



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

1030 Seminary Street, Suite B
Napa, California 94559
Phone: (707) 259-8645
www.napa.lafco.ca.gov

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

Agenda Item 6a (Public Hearing)

TO: Local Agency Formation Commission

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

MEETING DATE: November 2, 2020

SUBJECT: Revised Final Napa Countywide Water and Wastewater Municipal Service Review and Associated CEQA Findings

RECOMMENDATION

It is recommended the Commission take the following actions:

- 1) Open the public hearing and take testimony;
- 2) Close the public hearing;
- 3) Receive and file the revised final *Napa Countywide Water and Wastewater Municipal Service Review*;
- 4) Adopt the draft resolution confirming the determinative statements contained therein and making CEQA findings (Attachment One).

BACKGROUND AND SUMMARY

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 directs LAFCOs to prepare municipal service reviews (MSRs) every five years to inform their other planning and regulatory activities. This includes, most notably, preparing and updating all local agencies' spheres of influence as needed. MSRs vary in scope and can focus on a particular agency, service, or geographic region as defined by LAFCOs. MSRs may also lead LAFCOs to take other actions under its authority such as forming, consolidating, merging, or dissolving one or more local agencies. MSRs culminate with LAFCOs making determinations and recommendations on a number of factors addressing growth and population trends, disadvantaged unincorporated communities, infrastructure needs or deficiencies, financial standing, opportunities for shared facilities, and accountability for community service needs as required by California Government Code (G.C.) Section 56430.

Kenneth Leary, Chair
Councilmember, City of American Canyon

Margie Mohler, Commissioner
Councilmember, Town of Yountville

Scott Sedgley, Alternate Commissioner
Councilmember, City of Napa

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

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

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

Gregory Rodeno, Commissioner
Representative of the General Public

Eve Kahn, Alternate Commissioner
Representative of the General Public

Brendon Freeman
Executive Officer

As part of its most recent strategic planning process, the Commission decided to conduct a comprehensive, countywide study of public water and wastewater service providers in Napa County. The Commission hired a private consultant, Policy Consulting Associates (PCA), to prepare the report. PCA is subcontracting with Berkson Associates. PCA developed a project-specific website to provide opportunities for ongoing interaction with the subject agencies and members of the general public. The website is available to the public online at:

<https://sites.google.com/pcateam.com/napamsr/home>.

The public draft *Napa Countywide Water and Wastewater Municipal Service Review* was released to the public on May 18, 2020 and presented to the Commission at a public workshop on July 13, 2020. Written comments on the draft report were invited through July 20, 2020. Comments received on the draft report and the associated comment log are available on the Commission's website at https://www.napa.lafco.ca.gov/staff_reports.aspx.

A redline final report incorporating changes based on the aforementioned comments on the draft report was released to the public on September 14, 2020 and presented at the Commission's October 5, 2020 meeting as part of a noticed public hearing. Several comments were received on the redline final report, which are summarized with recommended responses beginning on page four of this report.

The former version of the redline draft final report is available on the Commission's website at: https://www.napa.lafco.ca.gov/uploads/documents/CountywideWaterWastewaterMSR_RedlineFinal_9-14-20.pdf.

The October 5, 2020 staff report is available online at:

https://www.napa.lafco.ca.gov/uploads/documents/10-5-20_7a_FinalCWWMSR.pdf.

The Commission continued the October 5, 2020 public hearing to a special meeting on November 2, 2020. A notice of continuation was posted on the Commission's website consistent with state law.

A redline revised draft final report incorporating changes based on public comments received on the former version of the redline draft final report was released to the public on October 28, 2020, and is available on the Commission's website at:

https://www.napa.lafco.ca.gov/uploads/documents/CountywideWaterWastewaterMSR_RedlineRevisedFinal_10-28-20.pdf.

A clean version of the revised draft final report under consideration is available at:

https://www.napa.lafco.ca.gov/uploads/documents/CountywideWaterWastewaterMSR_CleanRevisedFinal_10-28-20.pdf.

Overview of MSR

The MSR provides a comprehensive review of water, wastewater, and recycled water service in Napa County as provided by the following 14 local governmental agencies: City of American Canyon; City of Calistoga; City of Napa; City of St. Helena; Town of Yountville; Circle Oaks County Water District; Congress Valley Water District; Lake Berryessa Resort Improvement District; Los Carneros Water District; Napa Berryessa Resort Improvement District; Napa County Flood Control and Water Conservation District; Napa River Reclamation District No. 2109; Napa Sanitation District; and Spanish Flat Water District.

Chapter three of the MSR is the “Overview” section and provides information regarding the potential effects of drought conditions and climate change on water availability within Napa County. With this in mind, the MSR includes several recommendations related to the governance structure and shared service opportunities for many of the subject agencies. Potential governance structure options for the subject agencies are listed in Figure 3-16. Advantages to the identified governance structure options include improvements to water supply including recycled water, water management, enhanced resource sharing, efficiency of service provision, and regulatory compliance. These recommendations are intended to encourage the subject agencies to engage in conversations regarding the feasibility and desirability of initiating reorganization proceedings or entering into other formal agreements.

The report also summarizes existing regional water and sanitation planning that have proven successful. Included are descriptions of studies, management plans, and cooperative efforts within Napa County. Regulations governing water and wastewater agencies are provided. Staff commends these existing collaborative efforts and encourages continued collaboration.

The report includes a recommendation that local water purveyors continue discussions regarding existing concerns related to the provision of reliable and sustainable water services throughout Napa County. With this in mind, staff recommends the Commission offer an incentive to initiate collaborative discussions by providing LAFCO resources. Examples include, but are not limited to, staff serving as a facilitator to aide these discussions and, if reorganization discussions are productive, consider waiving the Commission’s fees to process a future proposal.

Public Comments on Draft MSR

On August 3, 2020, the Commission discussed the public comments received on the draft MSR. All public comments received by that date along with a comment log are available on the Commission’s website. The Commission appointed Vice Chair Dillon and Commissioner Mohler to an ad hoc subcommittee (“the Committee”) to review the public comments and provide direction to the consultants and staff.

