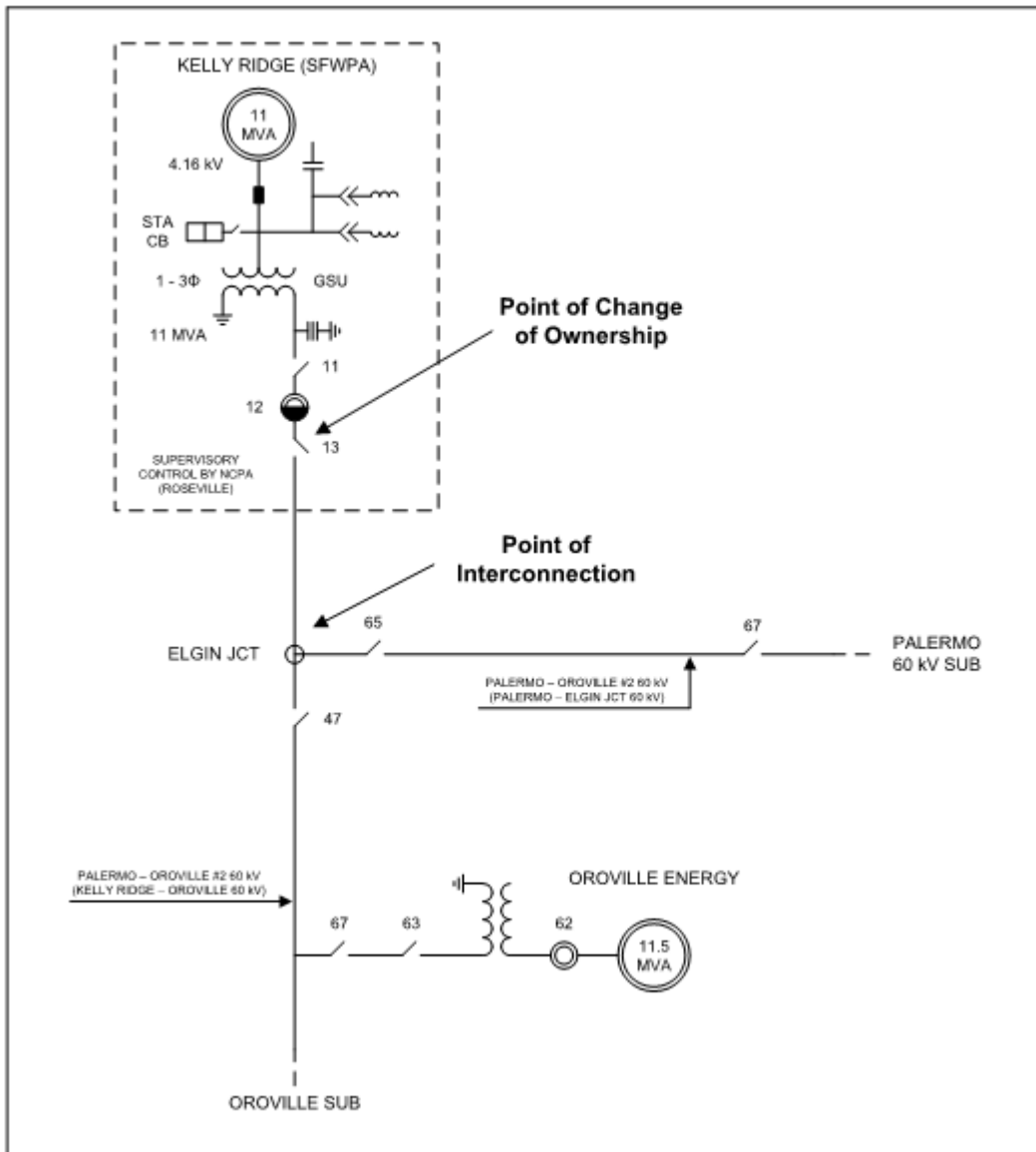


Figure 2. 60 kV Single Line Diagram

APPENDIX C
TO POWER PURCHASE AGREEMENT,
DATED AS OF [____], 20[__]
BETWEEN
NORTHERN CALIFORNIA POWER AGENCY
AND
SOUTH FEATHER WATER AND POWER AGENCY
SCHEDULING AND OPERATING PROCEDURES

1. Scheduling and Operating Procedures

The Scheduling and operating procedures are separately attached to this Appendix C, and are listed below:

SFPP-PM-101 – Voice and Data Communications

SFPP-PM-102 – Outage Management and Operational Reliability Data

SFPP-PM-104 – Dispatch Center Switching and Clearance Procedure

SFPP-PM-107 – Event Reporting Operating Plan

SFPP-PM-108 – Operating Instructions and Emergency Assistance

SFPP-PM-302 – Voltage Control, Automatic Voltage Regulator and Power System Stabilizer Operations

SFPP-PM-304 – Project Operations and Control

SFPP-PM-401 – Scheduling and Bidding

APPENDIX D
TO POWER PURCHASE AGREEMENT,
DATED AS OF [____], 20[__]
BETWEEN
NORTHERN CALIFORNIA POWER AGENCY
AND
SOUTH FEATHER WATER AND POWER AGENCY

FORM OF ATTESTATION

____ (Seller) **Environmental Attribute Attestation and Bill of Sale**

____ (“Seller”) hereby sells, transfers and delivers to Northern California Power Agency (“Buyer”) the Environmental Attributes and Environmental Attribute Reporting Rights associated with the generation from the Facility described below:

Facility name and location:

Fuel Type: Capacity (MW): _____ Operational Date:

As applicable: CEC Reg. no. _____ Energy Admin. ID no. _____ Q.F. ID no. _____

Dates

_____ 20__
_____ 20__
_____ 20__

MWhs generated

in the amount of one Environmental Attribute or its equivalent for each MWh generated.

Seller further attests, warrants and represents as follows:

- i) the information provided herein is true and correct;
- ii) its sale to Buyer is its one and only sale of the Environmental Attributes and associated Environmental Attribute Reporting Rights referenced herein;
- iii) the Facility generated and delivered to the grid the Energy in the amount indicated as undifferentiated Energy; and
- iv) Seller owns the Facility and each of the Environmental Attributes and Environmental Attribute Reporting Rights associated with the generation of the indicated Energy for delivery to the grid have been generated and sold by the Facility.

This serves as a bill of sale, transferring from Seller to Buyer all of Seller’s right, title and interest in and to the Environmental Attributes and Environmental Attribute Reporting Rights associated with the generation of the Energy for delivery to the grid.

Contact Person/telephone: _____

APPENDIX E
TO POWER PURCHASE AGREEMENT,
DATED AS OF [____], 20[__]
BETWEEN
NORTHERN CALIFORNIA POWER AGENCY
AND
SOUTH FEATHER WATER AND POWER AGENCY

INSURANCE

I. GENERAL REQUIREMENTS

Within ten (10) days after the Effective Date, Seller shall furnish Buyer evidence of commercial automobile liability, commercial general liability, excess liability, and workers' compensation coverage meeting the requirements set forth in this Appendix E from insurers acceptable to Buyer and in a form acceptable to the risk management of Buyer or acceptable to Buyer's agent for this purpose. Such insurance shall be maintained by Seller at Seller's sole cost and expense.

Such insurance shall not limit or qualify the liabilities and obligations of Seller assumed under this Agreement. Buyer shall not by reason of its inclusion under these policies incur liability to the insurance carrier for payment of premium for these policies.

Any insurance carried by Buyer which may be applicable shall be deemed to be excess insurance and Seller's insurance is primary for purposes under this Agreement despite any conflicting provision in Seller's policies to the contrary.

Such insurance shall not be canceled or reduced in coverage or amount without first giving thirty (30) days' prior notice thereof (ten (10) days for non-payment of premium) by registered mail to General Manager, Northern California Power Agency.

Should any portion of the required insurance be on a "Claims Made" policy, Seller shall, at the policy expiration date following completion of work, provide evidence that the "Claims Made" policy has been renewed or replaced with the same limits, terms and conditions of the expiring policy, or that an extended discovery period has been purchased on the expiring policy at least for the contract under which the work was performed.

II. SPECIFIC COVERAGES REQUIRED

A. Commercial Automobile Liability

Seller shall provide Commercial Automobile Liability insurance which shall include coverages for liability arising out of the use of owned (if applicable), non-owned, and hired vehicles for performance of the work by Seller or its officers, agents, or employees, as required, to be licensed under the California or any other applicable state vehicle code. The Commercial Automobile Liability insurance shall have not less than \$1,000,000.00 combined single limit per occurrence, with a self-insured retention or deductible of no more than \$100,000, and shall apply to all operations of Seller.

The Commercial Automobile Liability policy shall include Buyer, its members, and their officers, agents, and employees while acting within the scope of their employment, as additional insureds with Seller, and shall insure against liability for death, bodily injury, or property damage resulting from the performance of this Agreement by Seller or its officers, agents, or employees. The evidence of insurance shall be a form acceptable to Buyer's risk manager.

B. Commercial General Liability

Seller shall provide Commercial General Liability insurance with Blanket Contractual Liability, Independent Contractors, Broad Form Property Damage, Premises and Operations, Products and Completed Operations, fire, Legal Liability and Personal Injury coverages included. Such insurance shall provide coverage for total limits actually arranged by Seller, but not less than \$10,000,000.00 combined single limit per occurrence. Should the policy have an aggregate limit, such aggregate limits should not be less than double the Combined Single Limit. Umbrella or Excess Liability coverages may be used to supplement primary coverages to meet the required limits. Evidence of such coverage shall be a form acceptable to Buyer's risk manager, and shall provide for the following:

1. Include Buyer and its members, and their respective officers, agents, and employees as additional insureds with the Named Insured for the activities and operations of Seller and its officers, agents, or employees under this Agreement.
2. Severability-of-Interest or Cross-Liability Clause such as: "The policy to which this endorsement is attached shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of the company's liability."
3. A description of the coverages included under the policy.

