

**REGULAR MEETING OF THE SONOMA CITY COUNCIL
&
CONCURRENT REGULAR MEETING OF SONOMA CITY COUNCIL AS THE
SUCCESSOR AGENCY TO THE DISSOLVED SONOMA COMMUNITY
DEVELOPMENT AGENCY**



Community Meeting Room, 177 First Street West

Monday, September 17, 2012

6:00 p.m.

AGENDA

City Council
Joanne Sanders, Mayor
Ken Brown, Mayor Pro Tem
Steve Barbose
Laurie Gallian
Tom Rouse

Be Courteous - **TURN OFF** your cell phones and pagers while the meeting is in session.

OPENING

CALL TO ORDER & PLEDGE OF ALLEGIANCE
ROLL CALL (Brown, Gallian, Barbose, Rouse, Sanders)
REPORT ON CLOSED SESSION

1. COMMENTS FROM THE PUBLIC

At this time, members of the public may comment on any item not appearing on the agenda. It is recommended that you keep your comments to three minutes or less. Under State Law, matters presented under this item cannot be discussed or acted upon by the City Council at this time. For items appearing on the agenda, the public will be invited to make comments at the time the item comes up for Council consideration. Upon being acknowledged by the Mayor, please step to the podium and speak into the microphone. Begin by stating and spelling your name.

2. COUNCILMEMBERS' COMMENTS AND ANNOUNCEMENTS

Item 2A: Councilmembers' Comments and Announcements

3. CITY MANAGER COMMENTS AND ANNOUNCEMENTS INCLUDING ANNOUNCEMENTS FROM SUCCESSOR AGENCY STAFF

4. PRESENTATIONS

Item 4A: Rob Wilson Day Proclamation

5. CONSENT CALENDAR/AGENDA ORDER – CITY COUNCIL

All items listed on the Consent Calendar are considered to be routine and will be acted upon by a single motion. There will be no separate discussion of these items unless members of the Council, staff, or public request specific items to be removed for separate action. At this time Council may decide to change the order of the agenda.

Item 5A: Waive Further reading and Authorize Introduction and/or Adoption of Ordinances by Title Only. (Standard procedural action - no backup information provided)

Item 5B: Request by Sonoma Valley High School Music Program for City-subsidized use of the Sonoma Valley Veterans Memorial Building on February 3, 2013.
Staff Recommendation: Approve the request subject to applicant's compliance with the City's standard insurance requirements.

5. CONSENT CALENDAR/AGENDA ORDER – CITY COUNCIL, Continued

- Item 5C:** **Award of Bid for the Bond House and Barn Demolition Project to Central Valley Environmental of Rohnert Park in the amount of \$36,000.**
Staff Recommendation: Staff recommends that the City Council accept and award the bid for the 2012 Bond House and Barn Demolition Project to the low bidder, Central Valley Environmental of Rohnert Park, for the bid amount of \$36,000 and authorize the City Manager to execute a contract for construction.
- Item 5D:** **Renewal of Lease for Valley of the Moon Nursery School - 136 Mission Terrace.**
Staff Recommendation: Authorize the Mayor to execute the revised lease for the premises located at 136 Mission Terrace for use by the Valley of the Moon Nursery School.
- Item 5E:** **Adopt resolution approving the Subdivision Improvement Agreement and Parcel Map No. 154 for the Artlee Subdivision Located at 20144 Fifth Street East.**
Staff Recommendation: Adopt resolution approving the Subdivision Improvement Agreement subject to submission of requisite bonds and securities and authorize the City Manager to sign on behalf of the City and the Parcel Map.
- Item 5F:** **Approval of Plein Air Special Event Banner on Horseshoe Lawn promoting “Plein Air 10th Anniversary” event October 6, 2012.**
Staff Recommendation: Approve CSEC request allow placement of Banner on Plaza Horseshoe for October 6, 2012.
- Item 5G:** **Adoption of a resolution distributing growth management allocations for the 2012-13 development year.**
Staff Recommendation: Adopt resolution distributing growth management allocations.

**6. CONSENT CALENDAR/AGENDA ORDER – CITY COUNCIL AS SUCCESSOR AGENCY –
No items**

7. PUBLIC HEARING

- Item 7A:** **Discussion, consideration and possible action on acceptance of 2012 Water Rate Study update and adoption of a 5-year plan for water rate increases.** (Public Works Director)
Staff Recommendation: Accept updated data from the 2012 Nelson Water Rate Study and authorize the 5-year plan to implement water rate increases of 5% per year for 2013-2018. Rate increases to be effective on February 1st of each year.

8. REGULAR CALENDAR – CITY COUNCIL

(Matters requiring discussion and/or action by the Council)

- Item 8A:** **Approve Cemetery Subcommittee recommendation to move forward with the construction of 16 pre-lined graves and 32 cremains at the Veterans Memorial Park Cemetery and authorize \$40,000 from the General Fund Special Projects Reserve. Additionally approve to fund an analysis on future build out of remaining Veterans Cemetery areas including engineering and hydrology.** (Public Works Director)

Staff Recommendation: (1) Approve Cemetery Sub-Committees recommendation to move forward with Option B and begin immediate construction on 16 graves and 32 cremains. Authorize expenditure of \$40,000 from the General Fund Special Projects Reserve. (2) Direct staff to [1] begin analysis on future build out of remaining Veteran's cemetery areas including hydrology and engineering; [2] appropriate funding to complete needed studies [estimate \$20,000] from the General Fund Special Projects Reserve and [3] determine if any information contained in the prior 2005 Cemetery Master Plan can be updated for use in determining the future of the Sonoma cemeteries thereby avoiding future conflicts with the public on the development of the Veteran's cemetery. Absent putting a long-term plan in place, the City will continue to endure issues related to operating in a deficit, inventory and development.

Item 8B: Discussion, consideration and possible action on a request by Veterans of Foreign Wars for permission to operate a helicopter from the Field of Dreams in conjunction with the "Cost of Freedom Tribute" (November 7-11, 2012). (Planning Director)
Staff Recommendation: Council Discretion.

9. REGULAR CALENDAR – CITY COUNCIL AS THE SUCCESSOR AGENCY – No items

10. COUNCILMEMBERS' REPORTS AND FINAL REMARKS

Item 10A: Reports Regarding Committee Activities.

Item 10B: Final Councilmembers' Remarks.

11. COMMENTS FROM THE PUBLIC

12. ADJOURNMENT

I do hereby certify that a copy of the foregoing agenda was posted on the City Hall bulletin board on September 11, 2012. GAY JOHANN, CITY CLERK

Copies of all staff reports and documents subject to disclosure that relate to any item of business referred to on the agenda are normally available for public inspection the Wednesday before each regularly scheduled meeting at City Hall, located at No. 1 The Plaza, Sonoma CA. Any documents subject to disclosure that are provided to all, or a majority of all, of the members of the City Council regarding any item on this agenda after the agenda has been distributed will be made available for inspection at the City Clerk's office, No. 1 The Plaza, Sonoma CA during regular business hours.

If you challenge the action of the City Council in court, you may be limited to raising only those issues you or someone else raised at the public hearing described on the agenda, or in written correspondence delivered to the City Clerk, at or prior to the public hearing.

In accordance with the Americans With Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk (707) 933-2216. Notification 48-hours before the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.



City of Sonoma
City Council
Agenda Item Summary

City Council Agenda Item: 4A

Meeting Date: 09/17/2012

Department

Administration

Staff Contact

Gay Johann, City Clerk

Agenda Item Title

Proclamation declaring September 17, 2012 Rob Wilson Day.

Summary

Mayor Sanders will declare September 17, 2012 Rob Wilson Day to recognize all that he has done and continues to do for the youth of our community.

Recommended Council Action

Mayor Sanders to present the proclamation to Mr. Wilson.

Alternative Actions

Council discretion

Financial Impact

n/a

Environmental Review

- Environmental Impact Report
- Negative Declaration
- Exempt
- Not Applicable

Status

- Approved/Certified
- No Action Required
- Action Requested

Attachments:

1. Proclamation

Copy to: Rob Wilson - via email

City of Sonoma



Proclamation

ROB WILSON DAY

Whereas, Rob Wilson has devoted much time and energy toward the betterment of the people of his community – particularly the young people; and

Whereas, it was out of Rob's concern for the lack of activities geared toward non-team sports and his passion for board sports that the Sonoma Old School Skate & Surf (SOS) shop was born in 2006; and

Whereas, through SOS Rob has encouraged youth to improve their skate skills and has sponsored local skaters in competitive events; and

Whereas, upon hearing that the City had been forced to close the Macdougald Skateboard Park a couple of times in 2010 due to excessive vandalism and rider violations; Rob stepped forward and volunteered to adopt the park; and

Whereas, since that time Rob has continued to monitor the use of the park, and assisted with cleanup of debris and graffiti; and

Whereas, Rob Wilson has been an excellent role model for the youth at the park encouraging them to wear their helmets and other safety gear.

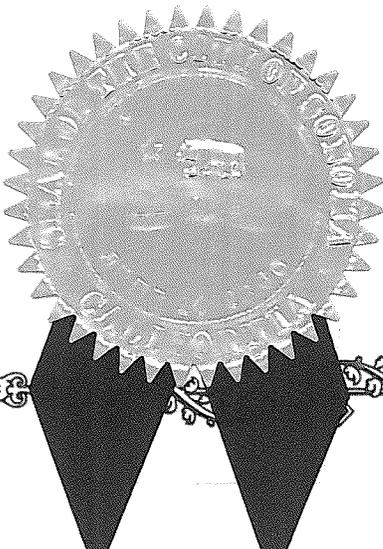
NOW, THEREFORE, I, Joanne Sanders, Mayor of the City of Sonoma, do hereby proclaim September 17, 2012

ROB WILSON DAY

in the City of Sonoma and express the sincere appreciation of the City Council to him for all that he has done and continues to do for the youth of our community.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Sonoma to be affixed this 17th day of September 2012.

Joanne Sanders, Mayor





City of Sonoma
City Council
Agenda Item Summary

City Council Agenda Item: 5B

Meeting Date: 09/17/2012

Department

Administration

Staff Contact

Gay Johann, City Clerk

Agenda Item Title

Request by Sonoma Valley High School Music Program for City-subsidized use of the Sonoma Valley Veterans Memorial Building on February 3, 2013.

Summary

In 1991, the City entered into a Development and Use Agreement with Sonoma County to undertake a major renovation of the Sonoma Valley Veterans Memorial Building. The agreement also provided that the City would pay the County \$10,000 annually to offset operational expenses and in return the City would be allowed use of the facility up to twenty times per fiscal year. Through the years, the City developed a program whereby many, if not all, the City's allocated days were assigned to local students and non-profit or charitable organizations. In June 2010, the City Council approved a three-year extension of the agreement.

The Sonoma Valley High School Music Program requested City-subsidized use of the Veteran's Building on February 3, 2013 for their annual Pancake Breakfast fundraiser.

If this request is approved, the City will have three rent-subsidized days remaining for the fiscal year ending June 30, 2013.

Recommended Council Action

Approve the request subject to applicant's compliance with the City's standard insurance requirements.

Alternative Actions

- 1) Delay action pending receipt of additional information.
 - 2) Deny the request.
-

Financial Impact

The City pays \$10,000 annually to the County in return for the use of the Veteran's Building for twenty days throughout the year. The value of each City-subsidized day provided to an outside organization is \$500.

Environmental Review

- Environmental Impact Report
- Negative Declaration
- Exempt
- Not Applicable

Status

- Approved/Certified
 - No Action Required
 - Action Requested
-

Attachments:

Request from Anastasia Encarnacion

cc: Ms. Encarnacion, via email

August 24, 2012

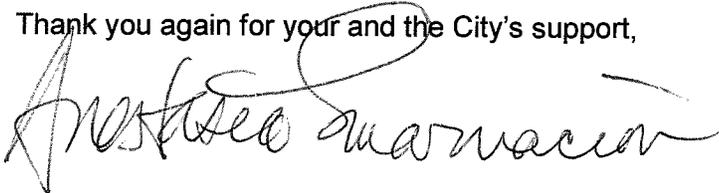
Ms. Gay Johann
Sonoma City Clerk
1 The Plaza,
Sonoma, CA

Dear Ms. Johann,

The Sonoma Valley High School Music Program requests a "Free Day" at the Sonoma Veteran's Hall from the City of Sonoma. February 3rd, 2013 marks the date of our 4th Annual Pancake Breakfast fundraiser, which will benefit the SVHS youths taking part in our choir and band program. There are 6 groups in all: 3 choirs and 3 bands. Thank you for providing "Free Days" to Valley organizations, especially those that benefit our youth!

I have already made a tentative reservation (and paid for it) with the Sonoma County Veteran's Memorial Buildings. I do not see that Raquel sent me the reservation yet on my email account. I will call her Monday, if I don't see it in my inbox by then and I will get the reservation to you as soon as I have it in my hands! If you have any questions of me, Anastasia Encarnacion, Pancake Breakfast chair, you can email me at: anastasiae1@hotmail.com. If you prefer to call me, you can contact me at: H#939-6709 or C# 235-0272. If I am not there, please leave a message as to what time is most convenient for me to contact you. If you have questions of the county please contact Raquel at 565-2041 until September 4th, 2012 when our Vet's Building will be staffed by Raquel at: 938-4105.

Thank you again for your and the City's support,



Anastasia Encarnacion,

Chair SVHS Music Department

2013 4th Annual Pancake Breakfast Fundraiser



City of Sonoma
City Council
Agenda Item Summary

City Council Agenda Item: 5C

Meeting Date: 9/17/12

Department

Building

Staff Contact

Wayne Wirick, Development Services Director/Building Official

Agenda Item Title

Award of Bid for the Bond House and Barn Demolition Project to Central Valley Environmental of Rohnert Park in the amount of \$36,000.

Summary

The existing substandard Bond house and barn located at 19990 Seventh Street East are owned by the City and need to be abated. The historic structure report prepared for the property in 2008 concluded that the structures are not considered to have historic significance and lack the necessary criteria to be listed in the California Register of Historical Resources. In September of 2010, a hazardous materials assessment found that flooring, roofing and drywall texture materials within the dwelling have asbestos-containing material and that interior and exterior surfaces of both the barn and the dwelling contain lead-based paint. The City's Facilities Committee and staff subsequently evaluated the options for mitigating the substandard conditions and concluded that the buildings should be demolished.

On October 3, 2011 the City Council authorized the filing of a demolition permit with the Design Review Commission (DRC) and authorized the preparation of plans and specifications and solicitation of bids for the demolition of the Bond house and barn. On November 11, 2011, the Council reconsidered the item and upheld their prior approval.

On November 15, 2011, the DRC approved the demolition permit application of the Bond house and barn.

In February of 2012, the Sonoma Ecology Center (SEC) requested that the City consider allowing the SEC to make the needed structural repairs to the Bond barn so that the SEC could use the building for dry storage for the Sonoma Garden Park. In May of 2012, the SEC withdrew their request citing the lack of financial resources to complete the required structural analysis and necessary repairs for the Bond barn.

On September 6, 2012 the City received and opened 3 bids for the hazardous materials abatement and demolition of the Bond house and barn with bids as follows:

Contractor	Base Bid
Central Valley Environmental	\$36,000.00
W. C. Maloney, Inc.	\$83,800.00
West Coast Environmental	\$86,500.00

Recommended Council Action

Staff recommends that the City Council accept and award the bid for the 2012 Bond House and Barn Demolition Project to the low bidder, Central Valley Environmental of Rohnert Park, for the bid amount of \$36,000 and authorize the City Manager to execute a contract for construction.

Alternative Actions

Reject all bids and re-bid project.

Financial Impact

The estimate of probable costs for the project is \$60,000. The funding source for this project is the City's Long Term Building Maintenance Fund.

Environmental Review

- Environmental Impact Report
- Negative Declaration
- Exempt
- Not Applicable

Status

- Approved/Certified
- No Action Required
- Action Requested

Attachments:

cc:

- Richard Dale, Sonoma Ecology Center (via e-mail)
 - Sonoma League for Historic Preservation (via e-mail)
-
-



City of Sonoma
City Council
Agenda Item Summary

City Council Agenda Item: 5D

Meeting Date: 9/17/12

Department

Building

Staff Contact

Wayne Wirick, Development Services Director / Building Official

Agenda Item Title

Renewal of Lease for Valley of the Moon Nursery School - 136 Mission Terrace

Summary

On August 30, 2011, the five-year lease with the Valley of the Moon Nursery School for the property at located at 136 Mission Terrace expired and the school has requested that the lease be renewed. On January, 24, 2012, the City's Facilities Committee requested that the lease be redrafted to shift all maintenance responsibilities to the tenant. The Building Department subsequently inspected the building and identified a number of code deficiencies that need to be mitigated for the long-term continued use of the building.

In April of this year, City staff met with representatives from the school to discuss and arrive at consensus regarding the terms of the proposed revised lease. The term for the revised lease is 2 years beginning on October 1, 2012 with an automatic 5 year extension if all tenant responsibility corrective work is completed by October 1, 2014. All maintenance responsibility pertaining to the leased area has been shifted to the tenant. The monthly lease rate is maintained consistent with the old lease at \$622.43 per month and is adjusted annually according to the Consumer Price Index (CPI) for All Urban Consumers for the San Francisco Bay Area.

Recommended Council Action

Authorize the Mayor to execute the revised lease for the premises located at 136 Mission Terrace for use by the Valley of the Moon Nursery School.

Alternative Actions

1. Provide direction to staff to further revise the terms of the proposed lease.
 2. Do not renew the lease with the Valley of the Moon Nursery School and provide direction to staff regarding the use of the premises.
-

Financial Impact

The proposed lease will eliminate the annual ongoing costs (approximately \$9,000 per year) to the City's general fund for long-term and as-needed building maintenance. However, the one-time capital costs to mitigate certain Americans with Disabilities Act (ADA) compliance issues and other code deficiencies that are the City's responsibility to repair will likely be at least \$70,000. This cost is currently budgeted in the 2012/13 Long-Term Building Maintenance Fund.

Environmental Review

- Environmental Impact Report
- Negative Declaration
- Exempt
- Not Applicable

Status

- Approved/Certified
 - No Action Required
 - Action Requested
-

Attachments:

Supplemental Report - Renewal of Lease for Valley of the Moon Nursery School - 136 Mission Terrace

cc:

Robyn and Rosemary Lely (Valley of the Moon Nursery School) (via e-mail)

SUPPLEMENTAL REPORT

Renewal of Lease for Valley of the Moon Nursery School - 136 Mission Terrace

For the City Council Meeting of September 17, 2012

BACKGROUND

On August 30, 2011, the five-year lease with the Valley of the Moon Nursery School for the property at located at 136 Mission Terrace expired (see Attachment 1). The school has requested that the lease be renewed.

At the request of City Manager Kelly, the Building Department conducted an inspection of the premises for the purpose of identifying building code deficiencies so that if deficiencies existed, they could be addressed as part of the lease renewal process. The subsequent inspection and Building Survey Report dated March 1, 2012, (see Attachment 2 – Exhibit B) identified a number of deficiencies that need to be mitigated for the continued long-term use of the building.

On March 8, 2012, the City's Facilities Committee recommended that City staff meet with representatives from the school to discuss the mitigation of the code deficiencies and also recommended that the lease be redrafted to shift maintenance responsibilities from the City to the school.

On April 13, 2012, City staff met with Robyn and Rosemary Lely (representatives from the nursery school) and discussed the shifting of maintenance responsibilities to the school, how the code deficiencies should be addressed and other revised terms of the proposed lease.

The proposed revised lease (see Attachment 2) was subsequently reviewed by the tenant and the City Attorney's office.

SYNOPSIS

The following are some of the highlights of the proposed revised lease:

1. The lease term is for 2 years (October 1, 2012 – September 30, 2014).
2. The lease is automatically extended to August 31, 2019 if all tenant responsibility corrective work is completed and approved by the City by October 1, 2014.
3. City and tenant responsibilities for the mitigation of the existing code deficiencies have been identified and enumerated in the proposed lease.
4. The leased area has been clarified to exclude the use of, access to and responsibility for the City well pump room by the school.
5. All maintenance responsibility pertaining to the leased area has been shifted to the tenant.
6. Insurance provisions have been updated to meet City insurance standards.
7. The monthly lease rate is maintained consistent with the old lease at \$622.43 per month and is adjusted annually according to the Consumer Price Index (CPI-U) for All Urban Consumers for the San Francisco Bay Area.

FINANCIAL IMPACT

The proposed lease will eliminate the annual ongoing costs (approximately \$9,000 per year) to the City's general fund for long-term and as-needed building maintenance. However, the one-time capital costs to mitigate the current Americans with Disabilities Act (ADA) and other code deficiencies that are the City's responsibility to repair will likely be at least \$70,000. This cost is currently budgeted in the 2012/13 Long-Term Building Maintenance Fund.