On September 4, 2020, the Committee met with the consultants and staff to review the process for responding to comments, including any changes to the document. A redline final report incorporating changes based on public comments was released to the public on September 14, 2020, and discussed by the Commission for possible action on October 5, 2020.

Public Comments on Redline Final MSR

Staff received written comments on the redline final MSR from the following: (1) City of American Canyon; (2) City of Napa; (3) Napa County; (4) Alan Galbraith; and (5) the California Farm Bureau Federation and Napa County Farm Bureau. On October 5, 2020, the Commission considered the comments and recommended responses. The Commission directed staff and the Committee to meet again to discuss the comments and appropriate responses as part of a revised final report. The Committee met on October 15, 2020. The following is a summary of comments received on the redline final report along with the Committee's recommended responses, which are already incorporated into the revised final report where appropriate.

1) City of American Canyon (Attachment Two)

The City of American Canyon provided the following comments and requests:

- Oppose the consideration and possible adoption of the MSR.
- Reiterate the City's position that its water service area is incorrectly described and depicted in the MSR.
- Lack of substantive analysis of the MSR under CEQA.

On October 5, 2020, the Commission agreed to a proposal from the City to appoint two members to a new ad hoc subcommittee ("the 2x2 Committee") for purposes of discussing the water service area disagreement with two members of the City Council. The Commission appointed Commissioners Mohler and Wagenknecht to the 2x2 Committee, which met on October 16, 2020. The 2x2 Committee agreed to the following recommendation for the Commission's consideration.

Recommendation: The Committee recommends adding a section describing the City's perspective relating to the discussion of its water service area and update Figure 4-5 to also depict the City's water service area as it is shown in the City's General Plan and 2015 Urban Water Management Plan. Note: Following the 2x2 meeting, the City of American Canyon provided the requested additional content and came to consensus with staff and the consultants regarding changes to be incorporated into the report.

2) City of Napa (Attachment Three)

The City confirmed the Carneros Mutual Water Company has activated their outside service from the City as approved by the Commission pursuant to G.C. Section 56133.5.

Recommendation: Include a description of this change in service structure in the Overview Chapter in the section covering the non-public water systems.

3) Napa County (Attachment Four)

Napa County provided the following comments and requests:

- Remove discussion of joint review process with City of St. Helena regarding new vineyard development within municipal watershed.

Recommendation: The MSR makes no recommendations or determinations regarding this content, which was included to recognize a concern of the City. The Committee recommends retaining the discussion in the MSR and adding a sentence recognizing Napa County's opposition to this discussion.

- Remove discussion of extending City of St. Helena services to Meadowood Resort and area south of St. Helena given extension of services to unincorporated areas has the potential to undermine and/or circumvent Measures J and P.

Recommendation: The two areas were added to the discussion to make the necessary determinations to enable the use of the G.C. Section 56133.5 pilot program. As defined in the code, this legislation enables the extension of municipal services only to (1) existing development or (2) planned projects that are included in an approved specific plan as of July 1, 2015, thereby protecting agricultural lands. No recommendation is made in the MSR regarding the actual extension of services. The Committee recommends the Commission hear the City's position and discuss and consider whether any edits to the MSR pertaining to this discussion would be appropriate.

- Provide documentation demonstrating a countywide water agency or district would be less expensive or more efficient than current service providers.

Recommendation: The MSR recommends further analysis after the stakeholders determine a desired structure. No MSR change is recommended.

- Clarify how a countywide water agency or district could perform resource management, and how resource management is included in scope of MSR.

Recommendation: The MSR recommends that services of a countywide water agency or district should be determined by stakeholders, and the services may draw upon examples from other counties tailored to suit Napa County. Resource management is integral to services provided by water agencies and therefore is an appropriate consideration in the MSR. No MSR change is recommended.

- Remove reference to Calaveras County Water District as a comparable water agency or district.

Recommendation: While the scale of services in Napa differs from Calaveras, Calaveras County Water District is included as an example of (1) a county water

district which conducts water resource management, and (2) a district that conducts water resource management on a countywide scale and also provides services to small community systems throughout the unincorporated areas while the cities manage their own utility systems. No MSR change recommended.

- Remove references and text related to a single countywide water agency or district.

Recommendation: The Committee recommends revising some text from the MSR that may be perceived as a specific recommendation for a single countywide water agency or district. This includes deleting the “Next Steps” section in the overview and moving the list of challenges to follow the list of benefits in the Executive Summary for purposes of providing a more balanced discussion. In addition, certain language has been tempered to avoid the perception of a strong recommendation for a specific outcome.

- Remove references to the County adopting a code regarding the regulation of trucked water, as the County already regulates trucked water on discretionary uses and within groundwater deficient areas.

Recommendation: The County provided its General Plan Policy CON-53, which indicates “The County shall ensure that the intensity and timing of new development are consistent with the capacity of water supplies and protect groundwater and other water supplies by requiring all applicants for discretionary projects to demonstrate the availability of an adequate water supply prior to approval.” It is recommended that the text of the report be edited to clarify that the County has a policy to ensure adequate water supply and approves entitlements based on the water source specified in the application, which may only be modified by request to the County. Additionally, it is recommended that the MSR recommendation be edited to clarify the need for specificity regarding use of trucked water.

- Indicate that wastewater system integrity and capacity would need to be addressed before there could be any discussion of extending service to the Highway 29 business corridor.

Recommendation: The discussion of possible future extension of sewer service from the City of St. Helena to the Highway 29 business corridor is intended to address a key requirement of G.C. Section 56133.5 that LAFCO first identify and evaluate an extension of service in an MSR prior to considering action to approve a formal request from the City to extend service. The City would be responsible for confirming it has adequate wastewater system integrity and capacity prior to making a formal request to extend service. No MSR change recommended.

- Remove reference to the Domaine Chandon property as a future emergency water supply source for the Town of Yountville, as any discussion of annexation is speculative.

Recommendation: The Town maintains an agreement with Domaine Chandon for use of its well source for emergency purposes unrelated to potential annexation of the property. No MSR change recommended.

- Note that if the City of Napa were to change its Rural Urban Limit (RUL) to include Congress Valley Water District for inclusion in the City's SOI for future annexation, discussions regarding annexation would also need to be conducted with the County.