C. Excess Liability

Seller may use an Umbrella or Excess Liability Coverage to meet coverage limits specified in this Agreement. Seller shall require the carrier for Excess Liability to properly schedule

and to identify the underlying policies on an endorsement to the policy acceptable to Buyer's risk management agent. Such policy shall include, as appropriate, coverage for Commercial General Liability, Commercial Automobile Liability, Employer's Liability, or other applicable insurance coverages.

D. Workers' Compensation/Employer's Liability Insurance

Seller shall provide Workers' Compensation insurance covering all of Seller's employees in accordance with the laws of any state in which the work is to be performed and including Employer's Liability insurance and a Waiver of Subrogation in favor of Buyer. The limit for Employer's Liability coverage shall be not less than \$1,000,000.00 each accident and shall be a separate policy if not included with Workers' Compensation coverage. Evidence of such insurance shall be a form of Buyer Special Endorsement of insurance or on an endorsement to the policy acceptable to Buyer's risk management agent. Workers' Compensation/Employer's Liability exposure may be self-insured *provided* that Buyer is furnished with a copy of the certificate issued by the state authorizing Seller to self-insure. Seller shall notify Buyer's risk manager by receipted delivery as soon as possible of the state withdrawing authority to self-insure.

APPENDIX F
TO POWER PURCHASE AGREEMENT,
DATED AS OF [____], 20[__]
BETWEEN
NORTHERN CALIFORNIA POWER AGENCY
AND
SOUTH FEATHER WATER AND POWER AGENCY

AUTHORIZED REPRESENTATIVES;
BUYER AND SELLER BILLING, NOTIFICATION AND
SCHEDULING CONTACT INFORMATION

1. **Authorized Representative.** The initial Authorized Representatives of Buyer and Seller pursuant to Section 14.1 are as follows:

1.1 Buyer:

Northern California Power Agency
c/o: General Manager
651 Commerce Drive
Roseville, CA 95678

Telephone: 916-781-3636
Facsimile: 916-783-7693
Email: _____

1.2 Seller:

RESERVED

2. **Billings.** Billings and payments pursuant to Article IX and Appendix A shall be transmitted to the following addresses:

2.1 If Billing to Buyer:

Northern California Power Agency
Attention: Settlements
Telephone: 916-781-3636
Facsimile: 916-781-4255
Email: settlements@ncpa.com; acctspayable@ncpa.com

2.2 If Payment to Buyer:

Northern California Power Agency
Attention: Accounts Payable

Telephone: 916-781-4211
Facsimile: 916-781-4255
Email: Acctspayable@ncpa.com

2.3 If Payment or Billing to Seller:

RESERVED

3. **Notices.** Unless otherwise specified by Buyer all notices (other than Scheduling notices, curtailment notices, and Deemed Generated Energy notices):

If to Buyer:

Northern California Power Agency
Attention: General Counsel
Telephone: 916-781-3636
Facsimile: 916-783-7693
Email: _____

If to Seller:

RESERVED

4. **Schedulers.** Unless otherwise specified by Buyer, all notices related to Scheduling of the Facility shall be sent to the following address:

If to Buyer:

Northern California Power Agency

Pre-scheduling: Generation schedules are to be provided to NCPA Pre-Scheduling contacts.

<u>Name</u>	<u>Phone</u>	<u>Email</u>
NCPA Preschedulers	916-786-0123	Preschedulers@ncpa.com
	916-786-0124	
Facsimile:	916-781-4239	

Schedule Coordination: NCPA Schedule Coordinator contacts.

<u>Name</u>	<u>Phone</u>	<u>Email</u>
NCPA SC	916-781-4237	SC2@ncpa.com
Facsimile:	916-781-4226	

Outage Coordination: All Planned and/or Forced Outages of generation facilities are to be provided to NCPA Dispatch and NCPA SC.

<u>Name</u>	<u>Phone</u>	<u>Email</u>
NCPA Dispatch	916-786-3518	Dispatch@ncpa.com
NCPA SC	916-781-4237	SC2@ncpa.com
Facsimile:	916-781-4226	

If to Seller:

RESERVED

5. **Curtailments.** All notices related to curtailments of the Facility pursuant to Section 6.5 shall be sent to the following address:

If to Buyer:

Northern California Power Agency
(see above)

If to Seller:

RESERVED

6. **Deemed Generated Energy.** Unless otherwise specified by Buyer, all notices related to calculations of Deemed Generated Energy shall be sent to the following address:

If to Buyer:

Northern California Power Agency
Attention: Settlements
Telephone: 916-781-3636
Facsimile: 916-781-4255
Email: settlements@ncpa.com

If to Seller:

RESERVED

Either Party may update its contact information in this Appendix F by delivering a notice to the other Party pursuant to Section 12.2 of the Agreement, and such change shall not be considered to be an amendment purchase to Section 12.11 of the Agreement.

**THIRD PHASE AGREEMENT
FOR
POWER PURCHASE AGREEMENT
WITH
SOUTH FEATHER WATER AND POWER AGENCY**

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This THIRD PHASE AGREEMENT ("this Agreement") is dated as of _____, 20__ by and among the Northern California Power Agency, a joint powers agency of the State of California ("NCPA"), and the signatories to this Agreement other than NCPA ("Participants"). NCPA and the Participants are referred to herein individually as a "Party" and collectively as the "Parties".

RECITALS

A. NCPA has heretofore been duly established as a public agency pursuant to the Joint Exercise of Powers Act of the Government Code of the State of California and, among other things, is authorized to acquire, construct, finance, and operate buildings, works, facilities, and improvements for the generation and transmission of electric capacity and energy for resale.

B. Each of the Participants is a signatory to the Joint Powers Agreement which created NCPA and therefore is a Member.

C. Each of the Participants to this Agreement have executed the Amended and Restated Facilities Agreement, dated October 1, 2014, which establishes the framework under which Project Agreements are created for the development, design, financing, construction, and operation of specific NCPA Projects.

D. The Participants desire NCPA to enter into a Power Purchase Agreement ("PPA") with South Feather Water and Power Agency ("SFWPA" or "Seller"), to purchase

electric capacity and energy produced by the Project for the benefit of the Participants' customers.

E. Each Participant is authorized by its Constitutive Documents to obtain electric capacity and energy for its present or future requirements, through contracts with NCPA or otherwise.

F. To enable NCPA to enter into the PPA on behalf of the Participants, pursuant to the terms and conditions of the Amended and Restated Facilities Agreement, NCPA and the Participants wish to enter into this Agreement to provide all means necessary for NCPA to fulfill obligations incurred on behalf of NCPA and the Participants pursuant to the PPA, and to enable and obligate the Participants to take delivery of and pay for such electric capacity and energy and to pay NCPA for all costs it incurs for undertaking the foregoing activities.

G. Upon full execution of this Agreement, NCPA will enter into the PPA on behalf of the Participants, and such PPA shall be deemed a NCPA Project by the Commission.

H. Each of the Parties intends to observe the provisions of this Agreement in good faith and shall cooperate with all other Parties in order to achieve the full benefits of joint action.

I. The Parties desire to equitably allocate costs of NCPA's provision of services under this Agreement among the Participants.

J. The Participants further desire, insofar as possible, to insulate other Members who are not Participants, from risks inherent in the services and transactions undertaken on behalf of the Participants pursuant to this Agreement.

NOW, THEREFORE, the Parties agree as follows:

Section 1. Definitions.

1.1 Definitions. Whenever used in this Agreement (including the Recitals hereto), the following terms shall have the following respective meanings, provided, capitalized terms used in this Agreement (including the Recitals hereto) that are not defined in Section 1 of this Agreement shall have the meaning indicated in Section 1 of the Power Management and Administrative Services Agreement, dated October 1, 2014:

1.1.1 “Administrative Services Costs” means that portion of the NCPA administrative, general and occupancy costs and expenses, including those costs and expenses associated with the operations, direction and supervision of the general affairs and activities of NCPA, general management, treasury operations, accounting, budgeting, payroll, human resources, information technology, facilities management, salaries and wages (including retirement benefits) of employees, facility operation and maintenance costs, taxes and payments in lieu of taxes (if any), insurance premiums, fees for legal, engineering, financial and other services, power management services, general settlement and billing services and general risk management costs, that are charged directly or apportioned to the provision of services under this Agreement.

Administrative Services Costs as separately defined herein and used in the context of this Agreement is different and distinct from the term Administrative Services Costs as defined in Section 1 of the Power Management and Administrative Services Agreement.

1.1.2 “Agreement” means this Third Phase Agreement, including all Exhibits attached hereto.

1.1.3 “CAISO” means the California Independent System Operator Corporation, or its functional successor.

1.1.4 “CAISO Tariff” means the duly authorized tariff, rules, protocols and other requirements of the ISO, as amended from time to time.

1.1.5 “Capacity Attributes” means any and all current or future defined characteristics consistent with the operational limitations of the Project, certificates, tags, credits, ancillary service attributes, or accounting constructs, howsoever entitled, including Resource Adequacy Benefits, Flexible Capacity Benefits, and any tracking or accounting associated with the foregoing, intended to value any aspect of the capacity of the Project to produce Energy or ancillary services, attributed to or associated with the Project.

1.1.6 “Constitutive Documents” means, with respect to NCPA, the Joint Powers Agreement and any resolutions or bylaws adopted thereunder with respect to the governance of NCPA, and with respect to each Participant, the California

Government Code and other statutory provisions applicable to such Participant, any applicable agreements, charters, contracts, or other documents concerning the formation, operation or decision making of such Participant, including, if applicable, its city charter, and any codes, ordinances, bylaws, and resolutions adopted by such Participant's governing body.

1.1.7 "Defaulting Participant" has the meaning set forth in Section 7.2.

1.1.8 "Energy" means electric energy expressed in units of kWh or MWh.

1.1.9 "Environmental Attributes" means any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, attributable to the generation from the Project, as the case may be, and its displacement of conventional energy generation. Environmental Attributes include: (i) any avoided emissions of pollutants to the air, soil or water such as sulfur oxides (SOx), nitrogen oxides (NOx), carbon monoxide (CO) and other pollutants; (ii) any avoided emissions of carbon dioxide (CO₂), methane (CH₄) and other greenhouse gases that have been determined by the United Nations Intergovernmental Panel on Climate Change to contribute to the actual or potential threat of altering the Earth's climate by trapping heat in the atmosphere; and (iii) the reporting rights to these avoided emissions such as, but not limited to, a REC.