RECOMMENDATION

Authorize the Mayor to execute the revised lease for the premises located at 136 Mission Terrace for use by the Valley of the Moon Nursery School.

ALTERNATIVES

1. Provide direction to staff to further revise the terms of the proposed lease.
2. Do not renew the lease with the Valley of the Moon Nursery School and provide direction to staff regarding the use of the premises.

ATTACHMENTS

- Attachment 1 (Expired Lease Agreement with VOM Nursery School)
- Attachment 2 (Proposed Lease Agreement with VOM Nursery School)

cc: Robyn and Rosemary Lely (Valley of the Moon Nursery School)

LEASE AGREEMENT

1. It is agreed by and between the City of Sonoma, a Municipal Corporation in the County of Sonoma, State of California (hereinafter "CITY") and the Valley of the Moon Nursery School, a non-profit organization, (hereinafter "SCHOOL") as follows:
2. PREMISES DEFINED. For the purposes of this Lease, "Premises" shall mean the land and all improvements, including structures and any future improvements to the land or to the buildings and any fixtures, equipment, casework or other appurtenance affixed to or maintained on the land or the building located at 136 Mission Terrace, Sonoma, California except that portion of the building, including the walls, door, floor, ceiling finishes, equipment, piping, pumps, wiring and other apparatus contained within or a part of the "Well Pump Room" as further described in Exhibit A.
3. TERM. CITY shall Lease to SCHOOL the Premises, for a term of two (2) years, commencing October 1, 2012. The term of this LEASE shall automatically be extended by an additional five (5) years if SCHOOL completes the maintenance improvements described in paragraph 11.C below no later than October 1, 2014 to the complete satisfaction of the City Building Official. Completion of the maintenance improvements shall be verified and documented in writing by the City Building Official.
4. CONSIDERATION. SCHOOL shall pay to CITY Six-Hundred Twenty-Two Dollars and Forty-Three Cents (\$622.43) per month beginning October 1, 2012 and a like amount on the first day of each month thereafter as rent for the first year of the Lease. The rent in subsequent years shall be increased beginning on the anniversary date of the commencement of the Lease by a percentage equal to the June annual change in the Consumer Price Index (CPI-U) for All Urban Consumers for the San Francisco Bay Area as determined by the United States Department of Labor, but in no case greater than five percent (5%) per annum. All monthly payments shall be due and payable on the 1st day of each month.
5. USE. The Premises are leased to the SCHOOL for the sole purpose of conducting a preschool thereon. Parties agree that the CITY may use the Premises in the event of a declared local disaster or civil emergency so long as the use does not unreasonably interfere with the intended use by SCHOOL.
6. ENTRY BY CITY. SCHOOL shall permit CITY and its agents to enter into and upon Premises at all reasonable times for the purpose of inspecting the Premises to determine compliance with the terms of this Lease or for maintaining, repairing, altering or adding to the Premises or the Well Pump Room or the equipment, components or parts therein.
7. UTILITIES. SCHOOL shall pay for all utilities, including, but not limited to, water, telephone, gas, electricity, television, data and sewer service except CITY shall pay separately metered electrical utility costs to run pumps and equipment located in the Well Pump Room.
8. PROPERTY TAX ASSESSMENTS. SCHOOL shall pay directly to the Sonoma County Tax Collector all property tax assessments, if any be imposed on the Premises as a result of SCHOOL's use of the Premises. SCHOOL recognizes and understands that this Lease may create a possessory interest subject to property taxation and that SCHOOL may be subject to payment of property taxes levied on such interest. SCHOOL agrees to promptly pay any such tax.

9. GARBAGE AND RECYCLING. SCHOOL shall pay for the cost and expense of the proper and legal disposal of all garbage removal and for the recycling of recyclable waste materials generated during its use and operation of the facility.

10. CONDITION OF PREMISES. SCHOOL accepts the Premises in “as is” condition with all of their faults and defects and as being in the condition in which CITY is obligated to deliver the Premises except those code deficiencies that are identified and listed as Corrective Work Required by City in the Building Survey Report dated January 25, 2012 and attached hereto as Exhibit B. SCHOOL waives all rights to make repairs at the expense of CITY or instead to vacate the Premises, and SCHOOL further waives the provisions of Civil Code sections 1941 and 1942 with respect to CITY's obligations under this Lease. CITY has no obligation and has made no promise to alter, remodel, improve, repair, decorate, or paint the Premises or any part of them, except as specifically set forth in this Lease.

11. MAINTENANCE AND REPAIRS.

A. SCHOOL, at its own expense, shall keep the Premises in clean, safe and sanitary condition to the satisfaction of the CITY. Except as otherwise provided in paragraph 11.D. below, SCHOOL, at its own expense, shall maintain and repair as necessary the Premises or portions thereof including those improvements, fixtures, appliances, components, piping, wiring, parts, equipment and apparatus located on or made a part of the Premises in a good and safe operating condition. SCHOOL, at its own expense, shall repair any breakage of glass and shall maintain doors and windows in good and securable operating condition. SCHOOL shall furnish and maintain all necessary materials and supplies, including light bulbs, filters, paper goods, soap, fire extinguishers, flags and other supplies and components designed to be replaced or as may be necessary to keep the Premises in good and safe operating order for its intended purpose. SCHOOL shall be responsible for any necessary or desirable cleaning, washing, painting, decorative finishes or other similar treatment or supplies needed to maintain cleanliness or aesthetics in the interior or exterior of the building. SCHOOL shall obtain, at its own cost and expense, any required building or other permits or approvals for maintenance or repair work as required by law or City ordinances.

B. SCHOOL shall not be responsible for repair or maintenance of the Well Pump Room or the apparatus contained therein. CITY, at its own expense, shall keep the Well Pump Room in good repair and in a safe, secure, clean and sanitary condition for its intended use. SCHOOL shall not be responsible for costs to repair damage to the Premises resulting from water originating from the City well apparatus located within or under the Well Pump Room.

C. Not later than October 1, 2014, SCHOOL, at its own expense, shall correct all code deficiencies that are identified and listed as Corrective Work Required by Tenant in the Building Survey Report dated January 25, 2012 and attached hereto as Exhibit B, except item 23, which shall become the responsibility of the CITY to correct as further described in paragraph 11.D.ii) herein.

D. Not later than October 1, 2014, CITY, at its own expense, shall:

i) Correct all code deficiencies that are identified and listed as Corrective Work Required by City in the Building Survey Report dated January 25, 2012 and

attached hereto as Exhibit B. Upon completion of the corrective work required to be performed by CITY, SCHOOL shall be responsible for maintenance of such facilities and for the performance of all necessary repairs to assure compliance with applicable codes and City requirements; and

ii) Relocate or replace and relocate the existing water heater located within Well Pump Room and the serving the Premises so as to be accessible for maintenance by SCHOOL.

12. LANDSCAPE MAINTENANCE. SCHOOL, at its own expense, shall maintain in good working order all landscaping irrigation systems. SCHOOL, at its own expense, shall maintain all yards, landscaping, roof gutters, roof drains, walkways, public sidewalk, driveway approaches and parking lot on the Premises in a good, clean and sanitary condition. SCHOOL shall, at its own expense, maintain the landscaping in a viable, thriving, and visually aesthetic condition, and shall promptly replace landscaping improvements that die or are not viable or thriving.

13. ALTERATIONS AND ADDITIONS.

A. SCHOOL shall not make, or cause to be made, any structural alterations or additions to the Premises, or any part thereof, without the prior written consent of CITY. Any additions to, or alterations of, the Premises, except movable furniture, play equipment, freestanding shelving, casework and trade fixtures, shall become at once a part of the realty and belong to the CITY. Upon the termination of this Lease, SCHOOL shall remove such furniture, play equipment, freestanding shelving, casework and trade fixtures as may have been installed by SCHOOL during the term of this Lease and shall repair or replace any areas damaged by such installation or removal to its original conditions, subject to reasonable wear and tear only. Any such fixtures or furnishings not removed within five (5) calendar days of the termination of the Lease shall become at once a part of the realty and belong to the CITY. SCHOOL shall keep the demised Premises and the property in which the demised Premises are situated free from any liens arising out of any work performed, material furnished or obligations incurred by SCHOOL, including but not limited to mechanic's, materialmen's, contractor's or subcontractor's liens. SCHOOL shall obtain, at its own cost and expense, any required building or other permits or approvals for addition or alteration work as required by law.

14. COMPLIANCE WITH APPLICABLE LAWS.

A. SCHOOL shall comply with all applicable state and federal laws, ordinances, rules and orders of the City of Sonoma, County of Sonoma, State of California, or other authorities pertaining to the operation of a nursery school, including but not limited to the licensing, cleanliness, occupancy and maintenance of the demised Premises.

B. CITY, at its own cost and expense, shall be responsible for the following upgrades to comply with the Americans with Disabilities Act ("ADA"):

i) The accessible path of travel, including exterior walkways, exterior stairways, exterior ramps, curb cuts and exterior signage, from the public way and the accessible parking space(s) to the primary entrance (front door) of the building,

ii) The public sidewalk in front the Premises on Mission Terrace.

iii) The required number of accessible vehicular parking spaces and associated signage as required by the ADA.

iv) Once the upgrades are completed by the CITY, SCHOOL shall be solely responsible for maintenance of the items identified in subparagraphs (i) through (iii) above.

C. SCHOOL, at its own cost and expense, shall make and maintain the program, services and activities provided by SCHOOL or made available to the public, accessible to individuals with disabilities in accordance with the applicable provisions of Title II and Title III of the ADA. SCHOOL shall be responsible for upgrades to furnishings, fixtures, equipment, computers, playground, playground equipment, shelving, structures, restrooms, doors, door hardware, walls, floors, drinking fountains, railings, controls, alarms, notification devices, interior signage, interior appurtenances and paths of travel on the Premises not otherwise designated as the CITY'S responsibility in section 11.D and that are required by law to comply with applicable provisions of the ADA. SCHOOL shall consult with CITY and obtain CITY's written consent, before making any renovations to the interior of the building that would trigger any required ADA upgrades or renovations.

15. PREMISES ARE DAMAGED OR DESTROYED. If the Premises are damaged or destroyed by any cause whatsoever, SCHOOL shall not be entitled to any compensation or damages from CITY for loss of use of the whole or any part of the Premises, from being displaced from the Premises either temporarily or permanently, for SCHOOL's personal property or for any inconvenience or annoyance occasioned by such damage, repair, reconstruction or restoration of the Premises. In addition, CITY may, at its sole discretion:

A. terminate the Lease, in which case the CITY shall have the right to receive all insurance proceeds, including insurance owned by and payable to the SCHOOL, excepting any insurance proceeds specifically for SCHOOL relocation or personal property owned by the SCHOOL; or

B. rebuild the Premises so destroyed or damaged similar to the building or portion thereof so damaged and destroyed, in which case the CITY shall have the right to receive all insurance proceeds, including insurance owned by and payable to the SCHOOL, excepting any insurance proceeds specifically for SCHOOL relocation or personal property owned by the SCHOOL; or

C. agree that the SCHOOL, at its own cost and expense, promptly repair and restore the same to a building substantially similar or better than the building or portion thereof damaged or destroyed. Without limiting such obligation of SCHOOL, it is agreed that the proceeds of any insurance, including insurance owned by and payable to the CITY, covering the damage or destruction shall be made available to SCHOOL for such repair or replacement. However, in the case of destruction of the building, or damage thereto from any cause so as to make it untenable, SCHOOL may elect to terminate this Lease by written notice served on CITY within ninety (90) days after the occurrence of such damage or destruction. In the event of such termination, there shall be no obligation on the part of SCHOOL to repair or restore the building and improvements, but in such event, CITY shall be entitled to all of the insurance proceeds collected under any

insurance policies covering said building or any part thereof, including insurance owned and payable to the SCHOOL.

16. INSURANCE. SCHOOL shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with SCHOOL's operation and use of the leased Premises. The cost of such insurance shall be borne by the SCHOOL. The provisions of this section shall survive the termination of this Lease for any event occurring prior to the termination.

A. MINIMUM SCOPE OF INSURANCE. Coverage shall be at least as broad as:

i) Commercial General Liability (CGL): Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including property damage, bodily injury and personal injury with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit. The insurance shall include broad form property damage, blanket contractual, completed operations, vehicle coverage, products liability and employer's non-ownership liability coverage.

ii) Workers' Compensation insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limits of no less than \$1,000,000 per accident for bodily injury or disease. (for lessees with employees).

iii) Property insurance against all risks of loss to any tenant improvements or betterments, at full replacement cost with no coinsurance penalty provision.

B. OTHER INSURANCE PROVISIONS. The policies are to contain, or to be endorsed to contain, the following provisions:

i) For General Liability, the CITY, its officers, officials, employees, and volunteers are to be covered as additional insureds with respect to liability arising out of ownership, maintenance, or use of that part of the premises leased to the SCHOOL.

ii) The SCHOOL'S insurance coverage shall be primary insurance as respects 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 excess of the SCHOOL'S insurance and shall not contribute with it.

iii) Each insurance policy required above shall contain, or be endorsed to contain, a waiver of all rights of subrogation against the CITY.

iv) Each insurance policy shall be endorsed to state that coverage shall not be canceled except after thirty (30) days' prior written notice (10 days for non-payment) has been given to the CITY.

v) The Property insurance shall name the CITY as Loss Payee as its interests may appear.

C. ACCEPTABILITY OF INSURERS. Insurance is to be placed with insurers with an A.M. Best's rating of no less than A: VII unless otherwise acceptable to the CITY.

D. 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 SCHOOL shall obtain coverage to reduce or eliminate such deductibles or self-insured retentions as respects the CITY, its officers, officials, employees, and volunteers; or the SCHOOL shall provide a financial guarantee satisfactory to the CITY guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

E. VERIFICATION OF COVERAGE. SCHOOL shall furnish the CITY with certificates of insurance and with original endorsements effecting coverage required by this clause. 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 approved by the CITY. All certificates and endorsements are to be received and approved by the CITY within 10 days following execution of this Lease. The CITY reserves the right to require complete, certified copies of all required policies, at any time.

F. WAIVER OF SUBROGATION. SCHOOL hereby grants to CITY a waiver of any right to subrogation which any insurer of said SCHOOL may acquire against the CITY by virtue of the payment of any loss under such insurance. This provision applies regardless of whether or not the CITY has received a waiver of subrogation endorsement from the insurer.

17. INDEMNIFICATION. SCHOOL waives all claims against the CITY for damages to property or injury or death to any person on the Premises arising at any time and from any cause other than the sole negligence of CITY. SCHOOL shall indemnify, hold harmless and defend CITY against and from any and all claims arising from SCHOOL's use of the Premises, for conduct of its business or from any activity, work, or other thing done, permitted or suffered by SCHOOL in or about the Premises, and shall further indemnify, defend and hold harmless CITY against and from any and all claims arising from any breach or default in the performance of any obligation on SCHOOL's part to be performed under the terms of this Lease, or arising from any act or negligence of SCHOOL, or any officer, agent, employee, guest or invitee of SCHOOL, and from all and against all costs, attorney's fees, expenses and liabilities incurred in or about any such claim or any action or proceeding brought against CITY by reason of any such claim; provided that such indemnity shall not extend to any loss arising from CITY'S sole negligence. SCHOOL, upon notice from CITY, shall defend same at SCHOOL's expense by counsel reasonably satisfactory to CITY. The provisions of this section shall survive the termination of this Lease for any event occurring prior to the termination.

18. LOSS OR DAMAGE TO PERSONAL PROPERTY. CITY shall not be liable for any damage to SCHOOL's property used or stored on the Premises, for any damage to property entrusted to SCHOOL's employees, for any loss or damage to any property by theft or otherwise, or for any injury to or damage to persons or property resulting from fire, explosion, falling plaster, steam, gas, electricity, water or any other cause whatsoever unless caused by or due to the sole negligence of CITY, its agents, servants or employees.

19. FIRE INSURANCE. CITY, at its own expense, may maintain in effect throughout the term of the Lease, a policy or policies of insurance on the building which is part of the leased Premises, providing protection against any peril of fire, exclusive of trade fixtures and equipment of SCHOOL.

20. DEFAULT. CITY and SCHOOL agree that every condition, covenant and provision of this Lease is material and reasonable. Any breach by SCHOOL of a condition, covenant or provision of this Lease will constitute a material breach. For any material breach by SCHOOL, CITY may provide SCHOOL with a written notice that describes the breach and demands that SCHOOL cure the default (if a cure is possible). If SCHOOL does not cure the default within thirty (30) days, or if a cure is not possible, this Lease will be terminated. Termination of this Lease for a breach by SCHOOL will not occur unless the foregoing events occur.

Specifically, the following shall constitute a default by the SCHOOL.

- A. Failure to pay rent when due;
- B. Use of the Premises for any unlawful purpose in violation of any City, State or Federal law or regulation;
- C. Abandonment of the Premises for more than 90 days;
- D. Assigning or subletting the leased Premises without the prior written consent of CITY;
- E. Committing waste on the leased Premises;
- F. Maintaining, committing or permitting the maintenance or commission of a nuisance on the leased Premises;
- G. Any material failure to keep the Premises in a sanitary condition or to dispose of all trash, debris, recycling and garbage;
- H. Altering the Premises in any manner, except as provided in this Lease Agreement;
- I. Failure to perform or meet any other provision, covenant or condition of this Lease.

21. TERMINATION. Upon termination of this Lease, SCHOOL shall quit and surrender the Premises thereby demised in as good a state and condition as they were at the commencement of the term, reasonable use and wear thereof and damage by the elements excepted.

22. ASSIGNMENT OF LEASE TO OTHERS. SCHOOL shall have no right to encumber the Premises in any manner and shall not assign, sublet, hypothecate or otherwise transfer whether voluntarily, involuntarily, or by operation of law, its interest in this Lease or any part thereof without the prior written consent of CITY, which said consent may be withheld in the sole and unfettered discretion of CITY. No such assignment or transfer shall be valid or binding without the CITY's prior written consent. An attempted assignment or transfer not in compliance with the provisions of this paragraph shall be grounds for CITY's termination of this Lease.

23. BINDING ON SUCCESSORS. Subject to the provisions of this Lease regarding assignments, each of the covenants and conditions of this Lease shall apply to and bind the heirs, successors, executors, administrators and assigns of the parties hereto.

24. RECOVERY OF ATTORNEY'S FEES. In the event that either party thereto shall commence any legal action or proceeding, including an action for declaratory relief, against the other by reason of the alleged failure of the other to perform or keep any term, covenant or condition of this Lease by it to be performed or kept, the party prevailing in said action or proceeding shall be entitled to recover, in addition to its court costs, a reasonable attorney's fee to be fixed by the court, and such recovery shall include court costs and attorney's fees on appeal, if any. The Court will determine the "prevailing party" and whether or not the suit proceeds to final judgment. However, if an action is voluntarily dismissed, or dismissed pursuant to a settlement of the case, neither party will be entitled to recover its attorney's fees.

25. WAIVER OF BREACH OR COVENANT. Waiver by either party of a breach of any covenant of this Lease Agreement will not be construed to be a continuing waiver of any subsequent breach. No waiver by either party of a provision of this Lease Agreement will be considered to have been made unless expressed in writing and signed by all parties.

26. CITY OF SONOMA (CITY) and VALLEY OF THE MOON NURSERY SCHOOL (SCHOOL) agree that this instrument contains the entire, sole and only agreement between them concerning the demised Premises and correctly sets forth their rights and obligations to each other concerning the demised Premises as of its date. Any agreement or representations respecting the demised Premises or the duties of either CITY or SCHOOL in relation thereto not expressly set forth in this instrument is null and void.

27. For the purpose of service of process and service of notices and demands, SCHOOL'S address is:

Valley of the Moon Nursery School
136 Mission Terrace
Sonoma, CA 95476

Notices, demands and service of process for the CITY shall be served on the City Manager at the following address:

City Hall
No. 1 The Plaza
Sonoma, CA 95476

28. MERGER. This Lease is intended as the final expression of the agreement between the parties hereto with respect to the included terms, and as a complete and exclusive statement of the terms of the agreement, pursuant to Code of Civil Procedure Section 1856. No modification of this Lease shall be effective unless and until such modification is evidenced by a writing signed by both parties. Each party has relied on its own examination of this Lease, the counsel of its own choosing, and the warranties, representations and covenants of the Lease itself. The failure or refusal of either party to read the Lease or other documents, or to obtain legal or other advice relevant to this transaction, constitutes a waiver of any objection, contention or claim that might have been based on such reading, inspection or advice.