Recommendation: The Committee recommends modifying the relevant section of the MSR to clarify the County would be included in the annexation process through tax sharing agreement negotiations.

- Note the damage to the Napa Berryessa Resort Improvement District infrastructure and homes due to the 2020 Hennessey Fire.

Recommendation: The Committee recommends adding a paragraph to the MSR to reference the damage caused by the Hennessey Fire.

4) Alan Galbraith (Attachment Five)

Mr. Galbraith recommends several factual corrections and clarifications to the City of St. Helena's chapter.

Recommendation: The Committee recommends edits to the MSR consistent with the responses to each of Mr. Galbraith's comments included as part of Attachment Five, based on a cooperative meeting between Mr. Galbraith, St. Helena staff, and the consultant.

5) California Farm Bureau Federation and Napa County Farm Bureau (Attachment Six)

The Farm Bureaus requested the Commission defer adoption of the MSR due to concerns related to the possible future formation of a county water agency or district. The Farm Bureaus cite the need for additional analysis and public discussion to occur prior to an ultimate recommendation being included in the MSR due to implications relating to land use and impacts on services and rates.

Recommendation: The Commission agreed to defer adoption of the MSR at its meeting on October 5, 2020. The public hearing was continued to a special meeting on November 2, 2020. Further, and as previously noted, the Committee recommends revising some text from the MSR that may be perceived as a specific recommendation for a single countywide water agency or district. This includes deleting the "Next Steps" section in the overview and moving the list of challenges to follow the list of benefits in the Executive Summary for purposes of providing a more balanced discussion. In addition, certain language has been tempered to avoid the perception of a strong recommendation for a specific outcome.

California Environmental Quality Act (CEQA)

The MSR is exempt from further environmental review under CEQA pursuant to California Code of Regulations Section 15306. This finding would be based on the Commission determining with certainty the MSR is limited to basic data collection, research, and resource evaluation activities, which do not result in a serious or major disturbance to an environmental resource.

Recommended Commission Actions

It is recommended the Commission discuss the revised final MSR and consider taking formal action as part of a noticed public hearing. The recommended actions are for the Commission to (1) receive and file the revised final report and (2) adopt a resolution confirming the determinative statements contained therein and making CEQA findings.

ATTACHMENTS

- 1) Draft Resolution Approving Determinative Statements and Making CEQA Findings
- 2) Comments on Redline Final MSR from the City of American Canyon
- 3) Comments on Redline Final MSR from the City of Napa
- 4) Comments on Redline Final MSR from Napa County
- 5) Comments on Redline Final MSR from Alan Galbraith with Responses
- 6) Comments on Redline Final MSR from the California Farm Bureau Federation and Napa County Farm Bureau

RESOLUTION NO. _____

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

**NAPA COUNTYWIDE WATER AND WASTEWATER
MUNICIPAL SERVICE REVIEW**

WHEREAS, the Local Agency Formation Commission of Napa County, hereinafter referred to as the “Commission”, adopted a schedule to conduct studies of the provision of municipal services within Napa County; and

WHEREAS, a “Municipal Service Review” has been prepared for the public water and wastewater service providers pursuant to said schedule and the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, commencing with Section 56000 of the California Government Code; and

WHEREAS, the Executive Officer designated the geographic area of the municipal service review to generally include all lands located in Napa County; and

WHEREAS, the Executive Officer prepared a written report on the *Napa Countywide Water and Wastewater Municipal Service Review*, including consideration of the adequacy of governmental services provided by the 14 local government agencies in Napa County that provide public water and/or wastewater service; and

WHEREAS, the Executive Officer’s report was presented to the Commission in the manner provided by law; and

WHEREAS, the Commission heard and fully considered all the evidence presented at its public meetings concerning the *Napa Countywide Water and Wastewater Municipal Service Review* on July 13, 2020, August 3, 2020, October 5, 2020, and November 2, 2020; and

WHEREAS, as part of the municipal service review, the Commission is required pursuant to California Government Code Section 56430(a) to make a statement of written determinations with regards to certain factors.

NOW, THEREFORE, THE COMMISSION DOES HEREBY RESOLVE, DETERMINE, AND ORDER as follows:

1. The Commission determines the *Napa Countywide Water and Wastewater Municipal Service Review* is exempt from further environmental review under the California Environmental Quality Act pursuant to California Code of Regulations Section 15306.
2. The Commission adopts the statement of written determinations prepared as part of the *Napa Countywide Water and Wastewater Municipal Service Review* set forth in “Exhibit A,” which is attached and hereby incorporated by reference.
3. The Commission hereby directs staff to file a Notice of Exemption for the *Napa Countywide Water and Wastewater Municipal Service Review* in compliance with CEQA.

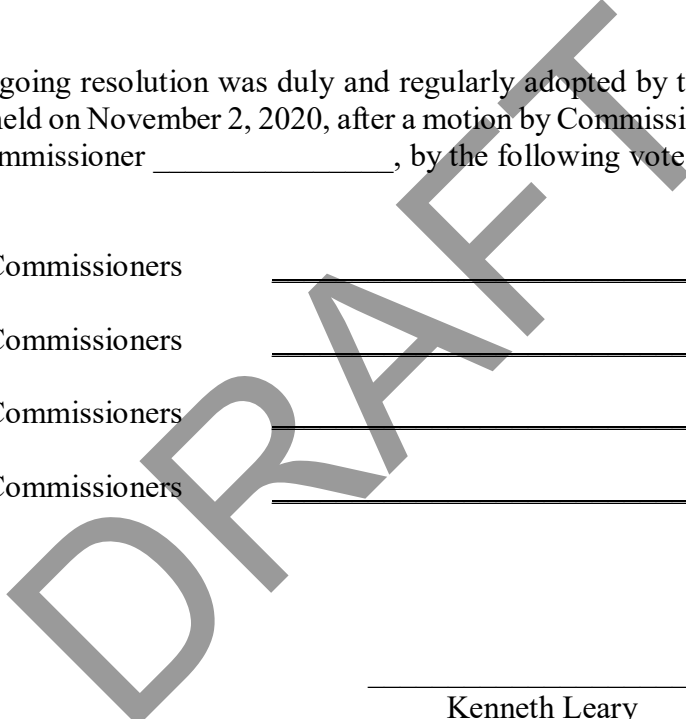
The foregoing resolution was duly and regularly adopted by the Commission at a public meeting held on November 2, 2020, after a motion by Commissioner _____, seconded by Commissioner _____, by the following vote:

AYES: Commissioners _____

NOES: Commissioners _____

ABSENT: Commissioners _____

ABSTAIN: Commissioners _____



Kenneth Leary
Commission Chair

ATTEST: _____
Brendon Freeman
Executive Officer

Recorded by: Kathy Mabry
Commission Secretary

EXHIBIT A

STATEMENT OF DETERMINATIONS

**NAPA COUNTYWIDE WATER AND WASTEWATER
MUNICIPAL SERVICE REVIEW**

1. Growth and population projections for the affected area (Government Code 56430(a)(1)):

A. City of American Canyon

1. The City of American Canyon's population, as of 2019, was approximately 20,629.
2. American Canyon's population increased by approximately 10 percent in the last 10 years.
3. Future development in the City is limited by the Urban Limit Line (ULL). Additionally, growth is constrained by the airport's flyover zones to the north, City of Vallejo to the south, foothills of the Sulphur Springs Mountain Range to the east, and the Napa River to the west. Most of the undeveloped area in the ULL has been built out.
4. Napa County LAFCO anticipates that the City will grow by about 0.78 percent a year through 2030 with an anticipated population of 22,398 in 2030.

B. City of Calistoga

1. The City of Calistoga's population, as of 2019, was approximately 5,453.
2. Calistoga's population increased by about six percent in the last 10 years.
3. The City manages its growth to maintain its small-town character through the Resource Management System and the Growth Management System.
4. Napa County LAFCO anticipates that the City will grow by about 0.61 percent a year through 2030 with an anticipated population of 5,818 in 2030.

C. City of Napa

1. The City of Napa's population, as of 2019, was approximately 79,490, with the water system serving a total population of 87,134.
2. City of Napa's population increased by approximately 4.5 percent over the 10-year period since 2009.

3. Future development within the City is limited by the Rural Urban Limit (RUL). Most of the undeveloped area in the RUL has been built out. There are 24 territories that are within the RUL that have not yet been annexed into the City. Of the property available for development in the RUL, only a portion is considered suitable for development due to environmental constraints.
4. LAFCO anticipates a continued steady increase in population over the period from 2019 to 2030 of 6.3 percent, with a projected population of 84,513 in 2030.

D. City of St. Helena

1. The City of St. Helena's population, as of 2019, was approximately 6,133.
2. Growth within the City is limited by an Urban Limit Line, designated Urban Reserve Areas, and the Residential Growth Management System, which limits the number of building permits available for residential growth each year. That limit, as of 2018, was nine residential units a year, with exceptions.
3. LAFCO anticipates a continued increase in population over the period from 2019 to 2030 at an annual rate of 0.88 percent, with an anticipated population of 6,728 in 2030.

E. Town of Yountville

1. The Town of Yountville's population, as of 2019, was approximately 2,916, with about 30 percent living at the Veteran's Home.
2. Yountville's population decreased by approximately one percent over the 10-year period since 2009.
3. The Town is nearing buildout of developable space, and the potential for growth is limited. The Town estimated there is space remaining for 155 single-family homes, 76 multi-family residential units, and 169,555 square feet of commercial space. However, actual development will depend on future market conditions, property owner preferences, site-specific constraints, and other factors.
4. LAFCO anticipates a continued decline in population over the period from 2019 to 2030 at an annual rate of 0.32 percent, with an anticipated population of 2,813 in 2030.

F. Circle Oaks County Water District

1. Circle Oaks County Water District's (COCWD) population, as of 2019, was approximately 471.

2. Future growth within COCWD is limited to the 143 vacant lots of the 331 lots approved in the subdivision. At maximum build-out of the Circle Oaks Unit One subdivision, the community would hold an additional 360 persons. However, in the past 19 years, there has only been one permit to build a new home in the Circle Oaks residential community, and COCWD anticipates a continued low demand for future housing.
3. LAFCO anticipates growth within COCWD to be similar to the most recent five-year trend of all unincorporated areas of Napa of 0.21 percent annually, with an anticipated population of 482 by 2030.

G. Congress Valley Water District

1. Congress Valley Water District's population, as of 2019, was approximately 262.
2. CVWD's population increased by 1.09 percent annually between 2009 and 2019.
3. While there are some parcels within CVWD that do not currently contain developed housing units, there are not a significant number of such undeveloped parcels. In combination with the restrictive land uses in the area, it is reasonable to assume CVWD's resident population growth rate over the foreseeable future will remain low and not significantly impact the District's demand for water.
4. LAFCO anticipates growth within CVWD to be similar to the most recent five-year trend of all unincorporated areas of Napa of 0.21 percent annually, with an anticipated population of 268 by 2030.

H. Lake Berryessa Resort Improvement District

No significant increase in current District population and service demand that would affect service delivery and infrastructure is anticipated within the timeframe of this MSR.

I. Los Carneros Water District

1. Los Carneros Water District's (LCWD) population, as of 2019, was approximately 523.
2. LCWD's population increased by 0.5 percent annually between 2009 and 2019.

3. Future growth within the District is currently limited due the agricultural zoning of the lands within and adjacent to the District, which stipulates 160-acre minimum parcel sizes. It is estimated that 52 of the 263 assessor parcels are not developed with residences. However, given historical growth trends and the amount of viniculture and Williamson Act contracts within the District, very little development within the District is anticipated.
 4. Unlike potable water, demand for LCWD's recycled water is not population driven, but rather driven more by the extent of productive agricultural lands in use in need of irrigation. In the case of LCWD, this is generally the vineyards. Within the District's service area (assessment district), there are 3,140 irrigable acres.
 5. LAFCO anticipates growth within LCWD to be similar to the most recent five-year trend of all unincorporated areas of Napa of 0.21 percent annually, with an anticipated population of 562 by 2030.
- J. Napa Berryessa Resort Improvement District
- No significant increase in current District population and service demand that would affect service delivery and infrastructure is anticipated within the timeframe of this MSR.
- K. Napa County Flood Control and Water Conservation District
- The District's boundaries and service population corresponds to Napa County's area and population, anticipated to grow at an average rate of about 0.5 percent annually.
- L. Napa River Reclamation District No. 2109
- No significant increase in current District population and service demand that would affect service delivery and infrastructure is anticipated within the timeframe of this MSR.
- M. Napa Sanitation District
1. Napa Sanitation District's population, as of 2019, was approximately 83,061.
 2. Napa Sanitation District's population increased by 0.57 percent annually between 2012 and 2017.
 3. Napa Sanitation District plans to serve three new developments and has provided Will Serve letters for Stanly Ranch, Montalcino Napa Valley, and the Napa Pipe Project. Combined these projects would add two resorts, 1,015 housing units, a winery, and commercial/retail space.