Environmental Attributes do not include: (i) any Energy, capacity, reliability, or other power attributes from the Project; (ii) production tax credits associated with the construction or operation of the Project, and other financial incentives in the form of credits, reductions, or allowances associated with the Project that are applicable to a state or federal income taxation obligation (iii) fuel-related subsidies or “tipping fees” that may be paid to Seller to accept certain fuels, or local subsidies received by Seller or the owners of the site for the destruction of particular pre-existing pollutants or the promotion of local environmental benefits; or (iv) emission reduction credits encumbered or used by the Project for compliance with local, state, or federal operating and/or air quality permits.

1.1.10 “Event of Default” has the meaning set forth in Section 7.2.

1.1.11 “Flexible Capacity” has the meaning set forth in the CAISO Tariff.

1.1.12 “Flexible Capacity Benefits” means the rights and privileges attached to any generating resource that satisfy any entity’s Flexible Capacity requirement.

1.1.13 “General Operating Reserve” means the NCPA General Operating Reserve created through resolution of the Commission, as the same may be amended from time to time.

1.1.14 “KWh” means kilowatt hour.

1.1.15 “MW” means megawatt.

1.1.16 "MWh" means megawatt hour.

1.1.17 "NCPA" has the meaning set forth in the recitals hereto.

1.1.18 "Participant" has the meaning set forth in the recitals of this Agreement.

1.1.19 "Power Management and Administrative Services Agreement" means the NCPA Power Management and Administrative Services Agreement, dated as of October 1, 2014 between NCPA and the Members who are signatories to that agreement by which NCPA provides Power Management and Administrative Services.

1.1.20 "Product" means Energy, Capacity Attributes, Environmental Attributes and ancillary products, services or attributes similar to the foregoing that are delivered to the Participants pursuant to the PPA.

1.1.21 "Project" or "PPA" means the Power Purchase Agreement, dated as of _____, 20__ between NCPA and Seller, under which NCPA, on behalf of the Participants, purchases Product from the South Feather Power Project located in Butte County, California, consisting of four existing hydroelectric generating plants under FERC licenses: the Forbestown Powerhouse, the Kelly Ridge Powerhouse, the Sly Creek Powerhouse, and the Woodleaf Powerhouse. Upon final execution of the PPA, the Project shall be deemed a NCPA Project in accordance with the Amended and Restated Facilities Agreement. The PPA has been attached to this Agreement as Exhibit B.

1.1.22 “Project Costs” means all costs charged to and paid by NCPA pursuant to the PPA.

1.1.23 “Party” or “Parties” has the meaning set forth in the preamble hereto; provided that “Third Parties” are entities that are not Party to this Agreement.

1.1.24 “REC” or “Renewable Energy Certificate” means a certificate of renewable energy generation from units that register in the WREGIS system, or other commonly accepted renewable energy generation tracking system or program, which can be used to verify compliance with state and provincial requirements such as RPS.

1.1.25 “Resource Adequacy” means the procurement obligation of load serving entities, including the Participants, as such obligations are described in CPUC Decisions D.04-10-035 and D.05-10-042, and subsequent CPUC decisions addressing Resource Adequacy issues, as those obligations may be altered from time to time in the CPUC Resource Adequacy Rulemakings (R.) 04-04-003 and (R.) 05-12-013 or by any successor proceeding, and all other Resource Adequacy obligations established by any other entity, including the CAISO.

1.1.26 “Resource Adequacy Benefits” means the rights and privileges attached to any generating resource that satisfy any entity’s Resource Adequacy obligations.

1.1.27 “Revenue” means , with respect to each Participant, all income, rents, rates, fees, charges, and other moneys derived by the Participant from the

ownership or operation of its Electric System, including, without limiting the generality of the foregoing: (a) all income, rents, rates, fees, charges or other moneys derived from the sale, furnishing and supplying of electric capacity and energy and other services, facilities, and commodities sold, furnished, or supplied through the facilities of its Electric System; (b) the earnings on and income derived from the investment of such income, rents, rates, fees, charges or other moneys to the extent that the use of such earnings and income is limited by or pursuant to law to its Electric System; (c) the proceeds derived by the Participant directly or indirectly from the sale, lease or other disposition of all or a part of the Electric System; and (d) the proceeds derived by Participant directly or indirectly from the consignment and sale of freely allocated greenhouse gas compliance instruments into periodic auctions administered by the State of California under the California Cap-and-Trade Program, provided that such proceeds are a permitted use of auction proceeds, but the term Revenues shall not include (i) customers' deposits or any other deposits subject to refund until such deposits have become the property of the Participant or (ii) contributions from customers for the payment of costs of construction of facilities to serve them.

1.1.28 "RPS" or "Renewable Portfolio Standard Program" means the State of California Renewable Portfolio Standard Program, as codified at California Public Utilities Code Section 399.11, *et seq.*

1.1.29 "Scheduling Protocols" means the applicable provisions of the Amended and Restated Scheduling Coordination Program Agreement, and any other contractual or other arrangements between NCPA and the Participants concerning the scheduling, delivery and metering of the PPA.

1.1.30 "Security Deposit" means the account established by NCPA and funded by the Participants in accordance with Section 5, the funds of which are available for use by NCPA in accordance with the terms and conditions hereof.

1.1.31 "Seller" means South Feather Water and Power Agency, as set forth in recital D of this Agreement, or as otherwise set forth in the PPA.

1.1.32 "Term" has the meaning set forth in Section 10.

1.1.33 "Third Party" means an entity (including a Member) that is not Party to this Agreement

1.1.34 "WREGIS" means Western Renewable Energy Generation Information System, or its functional successor.

1.2 Rules of Interpretation. As used in this Agreement (including the Recitals hereto), unless in any such case the context requires otherwise: The terms "herein," "hereto," "herewith" and "hereof" are references to this Agreement taken as a whole and not to any particular provision; the term "include," "includes" or "including" shall mean "including, for example and without limitation;" and references to a "Section," "subsection," "clause," "Appendix", "Schedule", or "Exhibit" shall mean a Section,

subsection, clause, Appendix, Schedule or Exhibit of this Agreement, as the case may be.

All references to a given agreement, instrument, tariff or other document, or law, regulation or ordinance shall be a reference to that agreement, instrument, tariff or other document, or law, regulation or ordinance as such now exists and as may be amended from time to time, or its successor. A reference to a “person” includes any individual, partnership, firm, company, corporation, joint venture, trust, association, organization or other entity, in each case whether or not having a separate legal personality and includes its successors and permitted assigns. A reference to a “day” shall mean a Calendar Day unless otherwise specified. The singular shall include the plural and the masculine shall include the feminine, and *vice versa*.

Section 2. Purpose. The purpose of this Agreement is to: (i) set forth the terms and conditions under which NCPA shall enter into the PPA on behalf of the Participants, (ii) authorize NCPA, acting on behalf of the Participants, to engage in all activities related to that basic purpose, and (iii) specify the rights and obligations of NCPA and the Participants with respect to the PPA.

Section 3. Sale and Purchase of Product. By executing this Agreement, each Participant acknowledges and agrees to be bound by the terms and conditions of the Agreement, and that the Agreement is written as a “take-or-pay” agreement. Any Product delivered to NCPA under the PPA shall be delivered to each Participant in proportion to such Participant’s Project Participation Percentage as set forth in Exhibit A, and each

Participant shall accept and pay for its respective percentage of such Product. To the extent a Participant is unable to accept such deliveries in full, NCPA shall dispose of such surplus in its sole discretion, in such a manner to attempt to maximize Participant value and that Participant shall reimburse to NCPA any costs incurred by NCPA in doing so. Notwithstanding the above, NCPA may allocate Product procured through the PPA among the Participants in such percentages as NCPA may, in its reasonable discretion, determine are necessary, desirable, or appropriate, in order to accommodate Participant transfer rights pursuant to Section 9.

3.1 Scheduling. Product delivered from Seller shall be scheduled for and to the Participants in accordance with Scheduling Protocols, and the terms and conditions of the PPA.

Section 4. Billing and Payments

4.1 Participant Payment Obligations. Each Participant agrees to pay to NCPA each month its respective portion of the Project Costs, Administrative Services Costs, scheduling coordination costs, and all other costs for services provided in accordance with this Agreement and the Amended and Restated Facilities Agreement. In addition to the aforementioned monthly payment obligations, each Participant is obligated to fund: (i) any and all required Security Deposits calculated in accordance with Section 5, and (ii) any working capital requirements for the Project maintained by NCPA as determined, collected and set forth in the Annual Budget.

4.2 Invoices. NCPA will issue an invoice to each Participant for its share of Project Costs, Administrative Services Costs, scheduling coordination costs, and all other costs for services provided in accordance with this Agreement and the Amended and Restated Facilities Agreement. Such invoice may be either the All Resources Bill or separate special invoice, as determined by NCPA. At NCPA's discretion, invoices may be issued to Participants using electronic media or physical distribution.

4.3 Payment of Invoices. All invoices delivered by NCPA (including the All Resources Bill) are due and payable thirty (30) Calendar Days after the date thereof; provided, however, that any amount due on a day other than a Business Day may be paid on the following Business Day.

4.4 Late Payments. Any amount due and not paid by a Participant in accordance with Section 4.3 shall be considered late and bear interest computed on a daily basis until paid at the lesser of (i) the per annum prime rate (or reference rate) of the Bank of America NT&SA then in effect, plus two percent (2%) or (ii) the maximum rate permitted by law.

4.5 Billing Disputes. A Participant may dispute the accuracy of any invoice issued by NCPA under this Agreement by submitting a written dispute to NCPA, within thirty (30) Calendar Days after the date of such invoice; nonetheless the Participant shall pay the full amount billed when due. If a Participant does not timely question or dispute the accuracy of any invoice in writing, then the invoice shall be deemed to be correct. Upon review of a submitted dispute, if an invoice is determined by NCPA to be incorrect,

then NCPA shall issue a corrected invoice and refund any amounts that may be due to the Participant. If NCPA and the Participant fail to agree on the accuracy of an invoice within thirty (30) Calendar Days after the Participant has disputed it, then the General Manager shall promptly submit the dispute to the Commission for resolution. If the Commission and the Participant fail to agree on the accuracy of a disputed invoice within sixty (60) Calendar Days after its submission to the Commission, then the dispute may then be resolved under the mediation and arbitration procedures set forth in Section 12 of this Agreement; provided, however, that prior to resorting to either mediation or arbitration proceedings, the full amount of the disputed invoice must be paid by the Participant.