29. RECORDING OF LEASE. This Lease shall be recorded in the Sonoma County Recorder's Office immediately after it is fully executed, pursuant to California Government Code Section 37393.

30. Each signatory to this Lease represents and warrants that s/he has been fully authorized by the entity that s/he represent to execute this Lease and that this Lease is a legally binding obligation on the part of the entity s/he represents and is enforceable against that entity, consistent with the Lease’s terms and conditions.

31. SCHOOL, on behalf of itself and its successors and assigns, acknowledges, agrees and confirms that at the time SCHOOL entered into this Lease that SCHOOL was a “post-acquisition tenant with notice” pursuant to California law, including but not limited to, Title 25 California Code of Regulations Section 6034(b), and that SCHOOL shall not be entitled to relocation benefits or assistance from CITY upon expiration of this Lease or upon the earlier termination of the Lease for any reason. SCHOOL further expressly waives and relinquishes any and all claims to relocation benefits or assistance from CITY under any law, including but not limited to, California Government Code Section 7260 et seq. and Title 25 California Code of Regulations Section 6000 et seq., upon expiration of this Lease or upon the earlier termination of the Lease for any reason.

Executed on _____, 2012, in the City of Sonoma, County of Sonoma, California.

CITY OF SONOMA

VALLEY OF THE MOON NURSERY SCHOOL

By: _____

Mayor

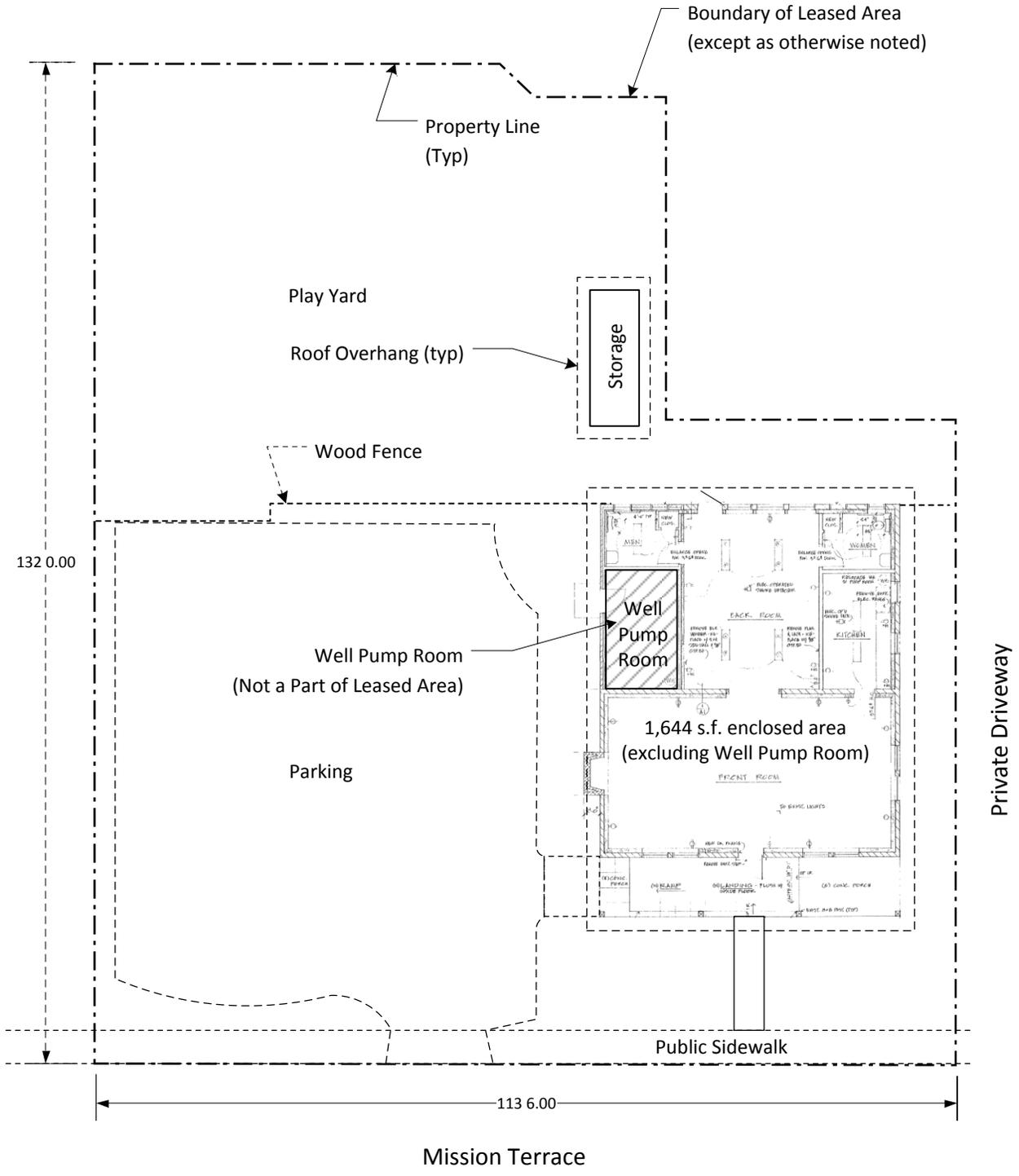
By: _____

President

Attest: _____

City Clerk

EXHIBIT - A



136 Mission Terrace

6/1/2012

No. 1 The Plaza
 Sonoma California 95476-6690
 Phone (707) 938-3681 Fax (707) 938-8775
 E-Mail: cityhall@sonomacity.org



March 1, 2012

BUILDING SURVEY REPORT

DATE OF SURVEY: January 25, 2012
PROPERTY ADDRESS: 136 Mission Terrace, Sonoma – APN# 018-171-026
ZONING: Medium Density Residential
SPECIAL CONDITIONS: The leased area is used as a nursery school; it contains approximately 1,840 square foot building with a mechanical room attached. There exists a small masonry shed at the rear within a play yard.
EXISTING USE: VOM Nursery School
PROPOSED USE: Same
OCCUPANCY CLASS: E
INSPECTION AND REPORT BY: Kathy Toohey, Building Inspector

The following list provides an overview of noted deterioration and/or code deficiencies relating to Building, Electrical, Mechanical, Plumbing and Accessibility. The column to the right indicates the requirements and responsibility performing corrective work under the existing lease dated March 7, 2007.

Conditions Found	Corrective Work Required
<u>ACCESSIBILITY:</u>	
1. The route from the parking lot to the building has a ramp which is in excess of 8.33%. The first seven feet is an asphalt section with a slope of 9.4 – 9.6 % in this area. The beginning of this section has a lip which is higher than ½ inch. The asphalt section runs to a level area measuring 46 inches in length then ramps up 10 feet with a 7.6% slope. The cross slope does not exceed 2%. There are no handrails on the ramp. [see Figure 1] <u>1133B.5.5.1 (CBC)</u>	Yes (City)
2. The front step does not have striping for the visually impaired. [see Figure 2] <u>1133B.4.4 (CBC)</u>	Yes (City)
3. The parking lot is an unmarked gravel lot; the gravel should be increased in some areas at the low spots where ponding occurs so dirt is not tracked onto the street especially at the entrance. [see Figure 3]	Yes (Tenant)

Conditions Found	Corrective Work Required
4. A van accessible parking space and loading zone together with required accessible signage is needed to comply with the ADA.	Yes (City)
5. Controls for the flush valves need to be mounted on the wide side of toilet. (east toilet room) <u>1115B.4.1(5)(CBC)</u> [see Figure 4]	Yes (Tenant)
6. Lavatory faucet controls need to be operable with one hand with lever-operated, push-type preferable. <u>1115B.4.3 (1)(CBC)</u> [see Figure 4]	Yes (City)
7. Hot water and drain pipes accessible under lavatories must be insulated or covered. <u>1115B.4.3 (4)(CBC)</u> [see Figure 4]	Yes (Tenant)
<u>ELECTRICAL:</u>	
8. There is an electrical sub panel located approximately 78 inches above the finished floor. In front of the electric panel is a row of fixed cubicles which encroaches into the working clearances. A clear space of 30” wide by 36” deep is required. <u>110.26 (CEC)</u> [see Figure 5]	Yes (Tenant)
9. Building permit #12355 expired in December of 1999. The work covered by the permit has been completed which includes – adding a 15 amp circuit and installing a motion sensor light. A new permit must be obtained by the nursery school and final inspection approval obtained.	Yes (Tenant)
<u>BUILDING:</u>	
10. The north play yard has a masonry storage shed; the roof is flat and has some dry rot which is outside the footprint of the structure toward the rear. [see Figures 6, 7 & 8]	Optional (Tenant)
11. The north downspout termination should be directed away from the building. [see Figure 9]	Optional (City)
12. On the northeast wall of the building is a crack in the masonry. This could allow water or insect intrusion. . [see Figure 10]	Optional (City)
13. Dry rot was discovered on the eastside of the building at the window sills. . [see Figure 11]	Yes (City)
<u>MECHANICAL:</u>	
14. A building permit application for HVAC equipment on the roof expired on July 8, 2002. This work appears to have been completed without final inspection approval. A new permit must be obtained by the nursery school for the work and final inspection approval obtained. . [see Figures 12, 15 & 16]	Yes (Tenant)
15. The thermostat wire on roof should be protected and the excess wire shortened. . [see Figure 12]	Yes (Tenant)

Conditions Found	Corrective Work Required
16. There is an existing Day & Night unit heater; the old flue is too close to combustibles. This unit's gas cock is shut off, since this has been replaced with a unit on the roof the gas should be capped off and the unit removed.	Yes (Tenant)
17. There are two old transite asbestos four inch flue pipes on the east side of the building, one of which is connected to the unit heater. On the bottom of the transite flue where a manufactured shelf once existed, someone installed an ABS clamp with an ABS four inch cap. Remove added clamp and ABS cap from flue pipe.	Yes (Tenant)
<u>PLUMBING.</u>	
18. A new sink and cabinet was installed on the east wall of the building with a counter height of 22 inches above finished floor for the children. The vent for this sink does not terminate to the roof. There are no permits for this work. <u>906.1(CPC) 114.1 (CBC)</u> [see Figure 13] A permit must be obtained by the nursery school and final inspection approval obtained.	Yes (Tenant)
19. <u>It is recommended</u> that water closet bowls in nurseries and schools less than six years of age should be of a size and height suitable for children's use. NOTE: The children are using movable step stools to access the water closets. <u>408.1(CPC)</u>	Optional (Tenant)
20. The existing toilets are three gallons per flush. It is recommended, <u>but not required</u> , that the existing water closets be converted to 1.6 gallons of water per flush toilets. <u>402.2(CPC)</u>	Optional (Tenant)
21. A backflow preventer should be installed at the hose bib on the south side of the building.	Optional (City)
22. There is a broken vent pipe serving the kitchen sink. [see Figure 14]	Yes (City)
23. A relatively new water heater has been installed without a required plumbing permit, pipe insulation and insulation blanket. A permit must be obtained by the nursery school and final inspection approval obtained.	Yes (Tenant)



Kathy Toohey
Building Inspector

cc: Building Official Wirick
City Manager Kelly

ATTACHMENT: Photograph Figures 1 through 17



Figure 1 – Non-accessible route from parking lot



Figure 2 - Step to main entrance



Figure 3 - Low spots in parking lot



Figure 4 - Restroom

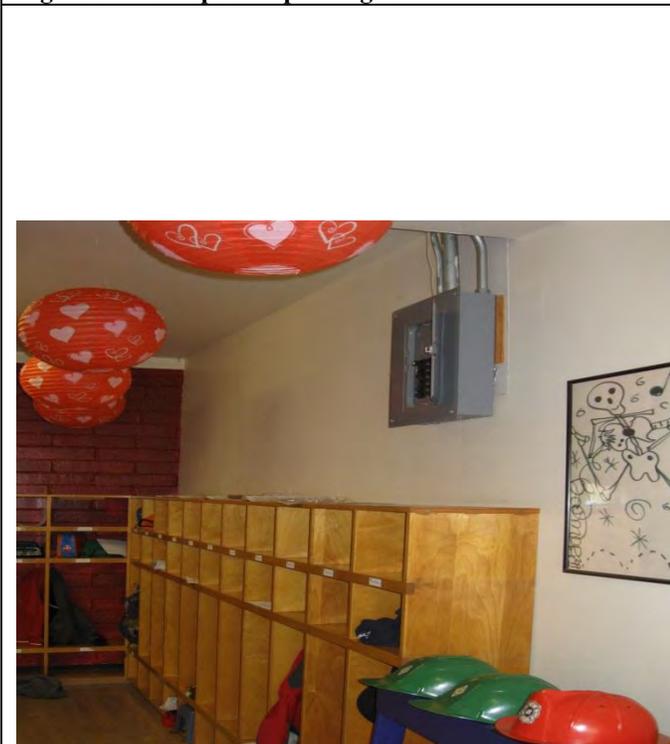


Figure 5 - Working clearance in front of Elec. Panel



Figure 6 - Shed – minor dry rot



Figure 7 - Shed – minor dry rot



Figure 8 - Shed – minor dry rot



Figure 9 - Downspout termination



Figure 10 - Crack in masonry

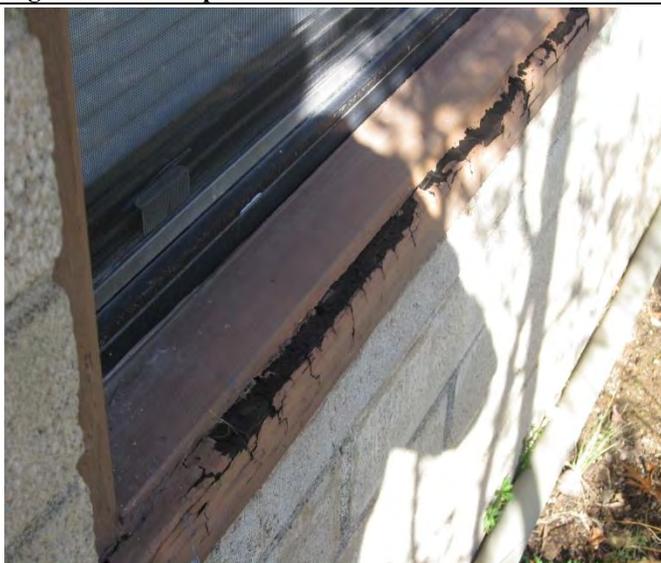


Figure 11 - Dry rot at east exterior windows



Figure 12 - Exposed unprotected thermostat wire



Figure 13 – Broken Vent for Kitchen Sink



Figure 14 – New sink-No permit



Figure 15 – New gas piping & elec for HVAC unit on roof



Figure 16 - HVAC unit on roof



Figure 17 – Relatively new water heater – No permit

*** END ***



City of Sonoma
City Council
Agenda Item Summary

City Council Agenda Item: 5E

Meeting Date: 09/17/12

Department

Public Works

Staff Contact

Toni Bertolero, City Engineer

Agenda Item Title

Adopt resolution approving the Subdivision Improvement Agreement and Parcel Map No. 154 for the Artlee Subdivision Located at 20144 Fifth Street East.

Summary

The Tentative Map for this 4-lot subdivision was approved by the Planning Commission on October 14, 2010. Typically, the City Council is not required to approve a Parcel Map. The map is approved and authorized for recordation if it is consistent with the Tentative Map and the required public improvements have been installed to City Standards. In this particular case, the Owner (Leland Doan) has requested a subdivision improvement agreement to allow for the recordation of the map prior to the completion of the public improvements. This 1-acre parcel was recently annexed to the city limits and is located on the east side of Fifth Street East near the intersection at Eastin Drive. The site is currently developed with one home which will remain. In addition to the standard public improvements (street widening, curb, gutter, sidewalk, sewer and water lines), the developer was required to include a tree well on Fifth Street East in the improvement plans as a post-construction Best Management Practice to mitigate for the widened road runoff. The Planning Director has reviewed the Improvement Plans and Parcel Map. The City Engineer has reviewed the Parcel Map, Subdivision Improvement Agreement and the Improvement Plans. The City Attorney has reviewed the Subdivision Improvement Agreement.

Recommended Council Action

Adopt resolution approving the Subdivision Improvement Agreement subject to submission of requisite bonds and securities and authorize the City Manager to sign on behalf of the City.

Alternative Actions

None.

Financial Impact

After the one-year maintenance period, the City will assume responsibility for the public improvements installed by the developer. The Subdivision Improvement Agreement includes a provision that the Owner pay for 5 years of maintenance of the tree well. The City will be responsible for the tree well maintenance beyond the 5-year period.

Environmental Review

- Environmental Impact Report
- Negative Declaration
- Exempt
- Not Applicable

Status

- Approved/Certified
 - No Action Required
 - Action Requested
-

Attachments:

Resolution, Subdivision Improvement Agreement, Parcel Map

CITY OF SONOMA

RESOLUTION NO. __ - 2012

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SONOMA APPROVING THE PARCEL MAP, ACCEPTING OFFERS OF DEDICATION AND EASEMENTS, AND APPROVING EXECUTION OF THE SUBDIVISION IMPROVEMENT AGREEMENT FOR THE LANDS OF ARTLEE PARCEL MAP NO. 154

WHEREAS, the City Council is requested to authorize execution of the Subdivision Improvement Agreement which provides for the installation of public improvements for MacArthur Subdivision as required by the approved improvement plans for said subdivision; and

WHEREAS, the City Engineer has determined that said Parcel Map conforms to the Tentative Map previously approved, and that said Subdivision Improvement Agreement is in order.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Sonoma hereby accepts and approves the Parcel Map, accepts all of the offers of dedication made thereon and authorizes the City Manager to execute the Subdivision Improvement Agreement in the form customarily used by the City of Sonoma and subject to the submittal of the requisite bonds and securities.

ADOPTED this 17th day of September, 2012 by the following vote:

AYES:
NOES:
ABSENT:

Joanne Sanders, Mayor

ATTEST:

Gay Johann, City Clerk

Recording Requested By:
City of Sonoma

When Recorded Return To:
City of Sonoma
No. 1 The Plaza
Sonoma, CA 95476
Attention: City Clerk

OFFICIAL BUSINESS: Exempt from Recording Fees Pursuant to California Government code §6103.

SUBDIVISION IMPROVEMENT AGREEMENT

Subdivision Name: Lands of Artlee LLC, Parcel Map No. 154
APN: 128-111-020
Site Address: 20144 Fifth Street East

THIS SUBDIVISION IMPROVEMENT AGREEMENT (this "Agreement") is made and entered into this ____ day of _____, 20__, by and between Leland W. Doan, Owner of the above-referenced property ("Subdivider") and the City of Sonoma, a municipal corporation, hereinafter referred to as "City."

WHEREAS, on October 14, 2010, the City approved the tentative subdivision map ("Map") for a 4-lot subdivision and other land use entitlements applicable to said Subdivision and/or the land encompassed within the Subdivision (collectively referred to as the "Approvals"); and

WHEREAS, Subdivider, pursuant to the State of California Subdivision Map Act, the Conditions of Approval and all applicable ordinances of the City, has presented to City improvement plans outlining thereon the improvements to be constructed by Subdivider within the above-mentioned Subdivision; and

WHEREAS, Subdivider has presented to City for approval a final Subdivision parcel map; and

WHEREAS, Subdivider has requested approval of said final Subdivision parcel map prior to construction and completion of such improvements; and

WHEREAS, said ordinances require Subdivider to enter into an agreement with City whereby Subdivider agrees to have said work completed by the time specified in said agreement;

NOW, THEREFORE, it is hereby agreed by and between the parties hereto as follows:

1. Prior to the expiration of one year from the date of this Agreement, Subdivider will construct, to the City's satisfaction, all improvements ("Improvements") outlined and set forth on the improvement Plans (defined below) and all other improvements required of the Subdivider to be constructed by said ordinances, the Approvals and/or the conditions of approval of said Subdivision. Upon completion of the Improvements, and as conditions precedent to the acceptance of same and the release of security as provided hereinafter, the physical condition of the Subdivision shall be substantially identical with that depicted in the Plans (except as to any other improvements approved by the City in writing). No extension of time shall be made except upon the basis of a written application made by Subdivider to the City stating fully the grounds of the application and facts relied upon for such an extension, and City shall retain full discretion to grant, grant in part, or deny the extension. Subdivider shall pay the city's costs of processing any extension in accordance with the City's cost recovery procedures, and any application for an extension may be conditioned upon an increase in security and inspection fees to reflect current costs, as determined by the City Engineer. Whether any such extension is granted shall be left to the sole, unfettered discretion of the City. Neither such extension nor other delay by City shall constitute a waiver of any of the obligations of Subdivider or Subdivider's surety. Any application for an extension of the said one (1) year time period specified herein shall be delivered to the City at least sixty (60) days before the said time period expires, otherwise, the right to apply for such an extension shall be waived.
 - a. The Improvements shall include but are not necessarily limited to the following:
 - (i) Widening of and street frontage improvements for Fifth Street East including but not limited to, storm drainage, paving, conform paving, driveway, curb, gutter and sidewalk;
 - (ii) Grading and erosion control measures;
 - (iii) An adequate water distribution system designed and constructed for the purpose of supplying domestic water for use on the Property and for fire-fighting purposes;
 - (iv) An adequate sewage system designed and approved by the Sonoma County Water Agency and constructed to serve the Property;
 - (v) An adequate storm water drainage system and storm water quality Best Management Practices designed and constructed so as to serve and protect the Property including mitigation measure(s) as

approved by the City Public Works Director for the filling of the roadside ditch along property frontage at Fifth Street East;

- (vi) An adequate system designed and constructed so as to provide all the necessary on-site and off-site utilities to the Property, including, but not limited to, the facilities for water, sewer, natural gas, electricity, and telephone services; and
- (vii) Any and all other improvements necessary to provide all services to the Property or to mitigate impacts on adjoining or nearby land and streets; and
- (viii) Such other incidental improvements as are essential to the proper installation of any required street improvement as required by the City Engineer.