4. LAFCO anticipates continued growth within Napa Sanitation District similar to the most recent five-year trend of 0.57 percent annually, with an anticipated population of 88,128 by 2030.

N. Spanish Flat Water District

1. Spanish Flat Water District's (SFWD) population, as of 2019, was approximately 413.
 2. Given the impacts of the Lightning Complex fires, as of August 2020, the District's population is significantly lower.
 3. The buildout population within SFWD is expected to total 560. This projection assumes the development of all undeveloped lots presently within SFWD and rebuilding of the recently destroyed homes. Although the undeveloped lots gradually get developed, some do not connect to the District's utility systems. The District expects slow growth in the next five to 10 years.
 4. LAFCO anticipates growth within SFWD to be similar to the most recent five-year trend of all unincorporated areas of Napa of 0.21 percent annually, with an anticipated population of 423 by 2030.
2. The Location and Characteristics of Disadvantaged Unincorporated Communities Within or Contiguous to the Agency's SOI (Government Code 56430(a)(2)):

According to Napa LAFCO's definition of disadvantaged unincorporated communities (DUCs), there are currently no DUCs in Napa County.

3. Present and Planned Capacity of Public Facilities and Adequacy of Public Services, Including Infrastructure Needs and Deficiencies (Government Code 56430(a)(3)):

A. City of American Canyon

1. The City of American Canyon purchases water from the State Water Project and the City of Vallejo. Water supply is considered to be adequate to meet American Canyon's current needs.
2. The City supplements its water supply with recycled water. Recycled water is mostly used for vineyard and landscape irrigation. Potable water demand for landscape irrigation is expected to decline as the City expands its recycled water distribution system. In order to meet the projected buildout recycled water demands, the City will need to reuse 100 percent of its treated water during peak demands in the summer months.

3. The City's combined projected water supplies are sufficient to meet projected demands during normal water year conditions. Under single-dry water year conditions, the supply is generally sufficient until sometime after 2030 when shortfalls begin to appear. By 2035, the single-dry year shortfall is estimated at approximately six percent. Under multiple-dry year conditions, the supply is sufficient through 2040.
4. There City's Water Treatment Plant (WTP) has sufficient capacity to accommodate current peak day demand and projected peak day demand at buildout.
5. There is a current storage shortfall of 4.0 mg. At buildout, the storage shortfall increases to a total of 6.8 mg.
6. The City's water distribution infrastructure was reported to be in fair condition. However, over the five-year period, the City experienced a decline in main breaks, which is reflected in the decrease in water loss experienced over that same time period.
7. The City appropriately plans for its infrastructure needs in the Capital Improvement Plan. The main planned capital improvement projects address insufficient water storage capacity, pipeline deterioration, and pipelines that are undersized for the current conditions and fire flow requirements. The City is also expanding the recycled water system.
8. American Canyon has adequate capacity to accommodate existing and projected demand at its wastewater treatment plant.
9. The hydraulic evaluation identified a number of deficiencies with the current sewer collection system including pipelines and pump stations with insufficient hydraulic capacity to convey peak flows for existing and/or future conditions. All of the existing capacity deficiencies are related to I/I entering the system in that pipes have adequate capacity to handle peak dry weather flows, but not peak wet weather flows. The City has planned a number of capital improvement projects to address the I/I concerns.
10. The level of wastewater services offered by the City was found to be adequate based on integrity of the wastewater collection system and regulatory compliance. The City's sanitary sewer overflow rate is lower on average than of other wastewater agencies in California. The City didn't experience any violations in the last three years; and there have been no priority violations in at least last 10 years.

B. City of Calistoga

1. Although water supply from Kimball Reservoir declined, Calistoga was able to replace the lost supply with the water delivered by the City of Napa. Depending on the availability, Calistoga is able to purchase additional water from the City of Napa in emergencies. Water supply is considered to be adequate to meet Calistoga's current needs.
2. Based on the City's existing local reservoir and the State Water project supply, the City does not expect to experience any reductions in water supply during minor drought conditions and expects to experience only minor reductions in water supply during severe droughts.
3. Calistoga currently has excess water supply available for future development. Estimates show that by 2034, the City will be using between 26 and 54 percent of this excess availability. Due to the Growth Management System and the Resource Management System, the City is projected to grow at a fairly predictable pace, and the current available water supply will be able to accommodate future needs, at least through 2034.
4. The City currently reuses about 60 percent of its wastewater flows. Recycled water from the WWTP is distributed to 15 customers through recycled water infrastructure.
5. The City appropriately plans for its infrastructure needs in the Capital Improvement Plan. The most significant long-term planned infrastructure project is the upgrade of the Kimball Water Treatment Plant. No unplanned for water infrastructure needs were identified.
6. Calistoga has adequate capacity to accommodate existing and projected demand at its wastewater treatment plant. It is estimated that 71 percent of the plant's excess capacity will be allocated by 2034.
7. The level of wastewater services offered by the City were found to be marginally adequate based on the integrity of the wastewater collection system and regulatory compliance.
8. The City's Wastewater Treatment Plant encountered multiple violations and enforcement actions in recent years, most of which were related to dichlorobromomethane limits. The City reported that this issue had been addressed as of 2019.

9. The City identifies the current Cease and Desist Order (CDO) and strict Regional Water Quality Control Board (RWQCB) Permit Conditions imposed with the 2016 renewal of the City's permit to operate a WWTP as the basis of its main infrastructure needs and costs related to wastewater services.
10. The City's sanitary sewer overflow rate is lower on average than of other wastewater agencies in California. Although there is still a lot of old infrastructure that causes high infiltration and inflow, Calistoga continues to repair and replace old pipelines and other infrastructure thus further reducing I/I and overflows.