4.6 Billing/Settlement Data and Examination of Books and Records.

4.6.1 Settlement Data. NCPA shall make billing and settlement data available to the Participants in the All Resources Bill, or other invoice, or upon request. NCPA may also, at its sole discretion, make billing and settlement support information available to Participants using electronic media (e.g. electronic data portal). Procedures and formats for the provision of such electronic data submission may be established by the Commission from time to time. Without limiting the generality of the foregoing, NCPA may, in its reasonable discretion, require the Participants to execute a non-disclosure agreement prior to providing access to the NCPA electronic data portal.

4.6.2 Examination of Books and Records. Any Participant to this Agreement shall have the right to examine the books and records created and maintained by NCPA pursuant to this Agreement at any reasonable, mutually agreed upon time.

Section 5. Security Deposit Administration

5.1 Security Deposit Requirements. Each Participant agrees that any funds deposited at NCPA to satisfy Participant's Security Deposit requirements pursuant to this Agreement shall be irrevocably committed and held by NCPA in the General Operating Reserve, and that such funds may be used by NCPA in accordance with Section 5.1.3. Each Participant's Security Deposit will be accounted separately from and in addition to any other security accounts or deposits maintained pursuant to any other agreement between NCPA and the Participant, or any other such security account or deposits required of Members. In connection with fulfilling the Security Deposit requirements of this Agreement, Participant may elect to use its uncommitted funds held in the General Operating Reserve to satisfy in whole or in part its Security Deposit required under Section 5. If Participant chooses to satisfy in whole or in part its security requirements using its uncommitted funds held in the General Operating Reserve, then Participant is required to execute and deliver to NCPA an Irrevocable Letter of Direction, directing NCPA to utilize Participant's uncommitted General Operating Reserve funds for such

purposes, and the designated funds will thereafter be irrevocably committed and held by NCPA to satisfy the requirements of this Agreement.

5.1.1 Initial Amounts. Each Participant shall insure that sufficient Security Deposit funds have been deposited with and are held by NCPA equal to the highest three (3) months of estimated Project Costs, as estimated by NCPA. Such Security Deposit requirement may be satisfied by Participant in whole or part either in cash, through irrevocable commitment of its uncommitted funds held in the General Operating Reserve in accordance with Section 5.1, or through a clean, irrevocable letter of credit satisfactory to NCPA's General Manager.

5.1.2 Subsequent Deposits. Periodically, and at least quarterly, NCPA shall review and revise its estimate of Project Costs for which Participant shall be obligated to pay under this Agreement. Following such review, NCPA shall determine whether each Participant has a sufficient Security Deposit balance at NCPA. To the extent that any Participant's Security Deposit balance is greater than one hundred and ten percent (110%) of the amount required herein, NCPA shall credit such amount as soon as practicable to the Participant's next following All Resources Bill, or by separate special invoice. To the extent that any Participant's Security Deposit balance is less than ninety percent (90%) of the amount required herein, NCPA shall add such amount as soon as practicable to such Participant's next All Resources Bill, or as necessary, to a special invoice to be paid by Participant upon receipt. Credits or additions shall not be

made to Participants who satisfy these Security Deposit requirements in whole through the use of a letter of credit; provided, that the amount of the letter of credit shall be adjusted, as required from time to time, in a like manner to assure an amount equal to the highest three (3) months of estimated Project Costs is available to NCPA.

5.1.3 Use of Security Deposit Funds. NCPA may use any and all Security Deposit funds held by NCPA (or utilize a letter of credit provided in lieu thereof) to pay any costs it incurs hereunder, including making payments to Seller, without regard to any individual Participant's Security Deposit balance or proportionate share of Project Costs, and irrespective of whether NCPA has issued an All Resources Bill or special invoice for such costs to the Participants or whether a Participant has made timely payments of All Resources Bills or special invoices. Should Participant have satisfied its Security Deposit requirements in whole or part through a letter of credit, NCPA may draw on such letter of credit to satisfy Participant's obligations hereunder at NCPA's sole discretion. Notwithstanding the foregoing, if any Participant fails to pay any costs incurred by NCPA pursuant to this Agreement, NCPA shall first use that non-paying Participant's Security Deposit and shall not use any other Participants' Security Deposit until such non-paying Participant's Security Deposit has been exhausted.

5.1.4 Accounting. If Security Deposit funds or a letter of credit are used by NCPA to pay any costs it incurs hereunder as described in Section 5.1.3, then NCPA

will maintain a detailed accounting of each Participant's shares of funds withdrawn, and upon the collection of all or a part of such withdrawn funds, NCPA will credit back to each non-defaulting Participant the funds collected in proportion to such non-defaulting Participant's share of funds initially withdrawn.

5.1.5 Emergency Additions. In the event that funds are withdrawn pursuant to Section 5.1.3, or if the Security Deposit held by NCPA is otherwise insufficient to allow for NCPA to pay any invoice, demand, request for further assurances by Seller, or claims, NCPA shall notify all Participants of the deficiency. In conjunction with such notice, NCPA shall send a special or emergency assessment invoice to the Participant or Participants that caused or are otherwise responsible for the deficiency. Each Participant of such an invoice shall pay to NCPA such assessment when and if assessed by NCPA within two (2) Business Days of the invoice date of the assessment, or shall consent to and direct NCPA to draw on any existing letter of credit Participant has established for such purposes. In the event that the Participant or Participants that caused or are otherwise responsible for the deficiency cannot, does not or will not pay to NCPA the special or emergency assessment within two (2) Business Days after the invoice date, NCPA shall immediately submit a special or emergency invoice to all remaining Participants, and such remaining Participants shall pay to NCPA such assessment within two (2) Business Days after the invoice date of

the assessment, or shall consent to and direct NCPA to draw on any existing letter of credit that Participant has established for such purposes.

5.1.6 Security Deposit Interest. NCPA shall maintain a detailed accounting of each Participant's Security Deposits, and withdrawals of such funds, held by NCPA. Security Deposits held by NCPA shall be invested by NCPA in accordance with the General Operating Reserve policies and investment policies adopted by the NCPA Commission. Interest earned on the Security Deposit funds shall be proportionately credited to the Participants in accordance with their weighted average balances held therein. Any Security Deposit losses caused by early termination of investments shall be allocated among the Participants in accordance with the General Operating Reserve provisions and guidelines approved by the Commission, as the same may be amended from time to time; provided, however, to the extent that either the General Operating Reserve provisions and guidelines do not apply or the Security Deposit is not adequate to cover the losses, then such losses shall be allocated among the Participants in accordance with their proportionate Security Deposit balances.

5.1.7 Return of Funds. Upon termination or a permitted withdrawal of a Participant in accordance with this Agreement, the affected Participant may apply to NCPA for the return of their share of Security Deposit funds ninety (90) days after the effective date of such termination or withdrawal. However, NCPA shall, in its sole but

reasonable discretion, as determined by the NCPA General Manager, estimate the then outstanding liabilities of the Participant, including any estimated contingent liabilities and shall retain all such funds, if any, until all such liabilities have been fully paid or otherwise satisfied in full. After all such liabilities have been satisfied in full, as determined by NCPA's General Manager, any remaining balance of the Participant's share of the Security Deposit will be refunded to the Participant within sixty (60) days thereafter.

Section 6. Cooperation and Further Assurances. Each of the Parties agree to provide such information, execute and deliver any instruments and documents and to take such other actions as may be necessary or reasonably requested by any other Party which are consistent with the provisions of this Agreement and which do not involve the assumption of obligations other than those provided for in this Agreement, in order to give full effect to this Agreement and to carry out the intent of this Agreement. The Parties agree to cooperate and act in good faith in connection with obtaining any credit support required in order to satisfy the requirements of this Agreement.

Section 7. Participant Covenants and Defaults

7.1 Each Participant covenants and agrees: (i) to make payments to NCPA, from its Electric System Revenues, of its obligations under this Agreement as an operating expense of its Electric System; (ii) to fix the rates and charges for services provided by its Electric System, so that it will at all times have sufficient Revenues to meet the obligations

of this Agreement, including the payment obligations; (iii) to make all such payments due NCPA under this Agreement whether or not there is an interruption in, interference with, or reduction or suspension of services provided under this Agreement, such payments not being subject to any reduction, whether by offset or otherwise, and regardless of whether any reasonable dispute exists; and (iv) to operate its Electric System, and the business in connection therewith, in accordance with Good Utility Practices.

7.2 Events of Default. An Event of Default under this Agreement shall exist upon the occurrence of any one or more of the following by a Participant (the “Defaulting Participant”):

(i) the failure of any Participant to make any payment in full to NCPA when due;

(ii) the failure of a Participant to perform any covenant or obligation of this Agreement where such failure is not cured within thirty (30) Calendar Days following receipt of a notice from NCPA demanding cure; provided, that this subsection shall not apply to any failure to make payments specified by subsection 7.2 (i));

(iii) if any representation or warranty of a Participant material to the services provided hereunder shall prove to have been incorrect in any material respect when made and the Participant does not cure the facts underlying such incorrect representation or warranty so that the representation or warranty becomes true and correct within thirty (30) Calendar Days after the date of receipt of notice from NCPA demanding cure; or

(iv) if a Participant is in default or in breach of any of its covenants or obligations under any other agreement with NCPA and such default or breach is not cured within the time periods specified in such agreement.