- b. Street Improvements. Subdivider shall widen Fifth Street East frontage to conform to new curb, gutter and sidewalk; and perform slurry seal of the full width of Fifth Street East at the conclusion of the work.
- c. Underground Utility Lines. All new and existing on-site electrical and communication lines shall be placed underground. Subdivider shall underground the existing overhead utility lines along the Fifth Street East property frontage. The undergrounding of the overhead utilities shall include the installation of street lights on the project frontage on Fifth Street East.

2. Said Improvements shall be constructed in accordance with the said improvement plans (sometimes "Plans" or "Plan") comprised of the following:

Eleven (11) sheet set of plans for construction of the public and private improvements for the Lands of Artlee Parcel Map No. 154 prepared by Hogan Land Services dated August 17, 2012, approved by the City Engineer and referenced as City Drawing Number C-742.

3. Said Improvements shall also be constructed in accordance with Chapter 19.70 of Title 19 of the Sonoma Municipal Code and amendments thereto and in accordance with City of Sonoma Standards, current edition, including new water standards approved by Public Works.
4. Where there is a conflict between plans and specifications described in paragraphs 2 and 3 herein, the more strict requirement shall govern.

5.
 - A. Subdivider shall, at Subdivider's expense, obtain and maintain during the life of this Agreement all necessary permits, approvals, waivers and/or licenses for the construction and installation of the Improvements, give all necessary notices and pay all fees and taxes required by law.
 - B. Prior and as a condition to the issuance of any grading, building or other permit by City for said Improvements, as a condition to the continued validity of any such permit and prior to the commencement of the Work, Subdivider shall have obtained and provide to the City evidence that it has obtained, all necessary approvals, licenses, permits, and/or waivers ("third party permits") required for said Improvements from the California Department of Fish and Game, the U.S. Army Corps of Engineers, the Regional Water Quality Control Board and the Sonoma County Flood Control District, and all other agencies with jurisdiction. Subdivider shall comply with said third party permits and their terms and conditions. If at any time any of Subdivider's third party permits obtained from any other agency with jurisdiction lapses, expires, terminates, and/or is revoked and/or Subdivider is served with a notice of violation of any such third party permits by any such agency, the City shall have the right to revoke any grading, building or other permit it issued to Subdivider and halt any and all work (defined below) until the third party permits are reinstated or re-issued and/or the notice of violation is rescinded or canceled, as the case may be.
6. Subdivider warrants and guarantees that except for any interests offered to and accepted by public agencies, it is the sole owner of the Subdivision and each and every lot, parcel or part thereof.
7. Subdivider hereby warrants that the Plans referred to herein are in accordance and conformity with the tentative map approval, the Approvals and all other plans for the Approvals previously approved by the City, together with all conditions made a part of said Approvals. Subdivider further warrants that said plans and specifications are adequate to accomplish the Improvement work (the "Work") covered by this Agreement in good, workmanlike manner and in accordance with accepted construction practices. Subdivider warrants and shall be solely responsible for ensuring that the design and construction of the Improvements and the Work will not adversely affect any portion of adjacent properties and that all Work will be performed in a proper manner and in accordance with all City-issued permits and third party permits and applicable laws and regulations. Subdivider may modify said Plans and specifications as the development progresses should unforeseen conditions occur only upon the prior written approval from the City Engineer. Should said Plans and specifications, the Improvements and/or the Work at any time prior to the City's final acceptance of the Improvements referred to herein prove, in the opinion of City, to be inadequate in any respect, then Subdivider shall make such changes in the plans and specifications, Improvements and/or Work as are necessary to satisfy City's requirements, all at no expense to City.

8. The City Engineer or his/her representative shall inspect all of the Improvements to be accepted for maintenance by the City (hereinafter referred to as "public improvements") and all of the Improvements to be accepted for maintenance by homeowners of units within said Subdivision (hereinafter referred to as "private improvements") except private landscaping and irrigation systems which will be inspected by the Planning Director. All Improvements shall be inspected for compliance with this Agreement and City standards, plans, conditions of Approvals, specifications, and Subdivision regulations.
9.
 - A. Subdivider shall allow City's duly authorized representatives access to the Work at all times and shall furnish them with every reasonable facility for ascertaining that the methods, materials, and workmanship comply with the requirements and intent of the Improvement plans and this Agreement. The Subdivider shall give at least ten days' advance notice of the date upon which the Work is to commence and the date upon which the Work is to be completed. City may reject defective Work and require its repair, replacement, or removal by Subdivider, all at no expense to City. City will use its best efforts to provide timely notice of any defect about which it has actual knowledge, but City's failure to provide such notice shall not constitute a waiver or affect any of City's rights or remedies, or provide a defense to Subdivider.
 - B. Upon final completion and acceptance of all said Work in accordance with this Agreement, the City Engineer, in accordance with City regulations, shall notify Subdivider in writing of his acknowledgment of acceptance of same. Except as otherwise provided herein, for a period of one year from and after the date of said acceptance of said Work, Subdivider shall guarantee and warranty all the Improvements constructed under the provisions of this Agreement against defective work or labor done or defective materials furnished and shall repair any defects or failures which may appear in the Improvements during said one year period, and further correct the causes of said defects or failures. A maintenance bond, or security as approved by City, in the amount of 10 percent of the amount provided for under Paragraph 16 shall be deposited prior to or release of security(ies) referenced in Paragraphs 16 and 17. Neither the written acknowledgment of acceptance hereinabove referred to nor any periodic or progress inspection or approval shall waive any defect in the Improvements or any breach of this Agreement. Acceptance of any part of any stage of said improvement Work shall not be final until the written notice of final acceptance of all the Improvements shall have been delivered to Subdivider as required herein.

In addition to the 10 percent maintenance bond, Subdivider shall provide, to the satisfaction of the Public Works Director, for five (5) years of maintenance of the tree well, constructed by Subdivider, located on Fifth Street East as a condition of the water quality certification granted by the State Regional Water Quality Control Board. Said 5-year period shall commence upon acceptance of the Improvements.

C. City shall not be required to exonerate any surety, release any security relating to satisfactory completion of the Improvements or issue occupancy permits until acceptance of public Improvements by the City or, in the case of Improvements which will not be dedicated to and accepted by the City, until the Improvements have passed final inspection by the City. In addition, release of security, exoneration of sureties and issuance of occupancy permits will be predicated upon the receipt of required maintenance and/or warranty agreements and security therefore, in forms acceptable to the City. Maintenance security (10 percent) shall be in the amount of \$14,153.00 and for a period of one year from the date of acceptance of Improvements.

D. No Improvements shall be accepted by the City unless and until they are free of all liens and encumbrances, and free of all material defects and conditions which may create a hazard to the public health, safety or welfare. In addition, all properties, rights-of-way, easements, and other interests to be dedicated to the City shall be, before acceptance thereof by the City, free and clear of all liens and encumbrances of any kind or character whatsoever and free of any and all material defects and conditions creating a hazard to public health or public safety.

E. Subdivider shall acquire and dedicate all rights-of-way, easements, and other interests in real property for construction and installation of the public improvements, or pay the cost of acquisition incurred by City. The Subdivider's obligations with regard to acquisition by City of off-site rights-of-way, easements, and other interests in real property shall be subject to a separate agreement between Subdivider and City. Subdivider shall also be responsible for obtaining any public or private sanitary sewer, drainage, and/or utility easements or authorizations to accommodate the Subdivision.

F. If any of the public improvements contemplated by this Agreement is to be constructed or installed on land not owned by City or Subdivider, no construction or installation of the Improvements or Work shall be commenced before:

(1) An offer of dedication is made to City of appropriate rights-of-way, easements or other interests in real property, as determined by the City Engineer, and appropriate authorization from property owner(s) to allow construction or installation of the Improvements or Work are delivered to the City, or

(2) The appropriate rights-of-way, easements or other interests in real property, as determined by the City Engineer, are dedicated and accepted by the City, or

(3) A court of competent jurisdiction issues an order of possession pursuant to the State Eminent Domain Laws. Subdivider shall comply in all respects with the order of possession.

Nothing in this Section 9(F) shall be construed as authorizing or granting an extension of time to Subdivider.

10. Subdivider shall replace or repair, or have replaced or repaired, as the case may be, all public improvements, public utility facilities and surveying or subdivision monuments which are destroyed or damaged as a result of any work under this agreement. Subdivider shall bear the entire cost of replacement or repairs of any and all public or public utility property damaged or destroyed by reason of any work done under this Agreement, whether such property is owned by the United States or any agency thereof, or the State of California, or any agency or political subdivision thereof, or by the City or any public or private utility corporation or by any combination of such owners. Any repair or replacement shall be to the satisfaction, and subject to the approval, of the City Engineer.

Furthermore, until such time as the Improvements are accepted by City, Subdivider shall be responsible for, and bear the risk of loss to, any and all of the Improvements constructed or installed. Until such time as all Improvements required by this Agreement are fully completed and accepted by City, Subdivider shall be solely responsible for the care, maintenance of, and any damage to such Improvements, and City shall not, nor shall any officer or employee thereof, be liable or responsible for any accident, loss or damage, regardless of cause, happening or occurring to the Work or Improvements. All such risks shall be the responsibility of and are hereby assumed by Subdivider. The Subdivider shall defend and indemnify the City for said accidents, losses and/or damages pursuant to Section 29 below. As to any accident, loss or damage occurring or happening after all the Improvements are fully completed and accepted by the City, Subdivider shall indemnify and defend the City pursuant to Section 29 below.

11. All inspection services rendered in connection with the work covered by this Agreement shall be paid for by Subdivider.
12.
 - A. Subdivider shall pay all City fees specified in the City's adopted Fee Schedule, a copy of which can be found at the Office of the Building Official and is incorporated herein by reference, in the amounts and at rates in effect at the time payment is made and at the times specified in subsection B (unless otherwise required by law or City ordinance).
 - B. As to residential projects, the City Impact fees and Capital Improvement taxes as specified in the adopted Fee Schedule shall be paid immediately before the date of final inspection or the date the first certificate of occupancy is issued, whichever occurs last. If this project involves more than one dwelling, Subdivider shall pay the pro-rata portion allocable to each dwelling immediately before the date of final inspection of each dwelling or the date the certificate of occupancy is issued as to each dwelling, whichever

occurs first. As to non-residential projects, said fees shall be paid prior to the issuance of a building permit.

C. At the time of executing this agreement, Subdivider shall pay City Impact fees and Capital Improvement taxes as specified in the adopted Fee Schedule which at this time are estimated to be \$6,320. Said bond will be released only after all of said fees are timely paid. If the Subdivider wishes to avoid posting said bond, Subdivider shall pay said fees prior to issuance of the building permit for structure.

D. The Subdivider is required to construct 0 low and/or moderate income units as shown on the approved Tentative Map. At or before close of escrow or the consummation of any conveyance of any of the lots in the said Subdivision, Subdivider shall record as to each of the low and/or moderate income parcel or lot, the deed restrictions implementing the City's affordability requirements. At least 30 days prior to close of escrow or the consummation of any conveyance of any lot in the Subdivision, whichever occurs first, Subdivider shall provide the City written notice of the intended close of escrow and/or consummation of conveyance, giving a description of the lot in question, the name and address of the prospective transferee, evidence that the purchaser qualified to purchase the lot in question and a copy of the purchase and sale agreement and a statement under penalty of perjury that the Subdivider shall record the above-referenced deed restrictions as part of the close of escrow and/or conveyance.

13. If Subdivider refuses or fails to cause prosecution of the Work, or any severable part thereof, with such diligence as will ensure its completion within the time specified by this Agreement, or any extensions thereof, or fails to cause completion of said Work within such time; or if the Subdivider fails to timely cure any defects in the Improvements; or if the Subdivider should be adjudged bankrupt; or if Subdivider should make a general assignment for the benefit of Subdivider's creditors; or if a receiver should be appointed in the event of Subdivider's insolvency; or if Subdivider or any of Subdivider's contractors, subcontractors, agents, or employees should violate or fail to perform any of the provisions of this Agreement; then such acts, omissions and/or events shall constitute a material breach of and default under this Agreement, and City reserves to itself all remedies available to it at law or in equity for such breach, including but not limited to serving written notice on Subdivider and Subdivider's surety of breach of this Agreement, or of any portion thereof, and of the default of Subdivider.
14. In the event of any such notice of breach of this Agreement and the default of Subdivider, any surety providing Performance Security described in Section 16, below, shall be liable to City for the cost of construction and installation of the Improvements and Work and for costs and reasonable expenses and fees, including reasonable attorneys' fees, incurred in enforcing this Agreement. In such event, and at the City's option, Subdivider's surety shall have the duty to take over, commence (if applicable) and complete the Work and Improvements or otherwise perform as is herein specified; provided, however, that if the

surety, within the time period specified in the City's notice of breach, does not give City written notice of its intention to take over the performance of this Agreement, and does not commence performance thereof within five (5) days after notice to City of such election, City may elect to take over the Work and prosecute the same to completion, by contract with a new contractor or by any other method City may deem advisable, for the account and at the expense of Subdivider and Subdivider's surety. In such event, City may, without liability for so doing, take possession of and utilize in completing the Work such materials, appliances, plant and other property belonging to Subdivider as may be onsite of the Work and necessary therefore, and by execution of this Agreement, Subdivider grants City permission to enter onto the Subdivision in such event as may be necessary or convenient to construct such Improvements. Should City proceed to have the work called for by this Agreement completed by entering into a contract with a new Contractor, City shall execute said contract for and on behalf of and as the agent of Subdivider. The City reserves to itself all remedies available to it at law or in equity for breach of Subdivider's obligations under this Agreement. The City shall have the right, subject to this Section, to draw upon or utilize the appropriate security to mitigate the City's damages in the event of default of Subdivider. The right of the City to draw upon or utilize the security is additional to and not in lieu of any other remedy available to City. It is specifically recognized that the estimated costs and security amounts may not reflect the actual cost of construction or installation of the Improvements and, therefore, City's damages for Subdivider's default shall, in part, be measured by the cost of completing the required Improvements. The sums provided by the Improvement security may be used by City for the completion of the public improvements in accordance with the Improvement plans and specifications contained herein. Subdivider and Subdivider's surety, and any person, partnership, entity, corporation, or association claiming any interest in the Subdivision and each of them, shall be liable to City for any costs, claims, damages, liability or expenses of whatever nature or kind, direct or indirect, including interest at the maximum rate allowed by law from the date of notification of such cost and expense until paid, and reasonable attorneys' fees, which are directly or indirectly incurred by reason of the enforcement of this Agreement. Such amounts and interest accrued thereon shall constitute a lien on the Subdivision. Subdivider acknowledges and agrees that if the Improvements are not completed to the satisfaction of the City within the time specified by this Agreement, or any extension thereof, Subdivider fails to comply with any requirement imposed as a condition of the Approvals, or Subdivider fails to comply with any condition imposed under a third party permit, City, in addition to any other remedy it may have at law or in equity or as otherwise provided in this Agreement, may withhold occupancy certificates, utility connections, building permits, zoning permits, and any other land use entitlement until the Improvements have been completed in accordance with this Agreement, and as to any such permit or land use entitlement, Subdivider waives any and all rights Subdivider may have under the California Permit Streamlining Act. Failure of Subdivider to comply with the terms of this Agreement shall constitute consent to the filing by the City of a notice of violation against all the lots in the Subdivision, or to rescind the Approvals or otherwise revert the

Subdivision to acreage. The remedies provided by this section are in addition to, and not in lieu of, other remedies available to the City. Subdivider agrees that the choice of remedy or remedies for Subdivider's breach shall be in the discretion of City. In the event that Subdivider fails to perform any obligation hereunder, Subdivider agrees to pay all costs and expenses incurred by City in securing performance of such obligations, including but not limited to fees and charges of architects, engineers, attorneys, other professionals, and court costs. The failure of City to take enforcement action with respect to a default, or to declare a breach, shall not be construed as a waiver of that default or breach or any subsequent default or breach of Subdivider. In the event that Subdivider commences work on none of the Improvements required to be constructed under this Agreement within the time period set forth in Section 1 hereof, such failure shall constitute a breach of this Agreement and permit the City to recover from Subdivider's surety and/or utilize the performance security to pay for the costs of commencing and completing the Improvements and reasonable expenses and fees, including reasonable attorney's fees incurred in enforcing this Agreement.

15. A. In the event of default by Subdivider, then irrespective of whether any Work has been undertaken pursuant to this Agreement, City may, without further notice to Subdivider or to its sureties, elect to initiate proceedings to revert the Subdivision to acreage.
- B. In such event: (1) Subdivider shall conclusively be deemed to have consented to a reversion of the Subdivision to acreage and to a rescission of the tentative map and final map with respect thereto; (2) Subdivider shall execute and deliver such other and further instruments relating to such reversion and rescission as City shall reasonably request; and should Subdivider refuse to execute and deliver same, Subdivider hereby appoints the City as Subdivider's attorney in fact to execute and deliver said instruments in Subdivider's name and stead which said instruments shall be binding upon Subdivider; (3) Subdivider shall be entirely responsible for the costs incurred in reverting the Subdivision to acreage and consents to the City utilizing any cash bond described below for that purpose; (4) Subdivider agrees and acknowledges that reverting the Subdivision to acreage pursuant hereto shall be deemed to be in full compliance with all applicable provisions of the law, including but not limited to Cal. Gov't Code section 66499.11 *et seq.*, that all conditions precedent to reverting the Subdivision to acreage have been completely satisfied, and that all findings required to be made under Cal. Gov't Code section 66499.16 shall be deemed made and satisfied; and (5) after utilizing those portions of the monies deposited with the City by the Subdivider and/or those portions of the improvement security necessary to complete the Improvements and/or to otherwise place the Subdivision in a condition which will be the least detrimental to the City and neighboring properties, City shall release all improvement security and shall return to Subdivider the balance of any moneys held as security for the completion of the Improvements or any other Work which is the subject of this Agreement; provided, however, that the City shall not release said improvement security or refund any moneys

held as security to the extent that (I) any demands against said securities are pending or likely to be made, (ii) Subdivider owes the City money for any reason, and/or (iii) Subdivider has not otherwise fully discharged its obligations under this Agreement which must be discharged notwithstanding the reversion to acreage, in which case the City shall be entitled to make demand against and pursue Subdivider's surety for and/or pay to itself from the deposits held by the City for said contingencies. Notwithstanding anything to the contrary stated herein, Subdivider consents to the reversion of the Subdivision to one parcel under the terms and conditions hereof.