C. City of Napa

1. The City's water production has been well within its water supply capacity, even in dry years, indicating that the existing water supply is adequate to meet City of Napa's current needs.
2. Future supply capacity is generally sufficient until sometime after 2035 when total demand is nearly equivalent to the volume available in a single-dry year. However, the City has conservatively estimated available State Water Project (SWP) supply assuming no Carryover, Article 21, North of Delta Allocation bonus, or any of the other supplemental SWP categories. It is likely that the City's water supply will be sufficient beyond 2035 for both normal and dry years, depending on the availability of the supplemental SWP supply.
3. The level of water services offered by the City were found to be more than adequate based on integrity of the water distribution system and compliance with drinking water requirements. The integrity of the City's water distribution system is excellent as measured by the degree of annual water loss and the rate of main breaks and leaks per 100 miles of main. The City was in full compliance with Primary Drinking Water Regulations in 2018. While the City had six violations reported by the EPA since 2008; the City has adjusted its treatment mechanism and has had no violations since 2016.
4. The City appropriately plans for its infrastructure needs in the Capital Improvement Plan and a 20-year Master Plan. No substantial or unplanned for water infrastructure needs were identified.
5. The City is scheduled to develop a Capital Improvement Master Plan and corresponding Financing Plan in 2021. This document will inform the cost of service study associated with the rate setting process in 2022.

6. Long-term capital plans include upgrades to the Hennessey WTP and modifications to the Lake Hennessey spillway will be constructed to accommodate the maximum probable flood. The City is considering modifications to the Milliken WTP so that Milliken Reservoir could be used as a source year-round. The City reviews possible additional water supply sources on a continual basis.

D. City of St. Helena

1. Experience has shown that the City has inadequate water to supply customer demand without imposition of water emergency restrictions in recent years. The City needs to obtain new water supplies and/or achieve more water savings, even under current conditions in order to reliably meet current and future water demand.
2. There are new water sources that the City is considering adding in the near future to increase the reliability of supply, especially in emergencies and dry years, including recycled water and groundwater from the capped well on the Adams Street property.
3. The level of water services offered by the City were found to be adequate based on integrity of the water distribution system and compliance with drinking water requirements. The integrity of the City's water distribution system is moderate; although the City experiences a relatively high rate of water loss, there are few main breaks and leaks. The City was in full compliance with Primary Drinking Water Regulations in 2018 and has addressed the three violations reported by the EPA since 2008.
4. The City appropriately plans for its infrastructure needs in the Capital Improvement Plan. Long-term significant water infrastructure needs consist of identification of a supplemental water source, construction of recycled water infrastructure, and replacement of aged portions of the distribution system susceptible to high rates of loss.
5. St. Helena has more than adequate capacity to accommodate existing and projected demand at its wastewater treatment plant beyond 2030 under all anticipated load conditions.
6. The level of wastewater services offered by the City were found to be marginally adequate based on integrity of the wastewater collection system and regulatory compliance. The City has struggled with a higher than statewide average rate of sanitary sewer overflows, as a result of infiltration and inflow during wet weather periods. Additionally, the City has had numerous violations and enforcement actions at its WWTP. The City is in the midst of addressing the regulatory issues at the WWTP.

7. The most significant infrastructure need for the wastewater system is improvement to the WWTP to meet the requirements set forth in the Cease and Desist Order. The City is in the process of developing a funding plan for the improvements.

E. Town of Yountville

1. Given the willingness of the California Department of Veterans Affairs (CDVA) to sell surplus water to the Town and the Town's designated emergency water supplies, the water supply is adequate to meet Yountville's current needs.
2. Since projected demand at buildout is only slightly higher than current demand, and supply sources have been reliable and adequate to accommodate demand, it is anticipated that the Town's current water supply will be able to accommodate future needs. However, this assertion relies heavily on the sustainability of services offered by the CDVA at the reservoir and the treatment plant. Close coordination between the two agencies is essential to ensuring adequate supply to the municipality.
3. In 2018 the Town beneficially reused 93 percent of its wastewater flow. There is no additional recycled water capacity to further supplement/offset the Town's water supply.
4. The level of water services offered by the Town were found to be more than adequate based on integrity of the water distribution system and compliance with drinking water requirements. The integrity of the Town's water distribution system is excellent as measured by the degree of annual water loss and the rate of main breaks and leaks per 100 miles of main. The Town was in full compliance with Primary Drinking Water Regulations in 2018 and has had no violations reported by the EPA since 2008.
5. The Town appropriately plans for its infrastructure needs in the Capital Improvement Plan. No substantial or unplanned for water infrastructure needs were identified.
6. Yountville has more than adequate capacity to accommodate existing and projected demand at its wastewater treatment plant. Over the last five years, the Town has made use of 66 percent on average of the available treatment capacity at its plant.

7. The level of wastewater services offered by the Town were found to be minimally adequate based on integrity of the wastewater collection system and regulatory compliance. The Town has struggled with a higher than statewide average rate of sanitary sewer overflows, as a result of infiltration and inflow during wet weather periods, which has been a focus of the Town's capital improvement efforts in recent years.
 8. As a result of infiltration and inflow reductions measures, the Town reported that it has seen decreases in flows during large storm events. However, the CDVA-operated collection system at the Veterans Home continues to have a high peaking factor and has neared its allocation at the wastewater treatment facility during wet weather events. There is a need for a proactive approach on the part of the CDVA to minimize the load on the treatment plant.
- F. Circle Oaks County Water District
1. COCWD has limited water supply and treatment capacity that marginally meets the needs of the community.
 2. Several challenges constrain the District's water supply capacity, including 1) lack of a suitable location for another well, 2) the spring water source can be drawn down quickly, 3) high usage per connection, and 4) high iron content in wells requiring the need to backwash.
 3. The level of water services offered by the COCWD were found to be adequate based on integrity of the water distribution system and compliance with drinking water requirements. The integrity of the District's water distribution system has improved since 2016 when there were several breaks and leaks in the system. The District was in full compliance with Primary Drinking Water Regulations in 2018 and has had no violations reported by the EPA since 2008.
 4. Given that COCWD made substantial improvements to the water system in recent years, there are no known issues with the distribution system at this time. The water treatment system is in good condition; however, the water treatment system will need to be expanded should any new connections be considered, or the District will need to institute greater conservation measures during summer months. Additionally, another well will be necessary to meet future demand needs and to provide a second, redundant, and reliable source of water.
 5. During dry periods, the District is typically well within its treatment capacity. However, during wet weather periods flows have reached levels of concern.