7.3 Uncontrollable Forces. A Party shall not be considered to be in default in respect of any obligation hereunder if prevented from fulfilling such obligation by reason of Uncontrollable Forces; provided, that in order to be relieved of an Event of Default due to Uncontrollable Forces, a Party affected by an Uncontrollable Force shall:

(i) first provide oral notice to the General Manager using telephone communication within two (2) Business Days after the onset of the Uncontrollable Force, and provide subsequent written notice to the General Manager and all other Parties within ten (10) Business Days after the onset of the Uncontrollable Force, describing its nature and extent, the obligations which the Party is unable to fulfill, the anticipated duration of the Uncontrollable Force, and the actions which the Party will undertake so as to remove such disability and be able to fulfill its obligations hereunder; and

(ii) use due diligence to place itself in a position to fulfill its obligations hereunder and if unable to fulfill any obligation by reason of an Uncontrollable Force such Party shall exercise due diligence to remove such disability with reasonable dispatch; provided, that nothing in this subsection shall require a Party to settle or compromise a labor dispute.

7.4 Cure of an Event of Default. An Event of Default shall be deemed cured only if such default shall be remedied or cured within the time periods specified in Section 7.2 above, as may be applicable, provided, however, upon request of the Defaulting Participant the Commission may waive the default at its sole discretion, where such waiver shall not be unreasonably withheld.

7.5 Remedies in the Event of Uncured Default. Upon the occurrence of an Event of Default which is not cured within the time limits specified in Section 7.2, without limiting other rights or remedies available under this Agreement, at law or in equity, and without constituting or resulting in a waiver, release or estoppel of any right, action or cause of action NCPA may have against the Defaulting Participant, NCPA may take any or all of the following actions:

(i) suspend the provision of services under this Agreement to such Defaulting Participant; or

(ii) demand that the Defaulting Participant provide further assurances to guarantee the correction of the default, including the collection of a surcharge or increase in electric rates, or such other actions as may be necessary to produce necessary Revenues to correct the default.

7.6 Effect of Suspension.

7.6.1 Generally. The suspension of this Agreement will not terminate, waive, or otherwise discharge any ongoing or undischarged liabilities, credits or

obligations arising from this Agreement until such liabilities, credits or obligations are satisfied in full.

7.6.2 Suspension. If performance of all or any portion of this Agreement is suspended by NCPA with respect to a Participant in accordance with subsection 7.5(i), then such Participant shall pay any and all costs incurred by NCPA as a result of such suspension including reasonable attorney's fees, the fees and expenses of other experts, including auditors and accountants, or other reasonable and necessary costs associated with such suspension and any portion of the Project Costs, scheduling and dispatch costs, and Administrative Services Costs that were not recovered from such Participant as a result of such suspension.

Section 8. Administration of Agreement

8.1 Commission. The Commission is responsible for the administration of this Agreement. Each Participant shall be represented by its Commissioner or their designated alternate Commissioner ("Alternate") pursuant to the Joint Powers Agreement. Each Commissioner shall have authority to act for the Participant represented with respect to matters pertaining to this Agreement.

8.2 Forum. Whenever any action anticipated by this Agreement is required to be jointly taken by the Participants, such action shall be taken at regular or special meetings of the NCPA Commission.

8.3 Quorum. For purposes of acting upon matters that relate to administration of this Agreement, a quorum of the Participants shall consist of those Commissioners, or their designated Alternate, representing a numerical majority of the Participants.

8.4 Voting. Each Participant shall have the right to cast one vote with respect to matters pertaining to this Agreement. A unanimous vote of all Participants shall be required for action regarding: (i) any transfer of rights to a Third Party as described in Section 9 of this Agreement; and (ii) for matters related to any of the following actions as provided for in the PPA: (a) exercising any early termination provisions as set forth in Section 2.4 of the PPA, and (b) exercising any assignment rights as set forth in Section 12.7 of the PPA. For all other matters pertaining to this Agreement, a majority vote of the Participants shall be required for action.

Section 9. Transfer of Rights by Participants

9.1 A Participant has the right to make transfers, sales, assignments and exchanges (collectively “transfers(s)”) of any portion of its Project Participation Percentage and rights thereto, subject to the approval provisions in Section 8.4 of this Agreement, provided that the transferee satisfies all applicable criterion in the PPA. If a Participant desires to transfer a portion or its entire share of the Project for a specific time interval, or permanently, then NCPA will, if requested by such Participant, use its best efforts to transfer that portion of the Participant’s share of the Project.

9.2 Before a Participant may transfer an excess Project share pursuant to Section 9.1 to any person or entity other than a Participant, it shall give all other Participants the right to purchase the share on the same terms and conditions. Before a Participant may transfer an excess Project share pursuant to section 9.1 to any person or entity other than a Member, it shall give all Members the right to purchase the share on the same terms and conditions. Such right shall be exercised within thirty (30) days of receipt of notice of said right.

No transfer shall relieve a Participant of any of its obligations under this Agreement except to the extent that NCPA receives payment of these obligations from a transferee.

Section 10. Term and Termination. This Agreement shall become effective when it has been duly executed by all Participants, and delivered to and executed by NCPA (the “Effective Date”). NCPA shall notify all Participants in writing of the Effective Date. The Term of this Agreement shall be coterminous with the PPA, and shall commence on the Effective Date, and shall continue through the term of the PPA.

Section 11. Withdrawal of Participants. No Participant may withdraw from this Agreement except as otherwise provided for herein.

Section 12. Settlement of Disputes and Arbitration. The Parties agree to make best efforts to settle all disputes among themselves connected with this Agreement as a matter of normal business under this Agreement. The procedures set forth in Section 10 of the

Power Management and Administrative Services Agreement shall apply to all disputes that cannot be settled by the Participants themselves; provided, that the provisions of Section 4.5 shall first apply to all disputes involving invoices prepared by NCPA.

Section 13. Miscellaneous

13.1 Confidentiality. The Parties will keep confidential all confidential or trade secret information made available to them in connection with this Agreement, to the extent possible, consistent with applicable laws, including the California Public Records Act. Confidential or trade secret information shall be marked or expressly identified as such.

If a Party ("Receiving Party") receives a request from a Third Party for access to, or inspection, disclosure or copying of, any other Party's (the "Supplying Party") confidential data or information, which the Receiving Party has possession of ("Disclosure Request"), then the Receiving Party shall provide notice and a copy of the Disclosure Request to the Supplying Party within three (3) Business Days after receipt of the Disclosure Request. Within three (3) Business Days after receipt of such notice, the Supplying Party shall provide notice to the Receiving Party either:

(i) that the Supplying Party believes there are reasonable legal grounds for denying or objecting to the Disclosure Request, and the Supplying Party requests the Receiving Party to deny or object to the Disclosure Request with respect to identified confidential information. In such case, the Receiving Party shall deny the Disclosure Request and the Supplying Party shall defend the denial of the Disclosure Request at its

sole cost, and it shall indemnify the Receiving Party for all costs associated with denying or objecting to the Disclosure Request. Such indemnification by the Supplying Party of the Receiving Party shall include all of the Receiving Party's costs reasonably incurred with respect to denial of or objection to the Disclosure Request, including but not limited to costs, penalties, and the Receiving Party's attorney's fees; or

(ii) that the Receiving Party may grant the Disclosure Request without any liability by the Receiving Party to the Supplying Party.

13.2 Indemnification and Hold Harmless. Subject to the provisions of Section 13.4, each Participant agrees to indemnify, defend and hold harmless NCPA and its Members, including their respective governing boards, officials, officers, agents, and employees, from and against any and all claims, suits, losses, costs, damages, expenses and liability of any kind or nature, including reasonable attorneys' fees and the costs of litigation, including experts, to the extent caused by any acts, omissions, breach of contract, negligence (active or passive), gross negligence, recklessness, or willful misconduct of that Participant, its governing officials, officers, employees, subcontractors or agents, to the maximum extent permitted by law.

13.3 Several Liabilities. No Participant shall, in the first instance, be liable under this Agreement for the obligations of any other Participant or for the obligations of NCPA incurred on behalf of other Participants. Each Participant shall be solely responsible and liable for performance of its obligations under this Agreement, except as otherwise

provided for herein. The obligation of each Participant under this Agreement is, in the first instance, a several obligation and not a joint obligation with those of the other Participants.

Notwithstanding the foregoing, the Participants acknowledge that any debts or obligations incurred by NCPA under this Agreement on behalf of any of them shall be borne solely by such Participants in proportion to their respective Project Participation Percentages, and not by non-Participant Members of NCPA, pursuant to Article IV, Section 3(b) of the Joint Powers Agreement.

In the event that a Participant should fail to pay its share of the debts or obligations incurred by NCPA as required by this Agreement, the remaining Participants shall, in proportion to their Project Participation Percentages, pay such unpaid amounts and shall be reimbursed by the Participant failing to make such payments.

13.4 No Consequential Damages. FOR ANY BREACH OF ANY PROVISION OF THIS AGREEMENT FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED IN THIS AGREEMENT, THE LIABILITY OF THE DEFAULTING PARTY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION, AND ALL OTHER DAMAGES OR REMEDIES ARE HEREBY WAIVED. IF NO REMEDY OR MEASURE OF DAMAGE IS EXPRESSLY PROVIDED, THE LIABILITY OF THE DEFAULTING PARTY SHALL BE LIMITED TO ACTUAL DAMAGES ONLY AND ALL OTHER DAMAGES AND REMEDIES ARE HEREBY WAIVED. IN NO EVENT SHALL NCPA OR ANY

PARTICIPANT OR THEIR RESPECTIVE SUCCESSORS, ASSIGNS, REPRESENTATIVES, DIRECTORS, OFFICERS, AGENTS, OR EMPLOYEES BE LIABLE FOR ANY LOST PROFITS, CONSEQUENTIAL, SPECIAL, EXEMPLARY, INDIRECT, PUNITIVE, OR INCIDENTAL LOSSES OR DAMAGES, INCLUDING LOSS OF USE, LOSS OF GOODWILL, LOST REVENUES, LOSS OF PROFIT OR LOSS OF CONTRACTS EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NCPA AND EACH PARTICIPANT EACH HEREBY WAIVES SUCH CLAIMS AND RELEASES EACH OTHER AND EACH OF SUCH PERSONS FROM ANY SUCH LIABILITY.

The Parties acknowledge that California Civil Code section 1542 provides that: "A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor." The Parties waive the provisions of section 1542, or other similar provisions of law, and intend that the waiver and release provided by this Section of this Agreement shall be fully enforceable despite its reference to future or unknown claims.