16. Subdivider shall, upon execution of this Agreement, deposit with City cash in the sum of \$154,742.00, or satisfactory improvement security as provided by the State of California Subdivision Map Act all applicable ordinances of City, in said amount to secure faithful performance of this Agreement and every part thereof by Subdivider. Any additions, alterations, or modifications of this Agreement or to the plans and specifications referred to herein, including any extension of time within which the work hereunder may be completed, shall not release or exonerate any surety or sureties on the improvement security given in connection with this Agreement.
17. Subdivider shall, upon execution of this Agreement, deposit with City cash in the sum of \$154,742.00, or a satisfactory improvement security as provided by the State of California Subdivision Map Act and all applicable ordinances of City, in said amount to guarantee payment to contractors, subcontractors and persons renting equipment or furnishing labor or materials for improvements covered by this Agreement and every part thereof by Subdivider. Any additions, alterations or modifications to this Agreement or to the plans and specifications referred to herein, including any extension of time within which the work hereunder may be completed, shall not release or exonerate any surety or sureties on the improvement security given in connection with this Agreement.
18. Subdivider shall, upon execution of this Agreement, deposit with the City cash in the sum of \$5,000.00, to guarantee dust control, erosion control and timely planting of graded areas during construction. Should Subdivider fail to provide adequate dust control, erosion control or planting, City may have the work done and pay for it with said cash deposit. In the event that the City is required to utilize said deposit for said purposes, upon 21 days notice, Subdivider shall replenish the deposit so that it remains in the amount of \$5,000.00 until the time that the City is required to refund the deposit to Subdivider. Upon final acceptance of the Improvements, or upon occupancy of all Subdivision dwelling units, whichever is later, the cash deposit, or remaining portion thereof, will be returned to Subdivider.
19. Subdivider shall, upon execution of this Agreement, deposit with the City cash in the sum of \$ N/A , to pay for any necessary legal and administrative costs incurred by City to enforce the provisions of this Agreement. Should the Subdivider not

comply with the provisions of this Agreement, the City may commence legal and administrative efforts to seek compliance, with the costs of said efforts to be paid, in whole or in part, from this deposit. In the event that the City is required to utilize said deposit for said purposes, upon 21 days notice, Subdivider shall replenish the deposit so that it remains in the amount of \$ N/A until the time that the City is required to refund the deposit to Subdivider. Upon final acceptance of the Improvements, or upon occupancy of all Subdivision dwelling units, whichever is later, the cash deposit, or remaining portion thereof, will be returned to Subdivider. Notwithstanding the foregoing provisions of this Section, in any action or proceeding governed by Section 27, below, the City shall not be limited to recovering the amount of said deposit as and for the City's attorneys' fees, and the provisions of Section 27 herein shall remain in full force and effect and apply to said action or proceeding.

20. A. The securities described in Section 16 and 17 shall be of the type specified in Government Code Section 66499(a)(1), (2), or (3), and must be satisfactory to and be approved by the City Attorney as to form. The surety for each such security (herein "Surety") shall (i) be currently admitted to transact surety insurance by the California Department of Insurance, (ii) have a Best's Insurance Guide rating (herein a "Rating") of no less than A-, when each such security is issued, and (iii) be approved by the City, with such approval not to be unreasonably withheld. Upon execution of this Agreement, or any change in Surety hereunder, Subdivider shall deliver to the City the certificate of the County Clerk attesting to the admittance status of the Surety. The City shall be the sole indemnitee named on any instrument required by this Agreement.
- B. In the event a Surety's Rating is reduced below "B" (a "Rating Event") Subdivider shall have ten (10) business days from the date such rating actually drops below "B" to present the City with bonds issued by one or more Sureties other than the one being replaced, which shall meet the criteria specified above (the "Replacement Surety"), regardless of the date Subdivider or City actually becomes aware of the Rating Event. In the event the Subdivider does not deliver to the City the security of a Replacement Surety within the ten (10) business day period provided hereunder, Subdivider's work under this Agreement shall immediately cease and shall not re-commence until Subdivider has delivered security issued by such Replacement Surety to the City.
- C. In the event that the Subdivider does not maintain, in full force and effect, the securities specified in Sections 16 and 17 until the later of final acceptance of the Improvements or the time at which the City is required to release said securities, and/or in the event that the Subdivider does not maintain and/or replenish the deposits specified in Sections 18 and 19 up until the time that the City is required to return any unused portion of said deposits, (a) Subdivider's work under this Agreement shall immediately cease and shall not re-commence until Subdivider has delivered to the City the requisite security and/or deposit, and (b) the City shall have the right to withhold certificates, permits and entitlements as provided in Section 14.

D. Certificates of deposit shall not be deemed to be satisfactory security unless such certificates provide that the City is the owner of record of such funds. In addition to the full amount of the security, there shall be included costs and reasonable expenses and fees, including attorney's and expert's fees incurred in enforcing the obligation secured.

21. A. If not covered in the security described in Section 16, N/A percent faithful performance security for required landscaping and irrigation system for Parcel B and street trees shall be posted with the City at the time of execution of this Agreement to cover public right-of-way and open space landscaping and irrigation systems as well as common area (private) landscaping and irrigation systems. Security for landscaping and irrigation systems on individual, private lots shall be posted with the Planning Department prior to issuance of any building permit by City.

B. Installation of the landscaping and irrigation system and all other related improvements shall be inspected by a registered landscape architect and certified in writing to City's Planning Director as being in compliance with approved plans and specifications and accepted practice prior to release of the applicable bond.

C. The satisfactory establishment of plant materials shall be guaranteed and bonded with a guarantee bond) for a period of 1 year(s) after acceptance of installation. The bond shall be in an amount equal to 10 percent of the value of the landscape improvements and shall be released upon inspection and certification as to satisfactory completion of landscape improvements by a registered landscape architect. The surety for such security shall meet the criteria specified in section 20 hereof. The guarantee bond shall be posted prior to release of the installation (or, if applicable, performance) bond.

22. Without limiting Subdivider's indemnification provided hereinbelow, Subdivider shall take out and maintain at all times during the term of this Agreement the following policies of insurance with insurers with a Best rating of no less than A:XI.

A. Workers' Compensation Insurance to cover its employees, and the Subdivider shall require all contractors and subcontractors similarly to provide Workers' Compensation Insurance as required by the Labor Code of the State of California for all of the subcontractors' employees. Each Workers' Compensation policy shall be endorsed with the provision that it will not be canceled or altered without first giving thirty (30) days prior notice to the City.

In case any class of employees engaged in hazardous work under this Agreement is not protected under Workers' Compensation statutes, the Subdivider shall provide, and shall cause its contractors and subcontractors to provide adequate and suitable insurance for the protection of its employees not otherwise protected. Such policy shall provide that it

will not be canceled or altered without first giving thirty (30) days prior notice to the City.

Said Worker's Compensation policy shall have the following endorsement:

"All rights of subrogation are hereby waived against the City, its officers and employees when acting within the scope of their appointment or employment".

B. Commercial General Liability Insurance including personal injury and property damage insurance for all activities of the Subdivider and its contractors and subcontractors arising out of or in connection with this contract, written on a commercial general liability form including, but not limited to, Broad Form Property Damage, blanket contractual, products liability and completed operations, X,C,U hazards, vehicle coverage and non- owned auto liability coverage in an amount no less than \$2 million dollars combined single limit personal injury and property damage for each occurrence.

Each such policy shall be endorsed with the following specific language:

(1) The City is named as additional insured for all liability arising out of the work performed by or on behalf of the named insured, and this policy protects the additional insured, its officers, agents, and employees against liability for personal and bodily injuries, deaths or property damage or destruction arising in any respect, directly, or indirectly, in the performance of the contract.

(2) The inclusion of more than one insured shall not operate to impair the rights of one insured against another insured, and the coverages afforded shall apply as though separate policies had been issued to each insured.

(3) The insurance provided is primary and no insurance held or owned by the City shall be called upon to contribute to a loss.

(4) The coverage provided by this policy shall not be canceled without thirty (30) days prior written notice given to the City.

C. At the time of execution of this Agreement, Subdivider shall submit to City documentation evidencing Subdivider's required insurance including Certificates of Insurance signed by the insurance agent and companies named on the City's form, copies of which are attached as Exhibit "A" and "B" and properly executed endorsements in the form attached as Exhibits "C" and "D" for the additional coverages required hereunder. Any deductible or self-insured retentions must be declared to and approved in writing by City. At the option of City, insurer shall reduce or eliminate such deductible or self-insured retention as respects City, its officers and employees or Subdivider shall procure

a bond guaranteeing payment of losses and related investigation, claims, administration and defense expenses.

23. All notices herein required shall be in writing, and delivered in person or sent by overnight or registered mail, postage paid. Notice required to be given to City shall be addressed as follows:

City of Sonoma
No. 1 The Plaza
Sonoma, CA 95476
Attention: City Manager

With copy to: Jeffrey A. Walter
City Attorney
670 W. Napa St., Suite F
Sonoma, CA 95476

All notices required to be given to Subdivider shall be addressed as hereinbelow indicated:

Art Fichtenberg
P.O. Box 125
Vineburg, CA 95487

All notices required to be given to surety or guarantor of Subdivider shall be addressed as indicated on the instrument of improvement security incorporated herein by reference.

Any party hereto or the surety may change such address by notice in writing to the other parties and thereafter notice shall be addressed and transmitted to the new address.

24. Time is of the essence of this Agreement and every provision thereof; provided, that subject to Section 1, in the event good cause is shown therefore, City may extend the time for completion of the Improvements by Subdivider. Any such extension may be granted without notice to the Subdivider's surety, and extensions granted shall not relieve the surety's liability on the bond to secure the faithful performance of this Agreement. The City shall be the sole and final judge as to whether or not good cause has been shown to entitle Subdivider to an extension.
25. This Agreement may be amended or modified only by written agreement signed by both parties. Failure on the part of either party to enforce any provisions of this Agreement shall not be construed as a waiver of the right to compel enforcement of such provision(s) and shall not act to release any surety from its obligations under this Agreement.

26. This Agreement shall not be assigned by Subdivider without the written consent of City. The consent of City to any assignment shall not be unreasonably withheld, provided the proposed assignee (“Successor”) can demonstrate its ability to perform and complete the obligations of Subdivider under this Agreement, as determined by objective standards of financial capability, creditworthiness and experience required for such performance. The City shall have the right to compel the Successor to disclose all documents, information and other material which, in the City’s reasonable discretion, may establish or tend to establish that the proposed Successor meets the standards specified hereinabove. Subject to subsection 26(5) below, no assignment permitted hereunder shall be complete until substitute security is provided by the Successor to fulfill its obligations under Sections 16 through 21 hereof. Provided that by no later than six (6) months prior to the expiration of the period specified in Section 1, above, Subdivider provides the City at least forty-five (45) days advance written notice of Subdivider’s intent to assign this Agreement and delivers that notice as well as all documents, information and other material requested by the City and sufficient to enable the City to exercise the discretion vested in it pursuant to this Section 26. No later than thirty (30) calendar days after the City receives the materials submitted by the Subdivider, the City shall deliver to the Subdivider a written determination whether the submitted materials are complete. If the City’s written determination is not delivered within said thirty (30) day period, the submission shall be deemed complete. If within said thirty (30) day period, the City delivers a notice to the Subdivider that the submitted materials are incomplete, the Subdivider shall have thirty (30) calendar days to submit the necessary, additional information and after timely submittal thereof, the City shall have thirty (30) calendar days within which to, again, deliver notice to the Subdivider whether the submitted materials are complete. If the Subdivider does not submit additional materials within thirty (30) calendar days after receiving the City’s determination of incompleteness, it shall be conclusively deemed that the Subdivider has withdrawn its request for consent to the assignment in question. Not later than forty-five (45) days after the Subdivider’s submittal is determined or deemed complete, the City shall accept or reject the proposed assignment. The existence of any legitimate dispute between City and Subdivider over the acceptance by City of any proposed Successor may, in City’s unfettered discretion, result in an extension of the time for performance of Subdivider’s obligations hereunder, as set forth in Section 1, equal to the amount of time required for resolution of such dispute. If the City consents to an assignment to any third-party subdivider or developer, this Agreement shall be deemed to have been amended to provide: (1) that Successor shall be acknowledged by City to be the Subdivider hereunder; (2) that Successor shall assume all obligations of Subdivider hereunder; (3) that all Work and Improvements to which this Agreement relates shall be completed by Successor as required hereunder; (4) that the security for performance of Subdivider’s obligations hereunder, as provided in Sections 16 through 21 hereof, shall, at the election of Subdivider, consist of such security as the Successor shall post, subject to the City’s approval and as long as said substitute security complies with Sections 16 through 21; (5) that all cash security deposited with the City shall be retained by the City pursuant to the terms hereof and any balance owing to the Subdivider shall be paid to the

Successor; and (6) Subdivider shall remain jointly and severally responsible with the Successor for all of the Subdivider's obligations hereunder; and (7) the Successor shall provide evidence that it has obtained the requisite insurance.

27. In the event either party hereto shall commence any legal action or proceeding against the other party arising out of or in connection with this Agreement, the party prevailing in said action or proceeding shall be entitled to recover, in addition to its cost of suit, reasonable attorneys' fees to be fixed by the court, and such recovery shall include costs of suit and attorneys' fees on appeal, if any. This provision shall be in addition to any provisions regarding attorney's fees set forth in the bonds securing this Agreement.
28. Prior to the acceptance of any dedications or improvements by City, Subdivider shall certify and warrant that: (1) neither the property to be dedicated nor Subdivider are in violation of any environmental law and neither the property to be dedicated nor the Subdivider are subject to any existing, pending or threatened investigation by any federal, state or local governmental authority under or in connection with environmental law. Neither Subdivider nor any third party will use, generate, manufacture, produce, or release, on, under, or about the property to be dedicated, any hazardous substance except in compliance with all applicable environmental laws; (2) Subdivider has not caused or permitted the release of, and has no knowledge of the release or presence of, any hazardous substance on the property to be dedicated or the migration of any hazardous substance from or to any other property adjacent to, or in the vicinity of, the property to be dedicated; and (3) Subdivider's prior and present use of the property to be dedicated has not resulted in the release of any hazardous substance on the property to be dedicated. Subdivider shall give prompt written notice to City at the address set forth herein of:
 - A. Any proceeding or investigation by any federal, state or local governmental authority with respect to the presence of any hazardous substance on the property to be dedicated or the migration thereof from or to any other property adjacent to, or in the vicinity of, the property to be dedicated;
 - B. Any claims made or threatened by any third party against City or the property to be dedicated relating to any loss or injury resulting from any hazardous substance; and
 - C. Subdivider's discovery of any occurrence or condition on any property adjoining or in the vicinity of the property to be dedicated that could cause the property to be dedicated or any part thereof to be subject to any restrictions on its ownership, occupancy, use for the purpose for which it is intended, transferability or suit under any environmental law.
29. City shall not be responsible for any of the Work, any Improvement or for performance or nonperformance of any Work of construction of any Improvement. To the fullest

extent permitted by law, Subdivider, and each of its members, hereby agrees to, and shall defend, indemnify and hold City, its elective and appointive boards, commissions, officers, agents, and employees harmless from and against any and all allegations, claims, damages, disabilities, or expenses, including attorneys' fees, experts' fees, and witness costs that may be asserted or incurred, as the case may be, by any person or entity, including liability for damages or claims for damage for personal injury, or death, as well as from claims for real or personal property damage arising out of or in connection with (i) the activities of Subdivider in performing any Work on any Improvement addressed in this Agreement, (ii) Subdivider's performance or non-performance under this Agreement, (iii) Subdivider's breaches of this Agreement, (iv) the City's approval of this Agreement (except for any claims Subdivider may have against the City for City's breach of this Agreement), (v) the City's compliance or non-compliance with the California Environmental Quality Act or any other law applicable to the approval, processing and implementation of the Subdivision, the Approvals, this Agreement, the Improvements and/or Work, (vi) any soils subsidence, land slides or soil movement arising out of Subdivider's activities hereunder; (vii) Subdivider's handling, releasing, disposing, transporting or arranging for the handling, releasing, disposing or transporting of any hazardous wastes, substances or materials as those terms may be defined by any law, ordinance and/or regulation of any regulatory agency with jurisdiction; and/or (viii) Subdivider's violation of any law, ordinance or regulation, whether or not there is concurrent, passive negligence on the part of the City, its elective and appointive boards, commissions, officers, agents, and employees, and regardless of the City's approval of the Plans or City's inspection, approval or acceptance of the Improvements and notwithstanding any limitation on the amount or type of damages or compensation payable by or for Subdivider under Workers' Compensation, Disability, or other employee benefit acts, the acceptance of insurance certificates required under this Agreement, or the terms, applicability, or limitations of any insurance held by Subdivider. This indemnification clause also shall apply to any case where the Work performed is done under a contract entered into by the City as agent of Subdivider and such Work is the proximate cause of any claim against City, and to any cause of action against the City arising from the negligent provision of designs for, or the negligent construction, performance, testing, planning, observation or supervision of, any Work required by this Agreement. Subdivider indemnifies the City for any liability, cost, expense, including attorney's fees, incurred by the City in enforcing this Section 29. This Section 29 shall survive termination of this Agreement for any reason.

30. Subdivider shall have sole responsibility for making all arrangements and assuming all expenses that may be required to provide the Subdivision with utilities. All utilities, including cable television facilities, shall be installed underground. All utilities to be located in streets shall be installed and approved prior to installing street improvements. Subdivider shall be solely responsible and assume all liability for any delays, or damages arising therefrom, caused by utility companies in relocating, installing, establishing, and/or constructing utility lines, cables, trenches, and/or facilities of any type. Subdivider

shall release, defend, indemnify and hold City harmless from any such liability, irrespective of City's active or passive negligence.

31. All utilities to be located in streets shall be installed and approved prior to installing street improvements.
32. The Subdivider shall indemnify the City in accordance with the terms and conditions of Government Code § 66474.9(b).
33. This Agreement shall be binding upon and inure to the benefit of the parties' successors, heirs and assigns, and by the recordation hereof (or the recordation of a memorandum hereof subject to the City's approval) (which said recordation shall be effected by the City), it is the intention of the parties to give notice to and bind their successors, heirs and assigns hereto. The parties intend that this Agreement and its terms and conditions shall run with the land and shall be deemed a covenant running with the land and an equitable servitude. This Section 33 shall survive termination of this Agreement for any reason.
34. Subdivider agrees to submit for City approval and to record Covenants, Conditions, and Restrictions and other related documents for the formation of the required Homeowners Association prior to occupancy of the first unit or acceptance of public Improvements by the City, whichever occurs first. Subdivider further agrees to file, on or before occupancy of first residential structure, evidence acceptable to the City Attorney that the construction of common private improvements is guaranteed with the State of California Department of Real Estate.
35. Jurisdiction and venue of all disputes over this Agreement and/or its terms shall be in the County of Sonoma, State of California.
36. The recitals are incorporated by reference.
37. Subdivider agrees to participate in, and waives any and all rights to protest the formation of an undergrounding district based upon the provisions of Section 19 of the Sonoma Municipal Code.

SUBDIVIDER/OWNER

CITY OF SONOMA

BY: _____
Title: _____

BY: _____
City Manager

BY: _____
Title: _____

(Subdivider/Owner signature must be accompanied
with a Certificate of Acknowledgement)

ATTEST:

City Clerk

NOTE: If the Subdivider executing this Agreement is a corporation, a certified copy of the bylaws or resolution of the board of directors authorizing said corporation to execute this Agreement shall be provided; and at least two corporate officers must execute this Agreement.

OWNER'S CERTIFICATE

I HEREBY CERTIFY THAT LELAND W. DOAN IS THE SOLE OWNER OF AND HAVE THE RIGHT, TITLE, AND INTEREST IN AND TO THE REAL PROPERTY INCLUDED WITHIN THE SUBDIVISION SHOWN UPON THIS MAP, AND IS THE ONLY PERSON WHOSE CONSENT IS NECESSARY TO PASS CLEAR TITLE TO SAID PROPERTY, AND LELAND W. DOAN, CONSENT TO THE MAKING AND FILING OF SAID MAP OF THE SUBDIVISION SHOWN WITHIN THE BORDER LINES, AND HEREBY DEDICATE FOR PUBLIC STREET PURPOSES, THE PORTION OF FIFTH STREET EAST LYING WITHIN THE BOUNDARIES OF THIS SUBDIVISION AND DEDICATE TO PUBLIC USE, THE PUBLIC UTILITY EASEMENTS AND PUBLIC FIRE SERVICE WATER MAIN EASEMENT AS SHOWN AND DELINEATED ON THIS MAP

LELAND W. DOAN _____

NOTARY PUBLIC CERTIFICATE

STATE OF CALIFORNIA
COUNTY OF SONOMA

ON _____, 2012 BEFORE ME, _____ PERSONALLY APPEARED, WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE/THEY EXECUTED THE SAME IN HIS/HER/THEIR AUTHORIZED CAPACITY(IES), AND THAT BY HIS/HER/THEIR SIGNATURE(S) ON THE INSTRUMENT THE PERSON(S), OR THE ENTITY UPON BEHALF OF WHICH THE PERSON(S) ACTED, EXECUTED THE INSTRUMENT.

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING PARAGRAPH IS TRUE AND CORRECT.

WITNESS MY HAND. MY COMMISSION EXPIRES / / # _____

DATE _____

TRUSTEE'S CERTIFICATE

FIRST AMERICAN TITLE COMPANY, THE TRUSTEE UNDER THE DEED OF TRUST RECORDED IN THE OFFICE OF THE COUNTY RECORDER AS DOCUMENT NO. 2009-064976, OF OFFICIAL RECORDS OF SONOMA COUNTY AGAINST THE TRACT OF LAND HERON SHOWN, HEREBY CONSENT TO THE MAKING AND FILING OF THIS MAP.