6. The level of wastewater services offered by COCWD were found to be minimally adequate based on integrity of the wastewater collection system and regulatory compliance. The District has had no sanitary sewer overflows in the last five years, but has had 49 violations, a majority of which were for deficient reporting. Significant improvement can be made to the District's reporting practices.
7. Capital improvement needs are planned for on an as needed basis. COCWD reported a need to reline more of the collection system to address root infiltration. The District did not identify infrastructure needs associated with the treatment facility.

G. Congress Valley Water District

1. The City of Napa's sources of water supply are sufficient to continue to provide service to CVWD's service area and other areas served by the City of Napa.
2. Based on recent and projected water demands, there is sufficient water supply available to serve all properties located within the Water Supply Contract service area, including existing and anticipated development.
3. The level of water services offered by the City of Napa were found to be more than adequate based on integrity of the water distribution system and compliance with drinking water requirements. The integrity of the City's water distribution system and the CVWD distribution system is excellent as measured by the degree of annual water loss and the rate of main breaks and leaks per 100 miles of main. The City was in full compliance with Primary Drinking Water Regulations in 2018. While the City had six violations reported by the EPA since 2008; the City has adjusted its treatment mechanism and has had no violations since 2016.
4. No known infrastructure needs were identified with regards to CVWD's water distribution system.
5. CVWD reports that it is "actively engaged with consultants and engineers to identify additional capital outlays..."

H. Lake Berryessa Resort Improvement District

1. The District has undertaken major upgrades to its water and wastewater system since the 2011 MSR identified significant infrastructure needs.

2. Ongoing improvements to replace aging infrastructure and to upgrade facilities are planned and/or underway.
- I. Los Carneros Water District
1. Napa Sanitation District's recycled water supply is sufficient to continue to provide the committed volume to LCWD's service area. In 2018, LCWD made use of 53 percent of its allocated contract supply volume.
 2. Engineers conducted hydraulic analyses to determine and assure that the pipeline has sufficient capacity to serve the 107 connections in the LCWD assessment district.
 3. While there is interest from other landowners in the District but outside the assessment district to connect to the system, the true extent of available capacity will only be realized once most or all of the assessment district connections have connected to the system.
 4. The level of recycled water services offered by Napa Sanitation District were found to be more than adequate based on integrity of the recycled water distribution system and compliance with water treatment requirements. The integrity of Napa Sanitation District's distribution system is excellent as measured by the degree of annual water loss and the rate of main breaks and leaks per 100 miles of main. The District met the treatment standards established by CDPH every day in 2018.
 5. LCWD's system was constructed just four years ago, and there are no known infrastructure needs at this time. However, there may be a need for expansion of the system, as several additional landowners have expressed interest in connecting subsequent to the formation of the assessment district. As mentioned, the ability to accommodate additional parcels will be assessed once most assessment district parcels have connected.
- J. Napa Berryessa Resort Improvement District
1. The District has undertaken major upgrades to its water and wastewater system since the 2011 MSR identified significant infrastructure needs.
 2. Ongoing improvements to replace aging infrastructure and to upgrade facilities are planned and/or underway.
- K. Napa County Flood Control and Water Conservation District
- The District does not own public facilities that directly provide water or wastewater services, but does provide planning, technical support and financial assistance to other agencies and communities with infrastructure needs.

L. Napa River Reclamation District No. 2109

1. Current wastewater capacity and services are adequate. The District anticipates the need to replace aging facilities including its siphon in the near future.
2. NRRD is in the process of studying its reclamation needs and engaging the community in discussions about alternatives for future reclamation funding, facilities and services to address concerns about potential flood risks.

M. Napa Sanitation District

1. At present, demand for recycled water is well within capacity of the treatment plant. In 2018, 2,222 acre-feet of recycled water was produced, which constitutes 60 percent of the plant's maximum production capacity of 3,700 acre-feet during irrigation season. Demand for recycled water is anticipated to continue to rise in the coming years, reaching the maximum supply capacity of 3,700 acre-feet by 2030.
2. The level of recycled water services offered by Napa Sanitation District were found to be more than adequate based on integrity of the recycled water distribution system and compliance with water treatment requirements. The integrity of Napa Sanitation District's distribution system is excellent as measured by the degree of annual water loss and the rate of main breaks and leaks per 100 miles of main. The District met the treatment standards established by CDPH every day in 2018.
3. Napa Sanitation District appropriately plans for its recycled water infrastructure needs in a 10-year Capital Improvement Plan. Over the next 10 years through FY 27-28, planned major capital improvements include the Kirkland Recycled Water Pipeline Rehabilitation, the North Bay Water Reuse Project, a third water reservoir, Phase 2 expansion of the recycled water system, and an upgrade of a Soscol pump station.
4. Napa Sanitation District has more than adequate capacity to accommodate existing and projected demand at its wastewater treatment plant. In 2018, Napa Sanitation District made use of 40 percent of the available treatment capacity at its plant.
5. In 2017, the third wettest year on record, the District's system experienced a peaking factor of approximately eight, which is indicative of a high level of infiltration and inflow (I/I). The District exceeded the wet weather capacity of its collection system at that time. The level of I/I in the collection system is the primary capacity constraint for Napa Sanitation District. Napa Sanitation District is aware of the I/I and has initiated a long-term targeted program to address problem areas.

6. The level of wastewater services offered by Napa Sanitation District were found to be adequate based on integrity of the wastewater collection system and regulatory compliance. Addressing the I/I issues will improve the level of service offered by the District.