13.5 Waiver. No waiver of the performance by a Party of any obligation under this Agreement with respect to any default or any other matter arising in connection with this Agreement shall be effective unless given by the Commission or the governing body of a Participant, as applicable. Any such waiver by the Commission in any particular

instance shall not be deemed a waiver with respect to any subsequent performance, default or matter.

13.6 Amendments. Except where this Agreement specifically provides otherwise, this Agreement may be amended only by written instrument executed by the Parties with the same formality as this Agreement.

13.7 Assignment of Agreement.

13.7.1 Binding Upon Successors. This Agreement shall inure to the benefit of and shall be binding upon the respective successors and assignees of the Parties to this Agreement.

13.7.2 No Assignment. Neither this Agreement, nor any interest herein, shall be transferred or assigned by a Party hereto except with the consent in writing of the other Parties hereto, which consent shall not be unreasonably withheld.

13.8 Severability. In the event that any of the terms, covenants or conditions of this Agreement or the application of any such term, covenant or condition, shall be held invalid as to any person or circumstance by any court having jurisdiction, all other terms, covenants or conditions of this Agreement and their application shall not be affected thereby, but shall remain in force and effect unless the court holds that such provisions are not severable from all other provisions of this Agreement.

13.9 Governing Law. This Agreement shall be interpreted, governed by, and construed under the laws of the State of California.

13.10 Headings. All indices, titles, subject headings, section titles and similar items are provided for the purpose of convenience and are not intended to be inclusive, definitive, or affect the meaning of the contents of this Agreement or the scope thereof.

13.11 Notices. Any notice, demand or request required or authorized by this Agreement to be given to any Party shall be in writing, and shall either be personally delivered to a Participant's Commissioner or Alternate, and to the General Manager, or shall be transmitted to the Participant and the General Manager at the addresses shown on the signature pages hereof. The designation of such addresses may be changed at any time by written notice given to the General Manager who shall thereupon give written notice of such change to each Participant. All such notices shall be deemed delivered when personally delivered, two (2) Business Days after deposit in the United States mail first class postage prepaid, or on the first Business Day following delivery through electronic communication.

13.12 Warranty of Authority. Each Party represents and warrants that it has been duly authorized by all requisite approval and action to execute and deliver this Agreement and that this Agreement is a binding, legal, and valid agreement enforceable in accordance with its terms. Upon execution of this Agreement, each Participant shall deliver to NCPA a resolution of the governing body of such Participant evidencing approval of and authority to enter into this Agreement.

13.13 Counterparts. This Agreement may be executed in any number of counterparts, and each executed counterpart shall have the same force and effect as an original instrument and as if all the signatories to all of the counterparts had signed the same instrument. Any signature page of this Agreement may be detached from any counterpart of this Agreement without impairing the legal effect of any signatures thereon, and may be attached to another counterpart of this Agreement identical in form hereto but having attached to it one or more signature pages.

13.14 Venue. In the event that a Party brings any action under this Agreement, the Parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Placer or in the United States District Court for the Eastern District of California.

13.15 Attorneys' Fees. If a Party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provisions of this Agreement, then each Party shall bear its own fees and costs, including attorneys' fees, associated with the action.

13.16 Counsel Representation. Pursuant to the provisions of California Civil Code Section 1717 (a), each of the Parties were represented by counsel in the negotiation and execution of this Agreement and no one Party is the author of this Agreement or any of its subparts. Those terms of this Agreement which dictate the responsibility for bearing any attorney's fees incurred in arbitration, litigation or settlement in a manner inconsistent

with the provisions of Section 13.2 were intentionally so drafted by the Parties, and any ambiguities in this Agreement shall not be interpreted for or against a Party by reason of that Party being the author of the provision.

13.17 No Third Party Beneficiaries. Nothing contained in this Agreement is intended by the Parties, nor shall any provision of this Agreement be deemed or construed by the Parties, by any third person or any Third Parties, to be for the benefit of any Third Party, nor shall any Third Party have any right to enforce any provision of this Agreement or be entitled to damages for any breach by the Parties of any of the provisions of this Agreement.

IN WITNESS WHEREOF, NCPA and each Participant have, by the signature of its duly authorized representative shown below, executed and delivered a counterpart of this Agreement.

NORTHERN CALIFORNIA
POWER AGENCY
651 Commerce Drive
Roseville, CA 95678

CITY OF HEALDSBURG
401 Grove Street
Healdsburg, CA 95448

By: _____
Title: _____
Date: _____

By: _____
Title: _____
Date: _____

Approved as to form:

Approved as to form:

By: _____
Its: General Counsel
Date: _____

By: _____
Its: City Attorney
Date: _____

Attestation (if applicable):

Attestation (if applicable):

By: _____
Its: _____
Date: _____

By: _____
Its: _____
Date: _____

CITY OF LODI
221 W. Pine Street
Lodi, CA 95240

CITY OF LOMPOC
100 Civic Center Plaza
Lompoc, CA 93436

By: _____
Title: _____
Date: _____

By: _____
Title: _____
Date: _____

Approved as to form:

Approved as to form:

By: _____
Its: City Attorney
Date: _____

By: _____
Its: City Attorney
Date: _____

Attestation (if applicable)

Attestation (if applicable)

By: _____
Its: _____
Date: _____

By: _____
Its: _____
Date: _____

CITY OF OAKLAND, acting
by and through its
Board of Port Commissioners
530 Water Street
Oakland, CA 94607

CITY OF ROSEVILLE
311 Vernon Street
Roseville, CA 95678

By: _____
Title: _____
Date: _____

By: _____
Title: _____
Date: _____

Approved as to form:

Approved as to form:

By: _____
Its: Port General Counsel
Date: _____

By: _____
Its: City Attorney
Date: _____

Attestation (if applicable)

Attestation (if applicable)

By: _____
Its: _____
Date: _____

By: _____
Its: _____
Date: _____

CITY OF SANTA CLARA
1500 Warburton Avenue
Santa Clara, CA 95050

SAN FRANCISCO BAY AREA RAPID
TRANSIT DISTRICT
300 Lakeside Drive, 16th Floor
Oakland, CA 94612

By: _____
Title: _____
Date: _____

By: _____
Title: _____
Date: _____

Approved as to form:

Approved as to form:

By: _____
Its: City Attorney
Date: _____

By: _____
Its: City Attorney
Date: _____

Attestation (if applicable)

Attestation (if applicable)

By: _____
Its: _____
Date: _____

By: _____
Its: _____
Date: _____

CITY OF UKIAH
300 Seminary Avenue
Ukiah, CA 95482

By: _____
Title: _____
Date: _____

Approved as to form:

By: _____
Its: City Attorney
Date: _____

Attestation (if applicable)

By: _____
Its: _____
Date: _____

EXHIBIT A
PROJECT PARTICIPATION PERCENTAGES

Concurrent to the Effective Date of this Agreement, the Project Participation Percentages contained in this Exhibit A may be updated in the event that one or more of the Members shown in the preliminary list of Participants do not become a Participant. In the event that one or more of the Members shown in the preliminary list of Participants do not become a Participant, the Project Participation Percentage for that Member will be reallocated to the City of Roseville and the City of Santa Clara in equal shares. NCPA shall notify all Participants of the final Project Participation Percentages in writing concurrent with the Effective Date of this Agreement, and if necessary NCPA shall provide an updated Exhibit A to the Participants showing the final Project Participation Percentages.

Preliminary List of Participants

City of Healdsburg	2.0 MW, or 1.65%
City of Lodi	10.0 MW, or 8.23%
City of Lompoc	2.5 MW, or 2.06%
City of Roseville	20.0 MW, 16.46%
City of Santa Clara	78.0 MW, 64.2%
City of Ukiah	2.0 MW, 1.65%
Port of Oakland	3.0 MW, or 2.47%
San Francisco Bay Area Rapid Transit District	4.0 MW, or 3.29%

Final List of Participants

EXHIBIT B

PPA

The Power Purchase Agreement between South Feather Water and Power Agency and Northern California Power Agency has been attached to this Agreement as Exhibit B.

RESOLUTION NO. 2021-_____

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF UKIAH
APPROVING THE THIRD PHASE AGREEMENT FOR POWER PURCHASE
AGREEMENT WITH SOUTH FEATHER WATER AND POWER AGENCY**

WHEREAS, the City of Ukiah Electric has adopted policies that are designed to increase the amount of energy that they provide to their retail customers from eligible renewable energy resources and carbon free resources to comply with the California Renewable Energy Resources Act and other applicable requirements; and

WHEREAS, South Feather Power and Water Agency (SFWPA) owns and operates four existing hydroelectric generating plants operating under FERC licenses: the Forbestown Powerhouse (37.5 MW), the Kelly Ridge Powerhouse (11.0 MW), the Sly Creek Powerhouse (13.0 MW) and the Woodleaf Powerhouse (60.0 MW) (the Facility or as otherwise referred to as the South Feather Power Project) that qualify as either eligible renewable energy resources or carbon free resources; and

WHEREAS, SFWPA has agreed to sell to NCPA, and NCPA has agreed to purchase from SFWPA, acting on behalf of the City of Ukiah and other participating NCPA members, certain energy, capacity rights and associated environmental attributes supplied from the South Feather Power Project pursuant to the terms and conditions set forth in the Power Purchase Agreement (PPA) between South Feather Water and Power Agency and Northern California Power Agency; and

WHEREAS, the term of the PPA includes the Initial Delivery Term that will begin on the Initial Delivery Date, and will continue uninterrupted through December 31, 2031, and at the end of the Initial Delivery Term, if SFWPA does not elect to terminate the PPA, the term of the PPA will automatically extend for an additional 10 year period (the Extended Delivery Term); and

WHEREAS, during the term of the PPA, NCPA will schedule and dispatch the South Feather Power Project, and SFWPA will own, operate and maintain the South Feather Power Project; and

WHEREAS, to enable NCPA to enter into the PPA on behalf of the City of Ukiah and the other participating members (individual referred to as a "Participant", and collectively referred to as the "Participants"), pursuant to the terms and conditions of the Amended and Restated Facilities Agreement, the Third Phase Agreement provides all means necessary for NCPA to fulfill obligations incurred on behalf of NCPA and the Participants pursuant to the PPA, and to enable and obligate the Participants to take delivery of and pay for such electric capacity and energy and to pay NCPA for all costs it incurs for undertaking the foregoing activities.; and

WHEREAS, the Third Phase Agreement specifies the rights and obligations of NCPA and the Participants regarding governance and administration of the PPA, and obligates each Participant to pay for its Project Participation Percentage share of all Project Costs, Administrative Services Costs, scheduling coordination costs, and all other costs related to the PPA; and

WHEREAS, upon full execution of the Third Phase Agreement, NCPA will be authorized to enter into the PPA on behalf of the Participants, and such PPA shall be deemed a NCPA Project by the Commission pursuant to the Amended and Restated Facilities Agreement; and

WHEREAS, SFWPA has agreed to sell to NCPA, and NCPA has agreed to purchase from SFWPA, certain energy, capacity rights and associated environmental attributes produced by the South Feather Power Project for the purchase price set forth in Appendix A of the PPA; and

WHEREAS, NCPA proposes to enter into the PPA to acquire certain energy, capacity rights and environmental attributes produced by the South Feather Power Project on behalf of the Participants. This activity would not result in a physical change to the existing facilities and therefore, would not result in a direct or reasonably foreseeable indirect change to the physical environment. Thus, this activity is not a "project" for purposes of Section 21065 of the California Environmental Quality Act. No environmental review is necessary.