BY: _____ BY: _____
TITLE _____ TITLE _____

NOTARY PUBLIC CERTIFICATE

STATE OF CALIFORNIA
COUNTY OF SONOMA

ON _____, 2012 BEFORE ME, _____ PERSONALLY APPEARED, WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE/THEY EXECUTED THE SAME IN HIS/HER/THEIR AUTHORIZED CAPACITY(IES), AND THAT BY HIS/HER/THEIR SIGNATURE(S) ON THE INSTRUMENT THE PERSON(S), OR THE ENTITY UPON BEHALF OF WHICH THE PERSON(S) ACTED, EXECUTED THE INSTRUMENT.

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING PARAGRAPH IS TRUE AND CORRECT.

WITNESS MY HAND. MY COMMISSION EXPIRES / / # _____

DATE _____

CITY CLERK'S CERTIFICATE

I HEREBY CERTIFY THAT THE CITY COUNCIL OF THE CITY OF SONOMA, STATE OF CALIFORNIA, ON THIS DAY OF _____, 201____, DID APPROVE THIS MAP AND ACCEPT, FOR PUBLIC STREET PURPOSES, THE PORTION OF FIFTH STREET EAST LYING WITHIN THE BOUNDARIES OF THIS SUBDIVISION AND ACCEPT FOR PUBLIC USE THE PUBLIC UTILITY EASEMENTS AND PUBLIC FIRE SERVICE WATER MAIN EASEMENT AS SHOWN AND DELINEATED ON THIS MAP.

GAY JOHANN, CITY CLERK, CITY OF SONOMA
STATE OF CALIFORNIA

COUNTY CLERK'S CERTIFICATE

I CERTIFY THAT ALL BONDS, MONEY OR NEGOTIABLE BONDS REQUIRED UNDER THE PROVISIONS OF THE SUBDIVISION MAP ACT TO SECURE PAYMENT OF TAXES AND ASSESSMENTS HAVE BEEN FILED WITH AND APPROVED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF SONOMA, NAMELY: BOND(S) UNDER GOVERNMENT CODE SECTIONS 66493 (a) AND 66493 (c) IN SUMS OF \$ _____ AND \$ _____ RESPECTIVELY.

IN WITNESS THEREOF, I HAVE HEREUNTO SET MY HAND AND AFFIXED MY OFFICIAL SEAL THIS
DAY OF _____, 2012.

CLERK OF THE BOARD OF SUPERVISORS
COUNTY OF SONOMA
STATE OF CALIFORNIA

COUNTY TAX COLLECTOR'S CERTIFICATE

ACCORDING TO THE RECORDS IN THE OFFICE OF THE UNDERSIGNED, THERE ARE NO LIENS AGAINST THIS SUBDIVISION, OR ANY PARTS THEREOF, FOR UNPAID STATE, COUNTY, MUNICIPAL OR LOCAL TAXES OR SPECIAL ASSESSMENTS COLLECTED AS TAXES EXCEPT TAXES OR SPECIAL ASSESSMENTS COLLECTED AS TAXES NOT YET PAYABLE. MY ESTIMATE OF TAXES AND SPECIAL ASSESSMENTS COLLECTED AS TAXES NOT YET PAYABLE IS \$ _____. THE LAND IN SAID SUBDIVISION IS NOT SUBJECT TO A SPECIAL ASSESSMENT OR BOND WHICH MAY BE PAID IN FULL.

DATED: _____, 2012

TAX COLLECTOR
COUNTY OF SONOMA
STATE OF CALIFORNIA

COUNTY RECORDER'S CERTIFICATE

FILED THIS _____ DAY OF _____, 2012, AT _____ M. IN BOOK _____ OF MAPS, AT PAGE _____, IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF SONOMA, STATE OF CALIFORNIA, AT THE REQUEST OF TONI BERTOLERO, CITY ENGINEER, CITY OF SONOMA.

FEES \$ _____

SIGNED _____
COUNTY RECORDER
COUNTY OF SONOMA
STATE OF CALIFORNIA

DOCUMENT NO. _____

BY _____

SURVEYOR'S STATEMENT

THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECTION AND IS BASED UPON A FIELD SURVEY IN CONFORMANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND LOCAL ORDINANCE AT THE REQUEST OF ART FICHTENBERG IN DECEMBER, 2010. I HEREBY STATE THAT THIS PARCEL MAP SUBSTANTIALLY CONFORMS TO THE APPROVED OR CONDITIONALLY APPROVED TENTATIVE MAP, IF ANY, AND MONUMENTS SHOWN HEREON HAVE BEEN SET AND THAT SAID MONUMENTS ARE OR WILL BE SUFFICIENT TO ENABLE THE SURVEY TO BE RETRACED.

ADAM S. RIVERA P.L.S. 8451
LICENSE EXPIRES 12-31-12

DATED _____

IMPROVEMENT CERTIFICATE

PURSUANT TO GOVERNMENT CODE SECTION 66411.1 AND THE CONDITIONS OF APPROVAL OF THE TENTATIVE PARCEL MAP, THE FOLLOWING IMPROVEMENTS ARE REQUIRED TO BE CONSTRUCTED UPON THE ISSUANCE OF ANY PERMIT OR GRANT OF APPROVAL FOR DEVELOPMENT OF ANY LOT CREATED BY THIS PARCEL MAP:

- 1) CONSTRUCTION OF PUBLIC STREET IMPROVEMENTS, SANITARY SEWER, WATER AND STORM DRAIN FACILITIES; SITE GRADING; AND RELATED IMPROVEMENTS.
- 2) INSTALLATION OF UNDERGROUND UTILITY SERVICES INCLUDING GAS, ELECTRICITY, TELEPHONE AND CABLE TELEVISION TO LOTS 1 THROUGH 4.

TRUSTEE'S CERTIFICATE

NORTH COAST TITLE COMPANY, THE TRUSTEE UNDER THE DEED OF TRUST RECORDED IN THE OFFICE OF THE COUNTY RECORDER AS DOCUMENT NO. 2011-082331, OF OFFICIAL RECORDS OF SONOMA COUNTY AGAINST THE TRACT OF LAND HERON SHOWN, HEREBY CONSENT TO THE MAKING AND FILING OF THIS MAP.

BY: _____ BY: _____
TITLE _____ TITLE _____

NOTARY PUBLIC CERTIFICATE

STATE OF CALIFORNIA
COUNTY OF SONOMA

ON _____, 2012 BEFORE ME, _____ PERSONALLY APPEARED, WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE/THEY EXECUTED THE SAME IN HIS/HER/THEIR AUTHORIZED CAPACITY(IES), AND THAT BY HIS/HER/THEIR SIGNATURE(S) ON THE INSTRUMENT THE PERSON(S), OR THE ENTITY UPON BEHALF OF WHICH THE PERSON(S) ACTED, EXECUTED THE INSTRUMENT.

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING PARAGRAPH IS TRUE AND CORRECT.

WITNESS MY HAND. MY COMMISSION EXPIRES / / # _____

DATE _____

CITY ENGINEER'S CERTIFICATE

I HEREBY STATE THAT THE MAP OF THIS SUBDIVISION WAS EXAMINED BY ME OR UNDER MY DIRECTION THAT IT IS SUBSTANTIALLY THE SAME AS IT APPEARED ON THE TENTATIVE MAP AND ANY APPROVED ALTERATIONS THEREOF. THAT ALL PROVISIONS OF THE SUBDIVISION MAP ACT AS AMENDED AND ANY LOCAL ORDINANCES APPLICABLE AT THE TIME OF APPROVAL OF THE TENTATIVE MAP HAVE BEEN COMPLIED WITH.

TONI BERTOLERO, CITY ENGINEER, ROE 36539 DATED
LICENSE EXPIRES 6/30/2014

I HEREBY STATE THAT THE MAP OF THIS SUBDIVISION WAS EXAMINED BY ME OR UNDER MY DIRECTION ON BEHALF OF THE CITY ENGINEER AND I AM SATISFIED THAT SAID MAP IS TECHNICALLY CORRECT.

RICHARD A. MADDOCK, PLS 8131 DATED
LICENSE EXPIRES 12/31/2012

NOTE:
A SEPARATE SEWER CONNECTION PERMIT FOR EACH LOT IN THIS SUBDIVISION SHALL BE OBTAINED PRIOR TO OCCUPANCY OF ANY BUILDING CONSTRUCTED ON THE LOT. ALL FEES SHALL BE PAID TO, AND ALL SEWER CONSTRUCTION SHALL BE INSPECTED AND ACCEPTED BY THE SONOMA COUNTY PERMIT AND RESOURCES MANAGEMENT DEPARTMENT PRIOR TO OCCUPANCY OF THE BUILDING.

CITY OF SONOMA
PARCEL MAP No. 154

OF THE LANDS OF
LELAND W. DOAN
AS DESCRIBED IN DOCUMENT NUMBER 2011-082339
BEING OFFICIAL RECORDS OF SONOMA COUNTY
AND LYING WITHIN THE OUTLOT 528 OF THE EX-PUEBLO OF SONOMA
CITY OF SONOMA COUNTY OF SONOMA STATE OF CALIFORNIA
SCALE: 1" = 20' 4 LOTS 0.92 ACRES APN: 128-111-020 DATE: MARCH, 2011

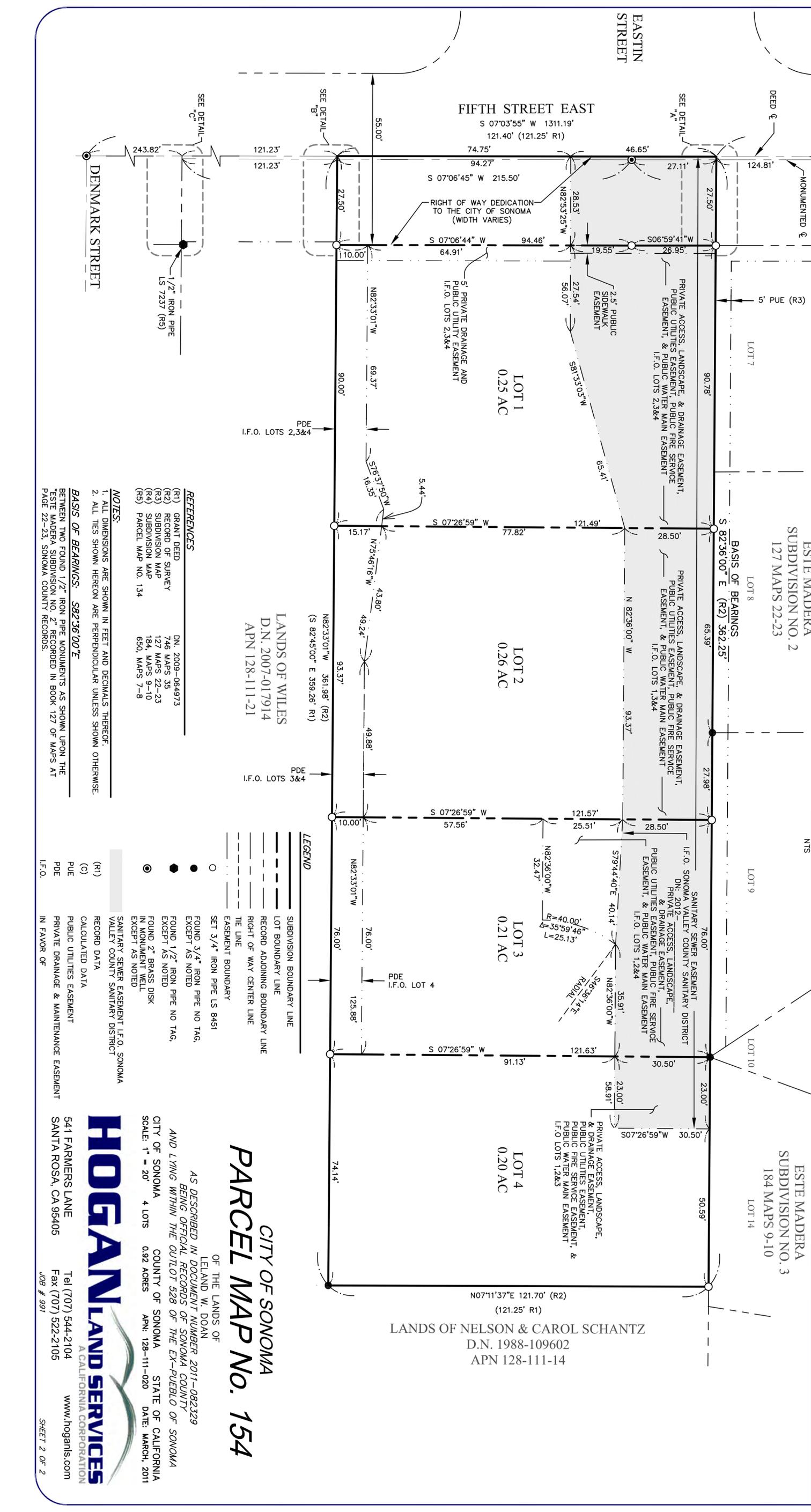
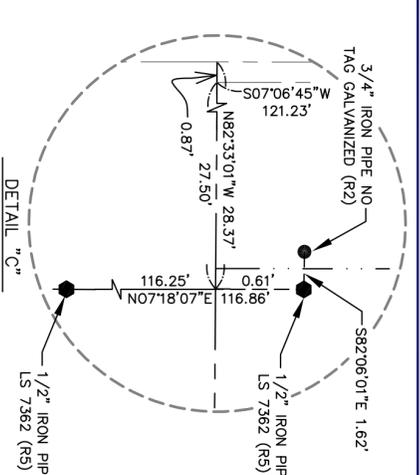
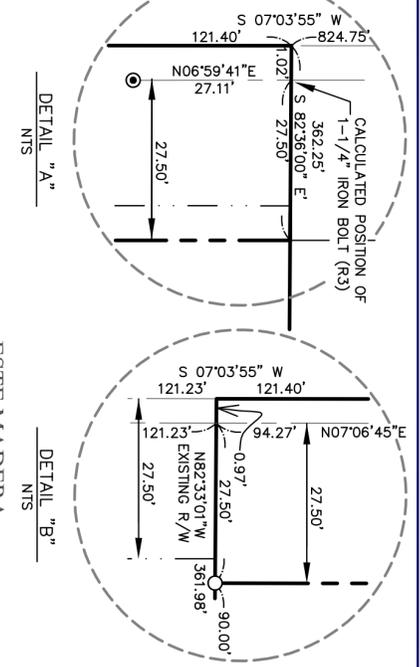
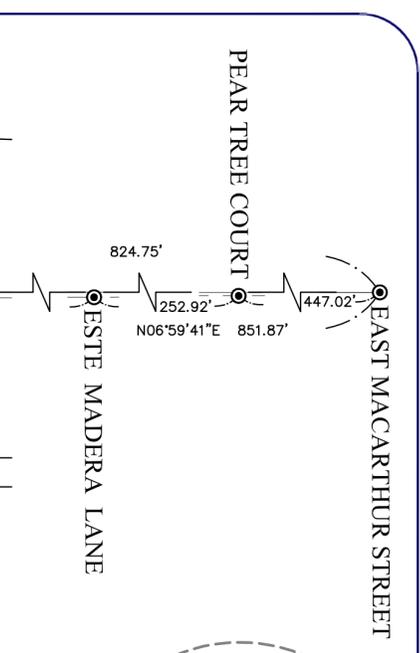
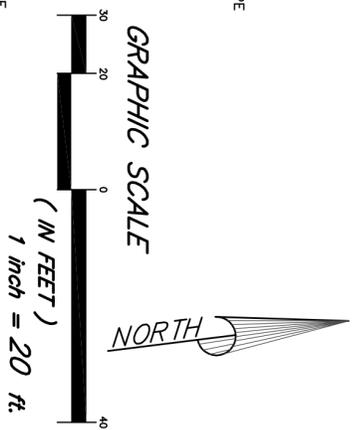
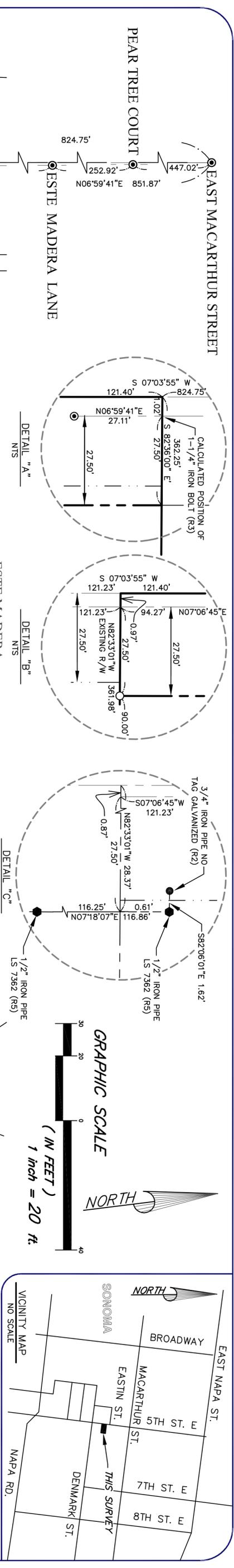
HOGAN LAND SERVICES
A CALIFORNIA CORPORATION

541 FARMERS LANE Santa Rosa, CA 95405
Tel (707) 544-2104 Fax (707) 522-2105
www.hogans.com

SHEET INDEX:
1. CERTIFICATE SHEET
2. MAP SHEET

NORTH COAST TITLE COMPANY, ORDER No.: 00101013-001 DATED: AUGUST 13, 2012

SHEET 1 OF 2



CITY OF SONOMA
PARCEL MAP No. 154

OF THE LANDS OF
LELAND W. DOAN
AS DESCRIBED IN DOCUMENT NUMBER 2011-082329
BEING OFFICIAL RECORDS OF SONOMA COUNTY
AND LYING WITHIN THE OUTLOT 528 OF THE EX-PUERBLO OF SONOMA
CITY OF SONOMA COUNTY OF SONOMA STATE OF CALIFORNIA
SCALE: 1" = 20' 4 LOTS 0.92 ACRES APN: 128-111-020 DATE: MARCH, 2011

HOGAN LAND SERVICES
A CALIFORNIA CORPORATION
541 FARMERS LANE
SANTA ROSA, CA 95405
Tel (707) 544-2104
Fax (707) 522-2105
www.hoganis.com
SHEET 2 OF 2

- REFERENCES**
- (R1) GRANT DEED DN. 2009-064973
 - (R2) RECORD OF SURVEY 746 MAPS 33
 - (R3) SUBDIVISION MAP 127 MAPS 22-23
 - (R4) SUBDIVISION MAP 184, MAPS 9-10
 - (R5) PARCEL MAP NO. 134 650, MAPS 7-8

- NOTES**
1. ALL DIMENSIONS ARE SHOWN IN FEET AND DECIMALS THEREOF.
 2. ALL TIES SHOWN HEREON ARE PERPENDICULAR UNLESS SHOWN OTHERWISE.

BASIS OF BEARINGS: S82°36'00"E
BETWEEN TWO FOUND 1/2" IRON PIPE MONUMENTS AS SHOWN UPON THE "ESTE MADERA SUBDIVISION NO. 2" RECORDED IN BOOK 127 OF MAPS AT PAGE 22-23, SONOMA COUNTY RECORDS.

- LEGEND**
- SUBDIVISION BOUNDARY LINE
 - LOT BOUNDARY LINE
 - RECORD ADJOINING BOUNDARY LINE
 - RIGHT OF WAY CENTER LINE
 - THE LINE
 - EASEMENT BOUNDARY
 - SET 3/4" IRON PIPE LS 8451
 - FOUND 3/4" IRON PIPE NO TAG, EXCEPT AS NOTED
 - FOUND 1/2" IRON PIPE NO TAG, EXCEPT AS NOTED
 - FOUND 1/2" BRASS DISK IN MONUMENT WELL EXCEPT AS NOTED
 - SANITARY SEWER EASEMENT I.F.O. SONOMA VALLEY COUNTY SANITARY DISTRICT
 - (R1) RECORD DATA
 - (C) CALCULATED DATA
 - PUE PUBLIC UTILITIES EASEMENT
 - PDE PRIVATE DRAINAGE & MAINTENANCE EASEMENT
 - I.F.O. IN FAVOR OF



City of Sonoma
City Council
Agenda Item Summary

City Council Agenda Item: 5F

Meeting Date: 09-17-12

Department

Public Works

Staff Contact

Milenka Bates, Public Works

Agenda Item Title

Approval of Plein Air Special Event Banner on Horseshoe Lawn promoting "Plein Air 10th Anniversary" event October 6, 2012

Summary

The Community Services and Environment Commission (CSEC) reviewed the Plein Air Event application at the July 11, 2012 CSEC meeting. The CSEC approved the event and the Event Organizers request to display the Sonoma Plein Air Foundation "10th Anniversary Sonoma Plein Air" banner on the horseshoe lawn in front of City Hall on Saturday October 6, 2012. The City's special events banner policy for outside non-commercial groups (attached) does not allow banners on the horseshoe lawn. CSEC is requesting an exception for this special event banner and also an exception to the size restriction (currently stated in the policy as not to exceed six square feet), since the banner will be larger.

Recommended Council Action

Approve CSEC request allow placement of Banner on Plaza Horseshoe for October 6, 2012

Alternative Actions

Council Discretion

Financial Impact

N/A

Environmental Review

- Environmental Impact Report
- Negative Declaration
- Exempt
- Not Applicable

Status

- Approved/Certified
 - No Action Required
 - Action Requested
-

Attachments:

Banner Drawing
Special Event Policy

cc: Ellen Hoover via ellenhoover@hughes.net

PROPOSED BANNER FOR SONOMA PLEIN AIR

:: to be posted at southern end of grass in horseshoe

12'

2002 • 10th ANNIVERSARY • 2012

Sonoma Plein Air

A CELEBRATION OF OUTDOOR PAINTING

PROPOSED INSTALLATION:

- three 5' aluminum poles left, right and center
- 3 poles to be inserted in 5-gallon buckets filled with concrete
- guide wires front & back of banner - from top of each pole to small stake in ground
- red caution flags on all 6 wires - half way up and at ground level

Should a Special Event exceed the 72 hour limit, event organizers shall be subject to a penalty charge to be established by the City Council by resolution. In addition, conditions of approval of subsequent years' events may be affected by the organization's failure to observe the 72-hour limit, which failure also may constitute grounds for denial of future years' event permits.

With the approval of the CSEC, the "Salute to the Arts" event may be permitted to use the Plaza for up to a maximum of 96 hours, including set-up and take-down time.

4. Restroom Facilities

All events utilizing public restrooms shall be required to provide restroom monitors to ensure that no vandalism occurs during the course of the event and that restrooms are vacated and locked at the close of the event. Event Sponsors shall be responsible for cleaning and supplying restrooms.

5. Solid Waste and Recycling

All event applicants are required to submit a recycling and solid waste plan that minimizes the production of solid waste, provides for convenient recycling containers for event attendees and for event participants/vendors/etc., that provides for a sufficient number of trash receptacles for non-recyclable waste and that assures that the venue is returned to a trash-free and sanitary condition for use by the general public. Helpful hints for event planners will be provided as part of the special event application packet.

6. Noise

Amplified music shall normally cease no later than 10:00 PM; however, the CSEC shall have the authority to extend the time through the application review process if circumstances warrant an extension.

7. Banners

With approval of the Sonoma City Council, a banner may be displayed on the Plaza to advertise Special Events held at the Plaza or at other locations in the City. Banners advertising a community-wide event of general interest and sponsored by a noncommercial community group shall not exceed six square feet, nor shall they be displayed for longer than 3 consecutive days; allowable display time commencing one day prior to the event. Appearance and content of the banner are subject to Council review and approval. Banners shall not be displayed in the Plaza horseshoe lawn. Methods of supporting the banner and location in the Plaza are subject to review and approval by the Public Works Administrator or his or her designee.

8. Minimum Contributions

- a. For events that are sponsored by a non-tax exempt organization (as defined in this policy) that anticipate any cash income from the event (as described in Section D(1)(b)(3)), sponsoring organizations must donate a minimum of 40% of the gross proceeds from the event to one or more locally based non-profit organizations. The



City of Sonoma
City Council/CDA
Agenda Item Summary

City Council Agenda Item: 5G

Meeting Date: 09/17/12

Department

Planning and Community Services

Staff Contact

David Goodison, Planning Director

Agenda Item Title

Adoption of a resolution distributing growth management allocations for the 2012-13 development year.

Summary

The Growth Management Ordinance establishes a process for annually distributing development allocations for the purpose of determining which large residential projects may apply for planning approval, while limiting residential development to an average of 65 units per year. In essence, Growth Management allocations correspond to potential residential units, with one allocation equaling one unit that may be applied for in a proposed development. Due to a carry-over of 11 allocations from the previous development year, there are 76 allocations to be distributed for the 2012-13 development year. (In previous years, the base was 88, but this number was reduced to 65 as part of an amendment to the ordinance adopted in 2008). As required by the ordinance, the base amount of allocations is reduced by the amount of small development (four units or fewer) constructed within the last 12 months and 30 allocations are reserved for "infill" developments. Next, any remaining allocations are distributed first to properties which have received some but not all of their requested allocations and then to properties on the waiting list, on a first-come, first-served basis. After deducting small development units constructed in the preceding 12 months and of the set-aside for infill development, 39 allocations are available to be distributed for 2012-2013. The attached resolution would distribute those allocations in the manner prescribed by the Growth Management Ordinance.

Recommended Council Action

Adopt resolution distributing growth management allocations.

Alternative Actions

Modify the resolution consistent with the parameters of the Growth Management Ordinance.

Financial Impact

N.A.

Environmental Review

- Environmental Impact Report
- Negative Declaration
- Exempt
- Not Applicable

Status

- Approved/Certified
 - No Action Required
 - Action Requested
-

Attachments:

1. Supplemental Report
 2. Resolution
-

cc: Les Peterson
c/o Peterson Mechanical
21819 Eighth Street East
Sonoma, CA 95476

SUPPLEMENTAL REPORT

Distribution of 2012-13 Growth Management Allocations

For the City Council meeting September 17, 2012

Background

Pursuant to the City's Growth Management Ordinance (Chapter 19.94 of the Sonoma Municipal Code), the City annually distributes allocations for the purpose of determining which projects of five or more units will be eligible to proceed through the planning review process. The ordinance establishes a "development year," running from September 1st to August 31st, with the distribution of allocations occurring in September of each year. Growth management allocations correspond to residential units that may ultimately be built, after a project receives planning approvals. While in prior years, the annual distribution began with a base of 88 allocations, an amendment to the ordinance adopted by the City Council in 2008 reduced the annual base to 65 allocations. The process used to distribute allocations is as follows:

1. Small developments (four units or fewer) constructed during the preceding twelve months are deducted from the base of 65 allocations.
2. 30 allocations are reserved for infill development for the development year.
3. Up to 20 allocations per project are allocated to prospective developments that have not already received their full number of allocations, including projects that benefited from a processing exemption, as defined in the ordinance.
4. Any remaining allocations are distributed on a first-come, first-served basis to prospective developments on the Pre-application Waiting List (not to exceed twenty allocations per project per year). If not all of the allocations are distributed, the remainder is carried forward to the next development year, except that the total number of allocations may not exceed 97.

A development application may not be filed until 100% of the requested allocations have been received.

Distribution of Allocations for the 2011-12 Development Year

The base allocation for the 2012-13 development year is 76 units, as 11 allocations were carried over from the previous year. There were 7 units of small development over the last twelve months and 30 allocations are set aside for infill development. With these deductions, a net allocation pool of 39 is available. As discussed above, these allocations are first assigned (at a maximum of 20 per year) to prospective developments that have received some, but not all of their allocations. This year, there are two such developments:

1. The Peterson property, at 245 First Street East, for which 53 allocations have been requested and 52 have been received. (Note: the property owner representative, Les Peter-

son, has requested that he NOT receive the remaining allocation this year as the family is not yet prepared to make an application for the development of the property.)

2. The property at 19344 Sonoma Highway (the Valley Oak affordable development), for which 43 allocations have been requested, with 20 received. (Note: As an affordable project, this development was exempt from the processing restrictions of the Growth Management Ordinance, but under the terms of the ordinance the units are still ultimately counted.)

Assigning zero allocations to the Peterson property and 20 allocations to the Sonoma Highway site leaves a remainder of 19. At this time, that leaves the property at 870 Broadway (the former site of Sonoma Truck and Auto), for which 38 allocations have been requested, as the only property that is eligible to receive allocations.

Recommendation

Adopt the attached Resolution distributing growth management allocations for the 2012-13 development year.

CITY OF SONOMA

RESOLUTION XX-2012

**DISTRIBUTION OF GROWTH MANAGEMENT ALLOCATIONS
FOR THE 2012-13 DEVELOPMENT YEAR**

WHEREAS, the City of Sonoma Growth Management Ordinance (Chapter 19.94 of the Sonoma Municipal Code) establishes procedures for the distribution of allocations on an annual basis; and,

WHEREAS, the City Council has considered the information presented by staff on the proposed distribution of available allocations for the 2012-13 development year and has found that the recommendations adopted herein are consistent with the provisions, intent, and application of the Growth Management Ordinance as most recently amended.

NOW, THEREFORE, BE IT RESOLVED, that the allocation for the 2012-13 development year shall be distributed as follows:

2012-13 Base Allocation:	76 units	
Small Development (September 1, 2011 to August 31, 2012):	7 units	
Allocations reserved for "Infill" projects:	30 units	
Net available allocation:	39 units	
Distribution:	0 units	(Peterson, 245 First Street East)
	20 units	(AHA, 19344 Sonoma Hwy)
	19 units	(870 Broadway)

The foregoing Resolution was duly adopted this 17th day of September 2012, by the following roll call vote:



City of Sonoma
City Council
Agenda Item Summary

City Council Agenda Item: 7A

Meeting Date: 09/17/2012

Department

Public Works

Staff Contact

Milenka Bates, Public Works Director

Agenda Item Title

Discussion, consideration and possible action on acceptance of 2012 Water Rate Study update and adoption of a 5-year plan for water rate increases.

Summary

In September and November of 2011, Staff presented Council with the 2010 Water Supply and Water Rate and Connection Charge Study written by Jon Olaf Nelson ("2010 Study"). Staff identified to Council various scenarios for water rates and recommended an annual increase of 5% over the next five year period effective February 1, 2013. The 2010 proposal of 5% per year for the next 5 years falls approximately \$2.7 million short of meeting revenue needs for operations and capital expenditures but will sustain the system and mitigate the cost increases borne by the City due to increases in the water purchase costs from Sonoma County Water Agency.

Because the Nelson Study was completed based on data from 2010, John Nelson was retained to provide a summary review to confirm that the proposed rates would still be sufficient to maintain the viability of the enterprise fund given the projected expenditures and revenues. Although the 2012 Review recommended raising rates greater than 5% per year due to the reasons stated above, it is staff's recommendation to maintain the rate of increase as in the previous 5 years. This is recommended by staff with the caveats and conditions for annual tracking and monitoring of the water enterprise's fiscal condition and reporting to Council during the budget process.

The Notice of the Public Hearing was mailed to utility bill customers on July 20th. The notice included a provision for customers to submit a protest to the increase. As of the date of agenda posting the City had received 101 protest letters. Total utility customers total 4,326.

Recommended Council Action

Accept updated data from the 2012 Nelson Water Rate Study and authorize the 5-year plan to implement water rate increases of 5% per year for 2013-2018. Rate increases to be effective on February 1st of each year.

Alternative Actions

Do not approve rate increase or direct lower rate increase resulting in continuing delays to infrastructure projects.

Request additional information

Financial Impact

Increase in Water Revenue will fund needed capital and infrastructure improvements.

Environmental Review

- Environmental Impact Report
- Negative Declaration
- Exempt
- Not Applicable

Status

- Approved/Certified
 - No Action Required
 - Action Requested
-

Attachments:

Supplemental Report

cc:

MEMORANDUM

TO: Mayor and Council members
Linda Kelly, City Manager

From: Milenka Bates, Public Works Director

Date: August 29, 2012

Subject: Staff Report - Proposed Water Rate Increase

Background and Schedule

In February 2007, the City implemented a three-tiered water rate structure. The tiered rate structure allows reasonable, efficient water use, while discouraging excessive water use and encouraging water conservation. The model described above has proven to be effective and staff recommends continued use of this approach. Water Enterprise fund balances and the five-year Capital Improvement Plan will be reported upon during the Public Hearing.

In September and November of 2011, Staff presented Council with the 2010 Water Supply and Water Rate and Connection Charge Study written by Jon Olaf Nelson (“2010 Study”). Staff identified to Council various scenarios for water rates and recommended an annual increase of 5% over the next five year period effective February 1, 2013.

As required under State regulations, Prop. 218 notices were sent to property owners and tenants in the City’s water service area notifying them of the pending water rate increases.

Discussion

Because the Nelson Study was completed two years ago, John Nelson was retained to provide a summary review to confirm that the proposed rates would still be sufficient to maintain the viability of the enterprise fund given the projected expenditures and revenues. A copy of the John Nelson review document (“2012 Review”) dated August 14, 2012 is attached to this staff report. The conclusions and recommendations from the 2012 Review are summarized in the following paragraphs. A copy of the full 2012 Review is available for viewing at the City Clerk’s Office, along with the original 2010 Study.

The 2010 proposal of 5% per year for the next 5 years falls approximately \$2.7 million short of meeting revenue needs for operations and capital expenditures but will sustain the system and mitigate the cost increases borne by the City due to increases in the water purchase costs from Sonoma County Water Agency. The option of reducing labor costs is not realistic due to the increased requirements by the State and Federal regulations.

Although the 2012 Review recommended raising rates greater than 5% per year due to the reasons stated above, it is staff's recommendation to maintain the rate of increase as in the previous 5 years. This is recommended by staff with the caveats and conditions for annual tracking and monitoring of the water enterprise's fiscal condition and reporting to Council during the budget process.

In addition, the Sonoma County Water Agency is currently preparing a long-term financial plan. The City has been advised that in 2018, the Biological Opinion will come to fruition with respect to the success of the Dry Creek enhancements (known as Russian River Instream Flow Requirements, or RRIFR). If the enhancements are not successful, the Sonoma County Water Agency may need to consider the construction of a bypass pipeline to the Dry Creek conveyance system. The bypass pipeline will add significant costs and these costs will be passed on to the City of Sonoma along with the other 7 water contractors.

For comparison purposes, staff has determined that many of the Russian River water contractors are faced with the challenges of providing a reliable and cost-effective water service to its customers, given the environmental and regulatory constraints that we face. North Marin in 2011 approved a three-year increase of 11% each year. Windsor recently increased its rates by 9%. While not a Russian River water customer, the City of Sebastopol recently approved a four-year increase of 32% each year. It is also worth noting that the Sonoma County Water Agency increased its wholesale water rates that the City of Sonoma pays by 5.2%.

A future and separate issue from the Consumer Water Rates are the Connection Fees to the City System. The City has not increased its water connection fees since 2007. Staff will be presenting a future connection fee increase to Council for consideration.

Summary of Water Operations Funds

The City's water enterprise is comprised of Water Operations and Water Capital funds. Water service charges and rates are applied to both Water Operations and Water Capital. Water connection fees and charges are applied only to Water Capital. Both existing customers and future customers pay for their fair share of capital projects.

A summary of fund balances is shown in the tables that follow. The balances show that for the current fiscal year 2012/2013, there is not sufficient operating cash reserve. The industry standard for operating cash reserve is an amount equal to three to four months of operating expenses. A 3-month operating reserve equates to approximately \$813,627.

On the capital side, the capital fund balance is not sufficient to meet the 5-year CIP, Table 2 shows that the capital fund will not sustain the 5-year CIP under a "pay-go" funding approach. A water bond sale would help pay for the CIP projects, reduce the spike to the proposed rates as well as amortize the cost of the improvements over a longer period of time. Capital projects generally have a life of at least 20 years.

Tables 1 and 2 provide summaries of the operating and capital funds under the current rates.

Table 1 - Summary of FY 2012/2013 Water Operations Fund

	Revenues (+)	Expenditures (-)
Operating Revenues	\$4,200,000	
Labor, Services, Supplies (O&M)		\$3,237,000
Interfund transfers		672,000
Debt service		<u>173,000</u>
Total Operating Expenses		\$4,082,000
Ending Cash Balance	\$118,000	
Operating Cash Reserves needed	\$813,627	
Shortfall in Operating Cash Reserves		(\$695,627)

Table 2 - Summary of 5-Year Capital Fund Balance for Existing Users

	Revenues	Expenditures
Beginning Balance (7/1/12)	\$1,910,000	
Estimated 5-year CIP		\$6,300,000
Ending Balance (year 5)		(\$4,390,000)

Five-Year Capital Improvement Plan

The 2010 Study shows the 5-year CIP totaling \$6.3 million in costs attributable to existing users. The projects are for the Sonoma Developmental Center conjunctive use, well replacement projects, new well installation and water service replacements throughout the city. A detailed listing of the projects can be found in Appendix G of the 2010 Study.

Recommendation

It is recommended that Council approve a 5% per year increase effective February 2013 through February 2017 subject to the following items which will be monitored and reported to Council during each budget year of the 5-year period:

1. Report on the actual O&M expenditures and water service revenues in comparison to the projected expenditures and revenues.
2. Report on capital expenditures and revenues (including revenues from connection fees) during 5-year period in comparison to the projected capital expenditures and revenues.
3. Track actual and projected Sonoma County Water Agency rates. At this time the water agency is developing a long term financial plan and the City will need to consider the water agency's wholesale rates that are passed down to the City.
4. Evaluate the need for a water bond sale for implementation of the City's CIP and determine effect on the operating reserves.
5. Track projected water connection fees so that new development is paying its fair share of the CIP.
6. Reduce operating fund reserve from 4 months to 3 months of reserve.

Although the summary review conducted by John Nelson showed that a higher rate increase is needed (7% per year), it is recommended that the nominal annual increase of 5% be adopted provided the conditions listed above are monitored on an annual basis.



City of Sonoma
City Council
Agenda Item Summary

City Council Agenda Item: 8A

Meeting Date: 09/17/2012

Department

Public Works

Staff Contact

Milenka Bates, Public Works

Agenda Item Title

Approve Cemetery Subcommittee recommendation to move forward with the construction of 16 pre-lined graves and 32 cremains at the Veterans Memorial Park Cemetery and authorize \$40,000 from the General Fund Special Projects Reserve. Additionally approve to fund an analysis on future build out of remaining Veterans Cemetery areas including engineering and hydrology.

Summary

On August 27, 2012, the Cemetery Subcommittee met to discuss the need for additional inventory at the Veterans Park Memorial Cemetery. Currently there is one full grave site available for purchase. Staff presented four options which are presented in the attached memo. Option A would provide for 16 unlined graves and 32 cremains on the North side of the Star of Honor. Option B would also provide for 16 graves and 32 cremains on the North side of the Star, though the graves would be pre-lined making it efficient to provide burial services during the winter and reduce staff time at time of burial. Options C and D would be to install graves and cremains on the South side of the Star of Honor but due to the high water table and the problems associated with winter burials staff nor the subcommittee is recommending at this time. The staff also reviewed with the subcommittee the need for the installation of drainage on the South side of the Star in order to reduce the groundwater issues during the rainy season. The subcommittee is recommending that Council direct staff to explore the issue and provide additional funds for an engineering and hydrology study for future build out.

Recommended Council Action

1. Approve Cemetery Sub-Committees recommendation to move forward with Option B and begin immediate construction on 16 graves and 32 cremains. Authorize expenditure of \$40,000 from the General Fund Special Projects Reserve.
 2. Direct staff to [1] begin analysis on future build out of remaining Veteran's cemetery areas including hydrology and engineering; [2] appropriate funding to complete needed studies [estimate \$20,000] from the General Fund Special Projects Reserve and [3] determine if any information contained in the prior 2005 Cemetery Master Plan can be updated for use in determining the future of the Sonoma cemeteries thereby avoiding future conflicts with the public on the development of the Veteran's cemetery. Absent putting a long-term plan in place, the City will continue to endure issues related to operating in a deficit, inventory and development.
-

Alternative Actions

1. Approve Option A and begin immediate construction on 16 unlined graves and 32 cremains. Authorize expenditure of \$16,000 from the General Fund Special Projects Reserve
 2. Council Discretion
-

Financial Impact

Environmental Review

- Environmental Impact Report
- Negative Declaration
- Exempt
- Not Applicable

Status

- Approved/Certified
 - No Action Required
 - Action Requested
-

Attachments:

Aug 18th 2012 Veterans Memorial Park Cemetery Inventory MEMO
Attachment A – Veterans Memorial Park Cemetery Graphic

CC:

MEMORANDUM

TO: Cemetery Sub-Committee
Linda Kelly, City Manager

From: Milenka Bates, Public Works Director

Date: August 18, 2012

Subject: Veterans Memorial Park Cemetery Inventory

Introduction

The Veterans Memorial Park Cemetery (Cemetery) was completed in 2002. It sits on a one acre parcel that was dedicated to the City by the County. The Cemetery is beautiful and enjoyed by many and with most new facilities we have experienced design flaws as well as long-term maintenance and equipment needs that unfortunately have impacted operations. The initial construction provided for 154 Full Graves, of which 25 were double depth "Companion Graves" for a capability of accommodating 179 Full Burials, and 300 Cremains Graves. At this point in time, the City inventory of full graves is exhausted. Staff has come up against opposition in plans (location and method) to expand for immediate need.