NOW, THEREFORE BE IT RESOLVED, by the City Council of the City of Ukiah, that the Mayor is authorized, on behalf of the City of Ukiah, to enter into the Third Phase Agreement for Power Purchase Agreement with South Feather Water and Power Agency (Third Phase Agreement), including any non-substantial modifications to the Third Phase Agreement.

PASSED AND ADOPTED the 6th day of October 2021, by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Juan V. Orozco, Mayor

ATTEST:

Kristine Lawler, City Clerk



AGENDA SUMMARY REPORT

SUBJECT: Receive Updates on City Council Committee and Ad Hoc Assignments, and, if Necessary, Consider Modifications to Assignments and/or the Creation/Elimination of Ad Hoc(s).

DEPARTMENT: City Clerk

PREPARED BY: Kristine Lawler, City Clerk

PRESENTER: Mayor Orozco and Various Councilmembers

ATTACHMENTS:

1. 2021 City Council Special Assignments

Summary: City Council members will provide reports and updates on their committee and ad hoc assignments. If necessary, the Council may consider modifications.

Background: City Council members are assigned to a number of committees and ad hoc activities. These assignments are included as Attachment 1.

Discussion: Previously, the City Council discussed having more time allocated to reporting on committee and ad hoc activities. Often, the Council Reports section of the regular agenda is rushed due to impending business (i.e., public hearings), and not enough time is afforded for reports beyond community activities.

In an effort to foster regular updates on committee and ad hoc assignments, this item is being placed on the agenda to provide the City Council members an expanded opportunity to report on assignments and modify assignments as necessary.

Recommended Action: Receive report(s). The Council will consider modifications to committee and ad hoc assignments along with the creation/elimination ad hoc(s).

BUDGET AMENDMENT REQUIRED: No

CURRENT BUDGET AMOUNT: N/A

PROPOSED BUDGET AMOUNT: N/A

FINANCING SOURCE: N/A

PREVIOUS CONTRACT/PURCHASE ORDER NO.: N/A

COORDINATED WITH: N/A

Approved: 
Sage Sangiacomo, City Manager

2021 CITY COUNCIL SPECIAL ASSIGNMENTS

COUNTY/REGIONAL OnGoing One + Alternate	MTG DATE/TIME	MEETING LOCATION		MAILING ADDRESS/CONTACT	COMMITTEE FUNCTION	ASSIGNED TO	PRINCIPAL STAFF SUPPORT
Disaster Council	Shall meet a minimum of once a year at a time and place designated upon call of the chair	Place designated upon call of the chair or, if she/he is unavailable or unable to call such meeting, the first vice chair and then the City Manager or her/his designee.		Office of Emergency Management 300 Seminary Ave. Ukiah, CA 95482 467-5765 - Tami Bartolomei	Develop any necessary emergency and mutual aid plans, agreements, ordinances, resolutions, rules, and regulations.	Orozco Duenas- Alternate	Tami Bartolomei, Office of Emergency Management Coordinator; 467-5765 tbartolomei@cityofukiah.com
Greater Ukiah Business & Tourism Alliance	3rd Tuesday of month, 11:30 a.m.	200 S School St. Ukiah, CA 95482		200 S School St. Ukiah, CA 95482	Promotes tourism and works to strengthen and promote the historic downtown and businesses within the greater Ukiah area	Duenas Rodin - Alternate	Shannon Riley, Deputy City Manager; 467-5793 sriley@cityofukiah.com
Mendocino Council of Governments (MCOG)	1st Monday of month, 1:30 p.m.	Board of Supervisors Chambers 501 Low Gap Road Ukiah, CA		Executive Director 367 N. State Street, Ste. 206 Ukiah, CA 95482 463-1859	Plan and allocate State funding, transportation, infrastructure and project County wide	Brown Rodin- Alternate	Tim Eriksen, Public Works Director/City Engineer; 463-6280 teriksen@cityofukiah.com
Mendocino County Inland Water and Power Commission (IWPC)	2nd Thursday of month, 6:00 p.m.	Civic Center 300 Seminary Avenue conference room 5		IWPC Staff P.O. Box 1247 Ukiah, CA 95482 391-7574 - Candace Horsley	Develops coordination for water resources and current water rights: Potter Valley project - Eel River Diversion	Orozco Brown- Alternate	Sean White, Director of Water Resources; 463-5712 swhite@cityofukiah.com
Mendocino Solid Waste Management Authority (MSWMA)	3rd Thursday of every other month (varies), 10:00 a.m.	Willits Council Chambers		Solid Waste Director 3200 Taylor Drive Ukiah, CA 95482 468-9710	County-wide Solid Waste JPA	Brown Duenas- Alternate	Tim Eriksen, Public Works Director/City Engineer; 463-6280 teriksen@cityofukiah.com
Mendocino Transit Authority (MTA) Board of Directors	Last Wednesday of month, 1:30 p.m.	Alternating locations - Ukiah Conference Center or Fort Bragg, or Point Arena		Executive Director 241 Plant Road Ukiah, CA 95482 462-1422	County-wide bus transportation issues and funding	Duenas Orozco - Alternate	Tim Eriksen, Public Works Director/City Engineer; 463-6280 teriksen@cityofukiah.com
North Coast Opportunities (NCO)	4th Wednesday of month, 2 p.m.	Alternating locations - Ukiah and Lakeport		Ross Walker, Governing Board Chair North Coast Opportunities 413 North State Street Ukiah, CA 95482	Assist low income and disadvantaged people to become self reliant	Bartolomei (appointed 12/19/18)	Tami Bartolomei, Community Services Administrator; 467-5765 tbartolomei@cityofukiah.com
North Coast Rail Authority (NCRA)	2nd Wednesday of month, 10:30 a.m.	Various Locations - announced		419 Talmage Road, Suite M Ukiah, CA 95482 463-3280	Provides a unified and revitalized rail infrastructure meeting the freight and passenger needs of the region	Shannon Riley, Deputy City Manager	Shannon Riley, Deputy City Manager; 467-5793 sriley@cityofukiah.com
Russian River Watershed Association (RRWA)	4th Thursday of month, 9:00 a.m. (only 5 times a year)	Windsor Town Hall		Russian River Watershed Association Attn: Daria Isupov 425 South Main St., Sebastopol, CA 95472 508-3670	Consider issues related to Russian river - plans projects and funding requests	Rodin Brown- Alternate	Tim Eriksen, Public Works Director/City Engineer; 463-6280 teriksen@cityofukiah.com
Ukiah Valley Basin Groundwater Sustainability Agency (GSA)	2nd Thursday of month, 1:30 p.m.	Board of Supervisors Chambers; 501 Low Gap Road Ukiah, CA		County Executive Office Nicole French 501 Low Gap Rd., Rm. 1010 Ukiah, CA 95482 463-4441	GSA serves as the Groundwater Sustainability Agency in the Ukiah Valley basin	Crane Duenas- Alternate	Sean White, Director of Water Resources; 463-5712 swhite@cityofukiah.com
COUNTY/REGIONAL One + Staff Alternate	MTG DATE/TIME	MEETING	LOCATION	MAILING ADDRESS/CONTACT	COMMITTEE FUNCTION	ASSIGNED TO	PRINCIPAL STAFF SUPPORT
Economic Development & Financing Corporation (EDFC)	2nd Thursday of month, 2:00 p.m.	Primarily 631 S. Orchard Street (location varies)		Executive Director 631 South Orchard Avenue Ukiah, CA 95482 467-5953	Multi-agency co-op for economic development and business loan program	Riley (appointed 12/19/18)	Shannon Riley, Deputy City Manager; 467-5793 sriley@cityofukiah.com
Sun House Guild ex officio	2nd Tuesday of month, 4:30 p.m.	Sun House 431 S. Main St. Ukiah, CA		431 S. Main Street Ukiah, CA 95482 467-2836	Support and expand Grace Hudson Museum	Orozco Neil Davis- Alternate	David Burton, Museum Director; 467-2836 dburton@cityofukiah.com
Continued - COUNTY/REGIONAL One + Staff Alternate	MTG DATE/TIME	MEETING	LOCATION	MAILING ADDRESS/CONTACT	COMMITTEE FUNCTION	ASSIGNED TO	PRINCIPAL STAFF SUPPORT
Mendocino Youth Project JPA Board of Directors	3rd Wednesday of month, 7:45 a.m.	776 S. State Street Conference Room		Mendocino Co. Youth Project 776 S. State Street, Ste. 107 Ukiah, CA 95482 707-463-4915	Targets all youth with a focus on drug and alcohol prevention, healthy alternatives and empowering youth to make healthy choices	Cedric Crook, Patrol Lieutenant	Cedric Crook, Patrol Lieutenant Nob; 463-6771; ccrook@cityofukiah.com
Northern California Power Agency (NCPA)	4th Thursday of month, 9:00 a.m. (see NCPA calendar)	Roseville, CA and other locations		651 Commerce Drive Roseville, CA 95678 916-781-4202	Pool of public utilities for electric generation and dispatch	Crane Grandi - Alternate	Mel Grandi, Electric Utility Director; 463-6295 mgrandi@cityofukiah.com