Immediate Issues

Financial – The Current state of the Cemetery enterprise fund (includes all City Cemeteries) is 1.6M deficit. To lower costs, the Cemetery Division has reduced personnel, relies on volunteers to assist with maintenance and has delayed construction and purchase of equipment. As a result, the Cemetery expenditure budget ended the 2012 fiscal year under budget by \$28,410. That appears to be good news, but... Revenue ended the year lower than anticipated [lack of inventory sales] and therefore overall, the Cemetery Fund [revenue minus expenditures] ended the year in a negative position of \$46,981 which will increase the overall Cemetery Fund deficit. The over-riding concern is not necessarily expenditure level as the cemeteries by their very nature require an ongoing level of maintenance and burial requirements which can only be reduced to a certain level. The issue that continues to impact the cemetery is the lack of revenue to cover expenses. Because this deficit position in the Cemetery Fund has gone on for so many years, a simple increase in sales revenue will NOT cure the fund deficit.

Groundwater - Staff encountered issues immediately with groundwater making it difficult to place caskets in the winter and impossible to place the double depth caskets in the lower liner. In September of 2003, City Council adopted policy and ceased performing double depth burials. This resulted in the elimination of 23 of the double depth "Companion Graves". Staff did research how other cemeteries addressed similar high water problems; installation of a drainage system is necessary. Typically this feature is installed with initial construction of a project but due to high cost of this feature it was not included in the design of the Cemetery.

Immediate Need

The Cemetery has proven to be a cherished location averaging thirteen full sales a year. Currently, there is one full grave left for purchase and 41 Cremains. To keep costs to a minimum, staff is proposing to partially construct one row adding 16 full graves sites and 32 cremains. This would be row G on the north side of the Star (see attachment A). Staff has discovered that the North side of the Star was the first to sell out and has less drainage issues. Staff is also proposing to not pre-line the grave sites but to construct from the Star north, site by site. The only construction needed immediately would be to construct the concrete row which holds the cremains and granite for the markers. In speaking with Gary Galeazzi, North Bay Monument, this can be done for the cost of \$1,000 per site utilizing City Forces to assist with the work for an approximate amount of \$16,000. If it is decided to pre-line the cost would raise to \$2,500 per site or approximate amount of \$40,000.

Veterans Association – Trent Hudson Acting Cemetery Supervisor had a conversation at the Cemetery with Leighton Parks. Mr. Parks is requesting that the graves be constructed on the South side in Rows C (6 full 12 cremains) & D (10 full 20 cremains). He stated that the North side addition would interfere with Memorial Day Services. He also stated that they need to be pre-lined. When I spoke to Mr. Parks and advised him of our plans and that we did not want to construct on the south side until we could address the drainage issue he argued that the drainage did not have to be installed in those two rows. Staff disagrees based on experience with winter burials.

Memorial Day – The Annual Memorial Day Celebration has grown to be a popular Event in the North Bay attracting up to a 1,000 attendees. The City is proud to be associated with the event. The Cemetery was designed to be built to capacity not reserving areas to be left fallow for event activities. The North row that is being proposed would leave ample room for Memorial Day festivities. If the Veterans Association is proposing that that the area not be built, Council would need to weigh the loss of revenue and provide direction to staff.

Options

Option A - North Side Unlined		Option B - North Side Lined	
Pros	Cons	Pros	Cons
Done immediately	Need to be precise in digging	Done immediately	Construction longer
Popular location	Can't choose location	Popular location	Higher upfront costs
Easier to perform during winter	Memorial Day	Easier to perform during winter	Memorial Day
Low cost option		Can choose location	
\$16,000 16 full graves / 32 cremains		\$40,000 16 full graves / 32 cremains	

Option C- South Side Lined		Option D - South Side Lined & Drainage	
Pros	Cons	Pros	Cons
Do immediately	Drainage not dealt with	Drainage installed	Long construction time
Can choose location	Higher upfront costs	Easier winter Burials	Need to determine where water will drain to and ramifications
Veterans Assoc. Choice	Harder for winter burials		Higher upfront costs
\$40,000 - \$45,000 16 full graves / 32 cremains		\$65,000 + 16 full graves / 32 cremains	

Long-Term Direction

Staff at this point needs to meet short term demand but is looking for guidance from Sub Committee and City Council on the direction to focus for long-term. A Hydrology and Engineering study is needed to determine recommendations and costs to address drainage issues for the South Expansion.

Future Build Out – The remaining phases as we can determine from the maps and 2005 Cemetery Master Plan have Phase II build out costing \$325,000 without the cost of drainage. More time will need to be dedicated to research and a hydrology and engineering study will need to be done.

Phase II includes North Side Rows G & H (35 full graves and 70 cremains) and South Side Rows C – H (188 full graves and 376 cremains)

Phase IIIA North Side Rows I – L (54 full graves and 108 Cremains)

Phase IIIB South Side Rows I – L (240 graves and 480 cremains)

Naming Rights – During Cemetery Sub Committee discussions the issue of naming rights were brought to the attention of City Staff. General Hap Arnold was a five-star general who made his final year's home in Sonoma Valley. Arnold Field and Arnold Drive bear his name. It was discussed that the Cemetery and Sonoma would greatly benefit by naming the Cemetery Hap Arnold Veterans Memorial Park Cemetery. Plans by the Veterans Association to erect a monument are under way. The intent with designating this cemetery to a decorated veteran was that it may open the opportunity to apply for federal grants to support/expand the cemetery. It is staff's understanding that at this time, the local Veteran's organizations are discussing this issue. Any name change of the cemetery would be presented to Council for final action.

Recommendation

It is staff's recommendation that the Sub-Committee recommend to Council the following:

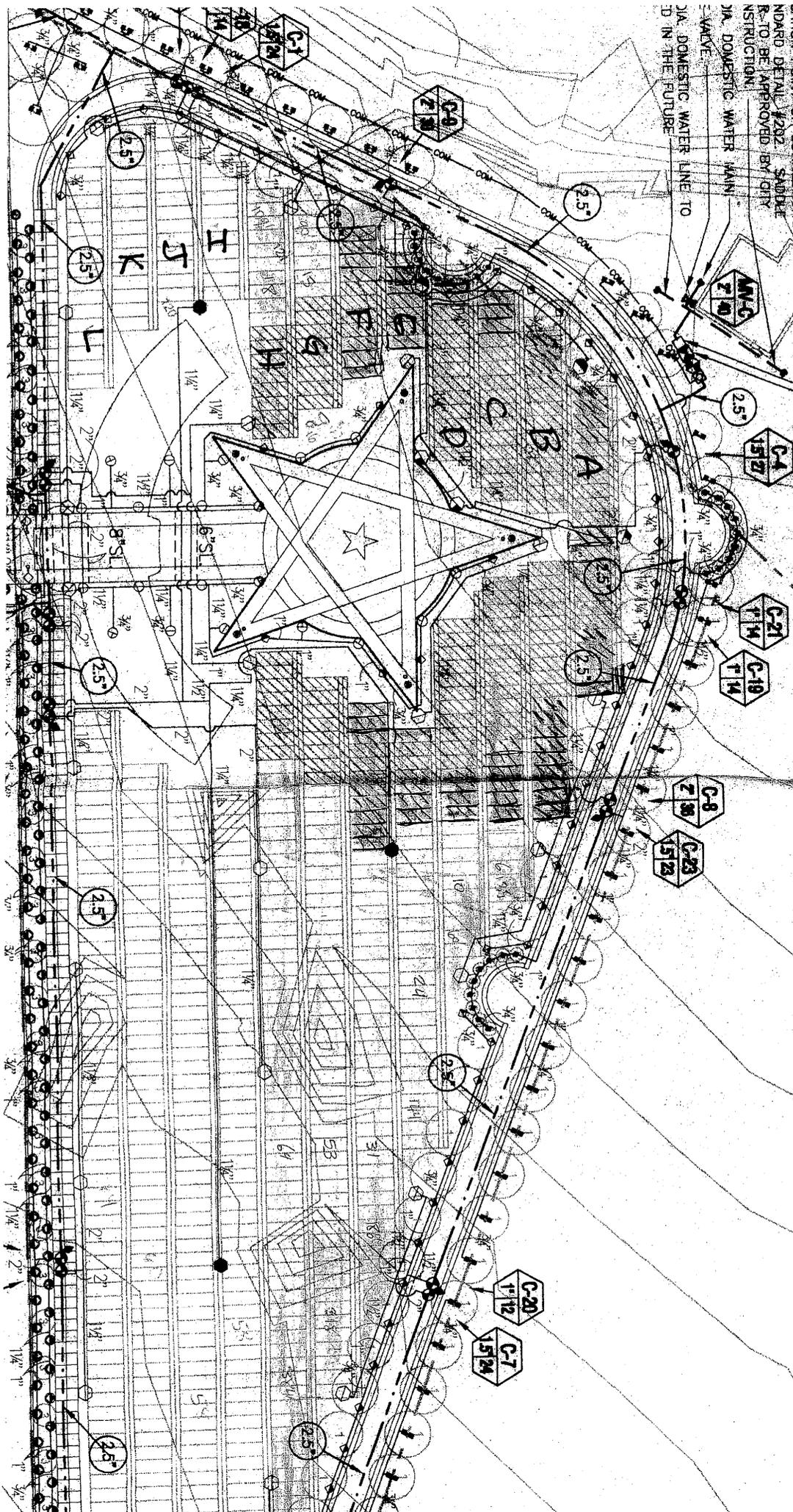
1. Direct staff to proceed with Option A - Begin immediate construction on Row G (16 graves 32 cremains) and authorize the expenditure of \$16,000.00 from the General Fund Special Projects Reserve.
2. Direct staff to [1] begin analysis on future build out of remaining Veteran's cemetery areas including hydrology and engineering; [2] appropriate funding to complete needed studies [estimate \$20,000] from the General Fund Special Projects Reserve and [3] determine if any information contained in the prior 2005 Cemetery Master Plan can be updated for use in determining the future of the Sonoma cemeteries thereby avoiding future conflicts with the public on the development of the Veteran's cemetery. Absent putting a long-term plan in place, the City will continue to endure issues related to inventory and development.
3. Council consideration during FY 2012-13 of providing funding from the General Fund to assist in writing down the Cemetery Fund deficit over a period of time.

Alternative

1. Direct Staff to proceed with Option D – Begin immediate construction on Row C & D (16 graves 32 cremains) and authorize the expenditure of \$65,000 from the General Fund.
2. Subcommittee Discretion

DIA. A.C. DOMESTIC WATER
 FOLLOW ALL STATE
 FOR SAFETY WITH A.C. FIRE
 DOLE CONNECTION AND IN
 STATION POINT OF CONNECTION
 STANDARD DETAIL #202 SADDLE
 R-TO BE APPROVED BY CITY
 INSTRUCTION:
 DIA. DOMESTIC WATER MAIN
 DIA. DOMESTIC WATER MAIN
 DIA. DOMESTIC WATER LINE TO
 D IN THE FUTURE

PROVIDE WATER METER BOX PER CITY STANDARD DETAIL #202
 WATER METER TO BE PROVIDED AND INSTALLED BY CITY FORCES.
 PROVIDE A 2" REDUCED PRESSURE BACKFLOW ASSEMBLY PER CITY
 STANDARD DETAIL #213. (FEBCO, WILKINS, OR APPROVED EQUAL)



Attachment A



City of Sonoma
City Council/CDA
Agenda Item Summary

City Council Agenda Item: 8B

Meeting Date: 09/17/12

Department

Planning and Community Services

Staff Contact

David Goodison, Planning Director

Agenda Item Title

Discussion, consideration and possible action on a request by Veterans of Foreign Wars for permission to operate a helicopter from the Field of Dreams in conjunction with the "Cost of Freedom Tribute" (November 7-11, 2012).

Summary

The local Veterans of Foreign War Post is organizing an event at the Veterans Building scheduled for November 7-11, 2012. The "Cost of Freedom Tribute," which will center on a traveling replica of the Vietnam Memorial, features a number of activities, including flights by a Huey helicopter. The event planners are proposing to base the helicopter from the Field of Dreams, the City-owned complex of playing fields that is leased to and managed by the Field of Dreams non-profit. The specifics of the proposed helicopter flights are as follows:

1. Wednesday, November 7th. The helicopter would fly in from Concord to arrive at the Field of Dreams in the morning. After landing, it would be boarded by representatives of the press and the helicopter would then take off to accompany a motorcade traveling to Sonoma that afternoon from Sears Point. Upon the arrival of the motorcade, the helicopter would land again at Mary's Field (the area directly north of the Police Station parking lot), where it would remain overnight.
2. On Thursday, November 8th, the helicopter would travel to and from Santa Rosa to ferry a group of veterans to the Santa Rosa Veterans Memorial Building. After returning to Sonoma, the helicopter would take off for a final time to head back to its base in Concord.

In their initial planning, the even organizers had considered giving a series of rides from the helicopter, which would have required a much greater number of take-offs and landings but has since been eliminated. This item is subject to City Council for two reasons. First, the Field of Dreams is a City-owned facility and its use for this purpose is subject to Council approval as the land-owner, since the activity is outside of the scope of the lease. Second, section 9.69 of the Sonoma Municipal Code prohibits the take-off of landing of aircraft, including helicopters from city limits, except for properties zoned for use as an airport. The City Council would need to agree to suspend enforcement of this provision in conjunction with the proposed event in order for the flights to occur. In addition, the City would require to be named additionally insured at for liability and property damage at a limit determined by REMIF prior to the activity commencing.

Recommended Council Action

Council discretion.

Alternative Actions

The City Council may either grant or decline permission to operate a helicopter as has been proposed. If the Council chooses to authorize the flights, it has the discretion to place additional limits or restrictions on what has been proposed, including the requirement for insurance suggested above.

Financial Impact

N.A.

Environmental Review

- Environmental Impact Report
- Negative Declaration
- Exempt

Status

- Approved/Certified
- No Action Required
- Action Requested

Not Applicable

Attachments:

1. Correspondence from Bon Piazza, Judge Advocate, VFW Post 1943

cc: Field of Dreams, attn. Richard Goertzen via email



August 31, 2012

David Goodison
City of Sonoma
1 The Plaza
Sonoma, CA 95476-6618

Subject: VFW sponsored "Cost of Freedom Tribute" November 7-11, 2012

David,

Further to our previous discussions on the subject, the VFW has arranged for a Huey helicopter from Vietnam Helicopters Inc. in Concord to escort the Vietnam Wall procession from Sonoma Raceway to the Sonoma Vets building the afternoon of November 7th.

We have arranged with the Field of Dreams to land at Mary's Field across from the Vets Bldg. and park there overnight. The helicopter will take off the morning of November 8th to ferry vets to the Santa Rosa Vets building for an annual veteran's luncheon. The helicopter will return to Mary's field at approximately 2pm and then immediately depart for Concord.

Wednesday 7/11	Landing 2 times between 1500 and 1700
Thursday 8/11	Take off 1 time between 1000 & 1100
Thursday 8/11	Landing 1 time between 1400 & 1500

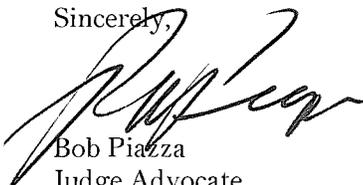
The Vietnam Helicopters contact is Jerry Yahiro, Event Coordinator who can be reached at 925-743-8850. Their web site is: <http://www.25thhuey.com>

I am attaching the following:

1. Planned landing zone at Mary's Field
2. Cost of Freedom poster
3. Authorization from Field of Dreams to land

We request the City of Sonoma to advise if any permits are required for this activity.

Sincerely,



Bob Piazza
Judge Advocate
VFW Post 1943

Fax Cover Sheet

To: Bob Piazza

Pages: 2

Fax # 938-0764

Date: 3/8

Richard Goertzen PO Box 1311 Glen Ellen Ca 95442

Cell: 707-799-7728 Res: 707 996-6031

work email richard.goertzen@libertymutual.com

home email richrosanne@sbcglobal.net

Hi Bob,

Sorry for delay in getting back to you.
Attached is our map of The Field of Dreams
in Sonoma.

Nov 7-11 should be fine and if
you use Mary's field even if the
ground is saturated you'll have access.

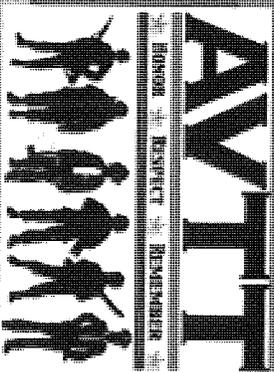
As I said there will be a fee but
we can talk about that.

Thanks
Rich

Cost of Freedom Tribute

featuring

THE TRAVELLING WALL



November 7-11, 2012

Nov. 7 ~ Welcome Escort, 3-5 PM

Nov. 8 ~ Opening Ceremony, 1:00 PM

Nov. 9 ~ Law Enforcement & Firefighter
Recognition Day

Nov. 10 ~ Veterans Day Celebration

Nov. 11 ~ Veterans Day Observance

Sonoma Veterans Hall

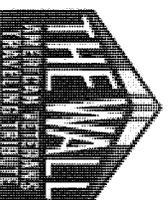
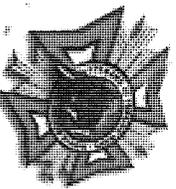
126 First Street West

- Exhibits Open 24Hrs/Day • Events and Ceremonies
- Flyover
- 80% Scale Vietnam Wall
- Distinguished Speakers
- Military & First Responder Display

www.VFWpost1943.org

707.938.3543

AVTT is an outdoor, handicap accessible event.





City of Sonoma
City Council
Agenda Item Summary

Agenda Item: 10A
Meeting Date: 09/17/2012

Department Administration	Staff Contact Mayor and Council Members
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Agenda Item Title

Council Members Report on Committee Activities.

Summary

Council members will report on activities, if any, of the various committees to which they are assigned.

MAYOR SANDERS	MPT. BROWN	CLM. BARBOSE	CLM. GALLIAN	CLM. ROUSE
ABAG Alternate	AB939 Local Task Force	City Facilities Committee	ABAG Delegate	City Audit Committee
LOCC North Bay Division Liaison, Alternate	Cemetery Subcommittee	Community Choice Aggregation Focus Grp.	Cemetery Subcommittee	Community Dev. Agency Loan Subcommittee
Sonoma County Mayors & Clm. Assoc. BOD	Cittaslow Sonoma Valley Advisory Council, Alt.	North Bay Watershed Association	Cittaslow Sonoma Valley Advisory Council	LOCC North Bay Division Liaison
Sonoma County M & C Assoc. Legislative Committee	City Facilities Committee	Sonoma Community Center Subcommittee	City Audit Committee	Sonoma County M & C Assoc. Legislative Committee, Alt.
Sonoma Disaster Council	Sonoma Community Center Subcommittee	Sonoma County Transportation Authority, Alt.	Sonoma County Transportation Authority	Sonoma Valley Citizens Advisory Comm. Alt.
Sonoma Housing Corporation	Sonoma County Health Action, Alternate	(SCTA) Regional Climate Protection Authority, Alt.	(SCTA) Regional Climate Protection Authority	S.V. Economic Development Steering Committee, Alt.
S.V.C. Sanitation District BOD	Sonoma County Mayors & Clm. Assoc. BOD	Sonoma County Waste Management Agency	LOCC North Bay Division, LOCC E-Board, Alternate (M & C Appointment)	
S.V. Economic Development Steering Committee	Sonoma Disaster Council, Alternate	Sonoma County/City Solid Waste Advisory Group (SWAG)	Sonoma County/City Solid Waste Advisory Group (SWAG), Alt.	
S.V. Fire & Rescue Authority Oversight Committee	Sonoma Housing Corporation	VOM Water District Ad Hoc Committee	Sonoma County Ag Preservation and Open Space Advisory Committee (M & C Appointment)	
S. V. Library Advisory Committee	S. V. Citizens Advisory Commission	Water Advisory Committee, Alternate	VOM Water District Ad Hoc Committee	
Successor Agency Oversight Board	S.V.C. Sanitation District BOD, Alt.		Water Advisory Committee	
	S.V. Fire & Rescue Authority Oversight Committee			
	S. V. Library Advisory Committee, Alternate			
	Substance Abuse Prevention Coalition			

Recommended Council Action – Receive Reports

Attachments: None