2021 CITY COUNCIL SPECIAL ASSIGNMENTS

LOCAL/COUNTY/REGIONAL/LIANS OnGoing One or Two Council and/or Staff	MTG DATE/TIME	LOCATION	MAILING ADDRESS/CONTACT	COMMITTEE FUNCTION	ASSIGNED TO	PRINCIPAL STAFF SUPPORT
Adventist Health Community Advisory Council	Quarterly: Aug. 27, 6:45 a.m. Nov 5, 6:45 a.m.	275 Hospital Drive Ukiah, CA 95482	275 Hospital Drive Ukiah, CA 95482 707-463-7623 Allyne Brown - Allyne.Brown@ah.org	Provides the Adventist Health Ukiah Valley (AHUV) Governing Board and Administration with advice, support, and suggestions on matter of importance to Mendocino, Lake and Sonoma Counties.	Brown Rodin - Alternate	Kristine Lawler , City Clerk; 463-6217 klawler@cityofukiah.com
League of California Cities Redwood Empire Legislative Committee	Prior to Division Meetings, meets 3x in person and then via conference call	Various locations that are announced	Redwood Empire League President; Public Affairs Program Manager (916) 658-8243	Elected city officials and professional city staff attend division meetings throughout the year to share what they are doing and advocate for their interests in Sacramento	Rodin Orozco-Alternate	Sage Sangiacomo , City Manager; 463-6221 ssangiacomo@cityofukiah.com
City Selection Committee	Called as required by the Clerk of the Board	BOS Conference Room 501 Low Gap Rd. Rm. 1090 Ukiah, CA	C/O: BOS 501 Low Gap Rd., Rm 1090 Ukiah, CA 95482 463-4441	Makes appointments to LAFCO and Airport Land Use Commission	Mayor	Kristine Lawler , City Clerk; 463-6217 klawler@cityofukiah.com
Investment Oversight Committee	Varies	Civic Center 300 Seminary Ave. Ukiah, CA 95482	Civic Center 300 Seminary Ave. Ukiah, CA 95482	Reviews City investments, policies, and strategies	Crane Orozco, Alternate Alan Carter, Treasurer	Dan Buffalo , Director of Finance; 463-6220 dbuffalo@cityofukiah.com
Library Advisory Board	3rd Wednesdays of alternate months; 1:00 p.m.	Various Mendocino County Libraries	Ukiah County Library 463-4491	Review library policy and activities	Supervisor Mulheren	Kristine Lawler , City Clerk; 463-6217; klawler@cityofukiah.com
Ukiah Players Theater Board of Directors	3rd Tuesday of month, 6:00 p.m	1041 Low Gap Rd Ukiah, CA 95482 462-1210	1041 Low Gap Rd Ukiah, CA 95482 462-1210	To oversee the activities, organization and purpose of the Ukiah Players Theater	Greg Owen , Airport Manager (appointed 12/19/18)	Kristine Lawler , City Clerk; 463-6217 klawler@cityofukiah.com
Ukiah Unified School District (UUSD) Committee	Quarterly	511 S. Orchard, Ste. D Ukiah, CA 95482	511 S. Orchard Ukiah, CA 95482	Information exchange with UUSD Board Chair, Mayor, Superintendent, and City Manager	Mayor, City Manager and Police Chief	Sage Sangiacomo , City Manager; 463-6221 ssangiacomo@cityofukiah.com
Russian River Flood Control District (RRFCD) Liaison	1st Monday of month, 5:30 p.m.	151 Laws Ave., Suite D Ukiah, CA	151 Laws Ave., Ukiah, CA 95482; rrfc@pacific.net; 462-5278	Proactively manage the water resources of the upper Russian River for the benefit of the people and environment of Mendocino County	White/Orozco	Sean White , Director of Water Resources; 463-5712 swhite@cityofukiah.com
HHS Advisory Board	2nd Wednesday of month; 9:00 a.m.	Big Sur Room County Department of Social Services	Executive Director Jackie Williams - 462-1934 c/o Ford St. Project 139 Ford St. Ukiah CA 95482	Discussions and possible work on health and human service issues	Brown - Liaison	Shannon Riley , Deputy City Manager; 467-5793 sriley@cityofukiah.com
Mendocino County Local Area Formation Commission (LAFCO)	1st Monday of month, 9:00 a.m.	Board of Supervisors Chambers	Executive Director 200 S. School Street, Ste. 2 Ukiah, CA 95482 463-4470	Required by legislation - planning spheres of influence, annexation, service areas, and special districts	(positions not active) Crane Rodin	Craig Schlatter , Director of Community Development; 463-6219; cscchlatter@cityofukiah.com
Mendocino County Airport Land Use Commission	As needed	BOS Conference Room 501 Low Gap Rd., Rm. 1090, Ukiah, CA	Mendocino County Executive Office 501 Low Gap Rd. Rm. 1010 Ukiah, CA 95482	To formulate a land use compatibility plan, provide for the orderly growth of the airport and the surrounding area, and safeguard the general welfare of the inhabitants within the vicinity	Owen/Schlatter	Greg Owen , Airport Manager; 467-2855; gowen@cityofukiah.com Craig Schlatter , Director of Community Development; 463-6219; cscchlatter@cityofukiah.com
Mendocino County 1st District Liaison	Monthly; TBD	Civic Center Annex conference room #5 411 West Clay St. Ukiah, CA 95482	Civic Center 300 Seminary Ave. Ukiah, CA 95482	To coordinate activities and policy development with the City's 1st District Supervisor	Brown Crane- Alternate	Sage Sangiacomo , City Manager; 463-6221; ssangiacomo@cityofukiah.com
Mendocino County 2nd District Liaison	1st Wednesdays of month, 8:00 a.m.	Civic Center Annex conference room #5 411 West Clay St. Ukiah, CA 95482	Civic Center 300 Seminary Ave. Ukiah, CA 95482	To coordinate activities and policy development with the County's 2nd District Supervisor	Brown	Shannon Riley , Deputy City Manager; 467-5793 sriley@cityofukiah.com
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Fire Executive Committee	2nd Wednesdays of month, 3:45 p.m.	Ukiah Valley Conference Center, 200 S. School Street Ukiah, CA	Stephanie Abba Civic Center 300 Seminary Ave. Ukiah, CA 95482 sabba@cityofukiah.com	Per the recently adopted agreement between the City of Ukiah and the Ukiah Valley Fire Protection District	Orozco/Brown	Doug Hutchison , Fire Chief; 463-6263; dhutchison@cityofukiah.com
STANDING COMMITTEES	MTG DATE/TIME	LOCATION	MAILING ADDRESS/CONTACT	COMMITTEE FUNCTION	ASSIGNED TO	PRINCIPAL STAFF SUPPORT
Equity and Diversity	TBD	Virtual Meeting Room (link to be created)	Civic Center 300 Seminary Ave. Ukiah, CA 95482	Improve diversity and equity in the City's workforce and municipal services	Orozco/Duenas	Traci Boyl , City Manager's Office Management Analyst; 467-5720 tboyl@cityofukiah.com

2021 AD HOC COMMITTEES		
COMMITTEE	ASSIGNED TO	PRINCIPAL STAFF SUPPORT
Electric Grid Operational Improvements	Crane/Orozco	Mel Grandi, Electric Utility Director; 463-6295 mgrandi@cityofukiah.com
Trench Cut Policy Development	Crane/Brown	Tim Eriksen, Public Works Director/City Engineer; 463-6280 teriksen@cityofukiah.com
Budget Development Best Practices and Financial Policy For FY 21/22 Budget	Crane/Brown	Dan Buffalo, Director of Finance; 463-6220 dbuffalo@cityofukiah.com Sheri Mannion, Human Resource Director/Risk Manager; 463-6272, smannion@cityofukiah.com
Advance Planning & Policy for Sphere of Influence (SOI), Municipal Service Review (MSR), Annexation, Tax Sharing, Detachment, and Out of Area Service Agreements	Crane/Rodin	Sage Sangiacomo, City Manager 463-6221 ssangiacomo@cityofukiah.com Shannon Riley, Deputy City Manager 467-5793 sriley@cityofukiah.com Craig Schlatter, Community Development Director 463-6219 cschlatter@cityofukiah.com Sean White, Director of Water Resources; 463-5712 swhite@cityofukiah.com Tim Eriksen, Public Works Director/City Engineer; 463-6280 teriksen@cityofukiah.com Mel Grandi, Electric Utility Director; 463-6295 mgrandi@cityofukiah.com Dan Buffalo, Director of Finance; 463-6220 dbuffalo@cityofukiah.com
2021 Electric Rate Study	Crane/Duenas	Mel Grandi, Electric Utility Director; 463-6295 mgrandi@cityofukiah.com
Housing Element and Implementation Review	Rodin/Orozco	Craig Schlatter, Community Development Director 463-6219 cschlatter@cityofukiah.com
Planning Commissioner Appointment Process	Crane/Rodin	Craig Schlatter, Community Development Director 463-6219 cschlatter@cityofukiah.com Darcy Vaughn, Assistant City Attorney 462-6846 dvaughn@cityofukiah.onmicrosoft.com
UVSD/ City Relations <i>Ad hoc committee to address specific issues with the Ukiah Valley Sanitation District, including discussion of overall sewer system service delivery policies, operating policy revisions, potential revisions to the current Operating Agreement, and cost sharing</i>	Crane/Brown	Dan Buffalo, Director of Finance; 463-6220 dbuffalo@cityofukiah.com Sean White, Water Resources Director 463-5712 swhite@cityofukiah.com
Upper Russian River Water Agency/City Relations	Crane/Brown	Sean White, Director of Water Resources; 463-5712 swhite@cityofukiah.com