N. Spanish Flat Water District

1. A majority of SFWD's utility systems in Spanish Flat were destroyed in the Lightning Complex fires in August 2020. The utility systems in Berryessa Pines remain intact and operational. The District plans to rebuild of the destroyed system as soon as possible. The determinations regarding SFWD are based on existing circumstances before the fire.
2. SFWD has ample supply entitlement and system capacity to accommodate current as well as projected demands. In 2018, the District made use of 31 percent of its water contract entitlement and at buildout is anticipated to use 47 percent of its entitlement.
3. The full delivery of SFWD's entitlement is considered reliable given the current and historical storage levels at Lake Berryessa relative to the location of the intake systems.
4. The level of water services offered by SFWD were found to be minimally adequate based on integrity of the water distribution system and compliance with drinking water requirements. The integrity of the District's water distribution system is sufficient given the estimated level of water loss. The District was in full compliance with Primary Drinking Water Regulations in 2018 and has had one violation reported by the EPA since 2008.
5. The 2011 MSR identified that there is a distribution system capacity issue associated with deficient storage within the initial pressure zone. This issue has not been addressed to date.
6. The District is working to purchase generators to continue water production during electrical outages.
7. Based on current operations, the Spanish Flat Water District's sewer systems appear to have adequate collection, treatment, and discharge capacities to meet existing service demands within its jurisdiction under normal conditions. However, the District does not have any records identifying the design capacities for either sewer system. This prevents the District from accurately estimating its capacity to service new growth for either of its two service communities.

8. The level of wastewater services offered by SFWD were found to be minimally adequate based on integrity of the wastewater collection system and regulatory compliance. The District has had no sanitary sewer overflows in the last five years, but has had 31 violations, a majority of which were for deficient reporting. Significant improvement can be made to the District's reporting practices.
 9. SFWD does not adopt a Capital Improvement Plan. All capital improvements are performed as needed. The District reported that there are currently no infrastructure needs related to the wastewater systems.
4. Financial Ability of Agencies to Provide Services (Government Code 56430(a)(4)):
- A. City of American Canyon
1. American Canyon has the ability to continue providing water and wastewater services. Combined utility reserves appear to be adequate for ongoing operations of water and wastewater, however, the Water Operations Fund unrestricted net position is only \$100,000 which is low compared to annual operating expenditures.
 2. From FY17 to FY18 the value of capital assets declined, indicating that investments were not keeping pace with depreciation. The City's Five-Year Capital Improvement Program (CIP) identifies future needs, costs and source of funding, but does not identify the projected funding available or shortfalls in funding, if any.
 3. The City recently adopted rate increases beginning in FY18 anticipated to improve balances and help to maintain investments in capital assets.
 4. The City evaluates its cost of service as needed to revise its rates and help fund its 5-year CIP. The CIP is not updated annually.
- B. City of Calistoga
1. The City of Calistoga has the ability to continue providing water and wastewater services. Water and wastewater revenues were insufficient to cover operations and debt service in FY18, however FY19 was anticipated to end with a slight surplus after debt as rates were updated and increased in FY18 to address shortfalls.
 2. Utilities met and exceeded their reserve goal of 20 percent reserves. Wastewater operations liquidity exceeded a minimum 1.0 ratio of current assets to current liabilities, and its net position was positive.

3. Current water operations assets, however, were exceeded by current liabilities, reducing water operations liquidity to less than a 1.0 ratio; the water operation's net position was negative at the end of FY18, reflecting liabilities exceeding net capital assets.
4. Combined utility rates approach a maximum of 5 percent of median household incomes and may exceed the measure with future rate increases, depending on growth in household incomes.
5. During FY19 the City's General Fund transferred \$250,000 to assure that debt service coverage requirements were met; a portion of that transfer has since been repaid.
6. Investments in utility capital assets equaled or exceeded annual depreciation, indicating that the City is generally keeping pace with depreciation of facilities.
7. The City reviews and updates its rates regularly based on cost of service studies and CIP forecasts.

C. City of Napa

1. The City of Napa has the ability to continue providing water services. Projected water operations shortfalls anticipated for FY17 through FY19 were more than offset by rate increases adopted during FY17.
2. The City allocates net revenues to a number of reserves for operations, capital and rate stabilization. Ending fund balances, net position and liquidity measures are all positive and indicate a stable position.
3. From FY17 to FY18 the value of net capital assets increased, indicating that investments were keeping pace with, or exceeding, depreciation. The City's cost of service studies are the basis for rate adjustments that include capital facility needs.

D. City of St. Helena

1. The City of St. Helena has the ability to continue providing water and wastewater services. The FY19 budget's positive annual utility balances indicated that its utilities were beginning to stabilize due to recently adopted rate increases, after several years of financial stress.

2. The City appears to have adequate reserves, although in FY19 it was not meeting its adopted reserve targets. The unrestricted net position of both utilities were significantly positive.
 3. Combined utility rates are well below maximum standards. The City adopted new rate schedules in December 2017 to address anticipated water operations shortfalls and to fund needed wastewater improvements and regulatory requirements.
 4. Recent and planned capital improvement expenditures equal or exceed average annual depreciation, indicating that the City is keeping pace with infrastructure depreciation.
 5. The City based its updated utility rate schedule adopted in December 2017 on a revised 2016 cost of service study that included long-range forecasts of operating and capital needs.
- E. Town of Yountville
1. The Town of Yountville has the ability to continue providing water and wastewater services. While the Town's operating revenues exceed expenditures for FY16 through FY19, surpluses did not fully cover capital improvement and capital recovery costs. Rate increases beginning in FY18 were anticipated to cover capital projects and maintain reserves for the five-year period of rate increases.
 2. Utility liquidity measures and unrestricted net positions are both positive.
 3. Combined utility rates fall within accepted thresholds. The Town adopted new utility rate schedules implemented in FY18 based on cost of service studies that included operations, debt services and capital improvement needs.
 4. FY18 financial reports showed a decline in utility net asset value, indicating that the Town was not keeping pace with infrastructure depreciation. However, rate increases beginning in FY18 should help to provide ongoing capital funding.
- F. Circle Oaks County Water District
1. The Circle Oaks County Water District has the ability to continue providing water and wastewater services. The FY19 budget shows revenues exceeding operating expenditures; however, the surplus is not sufficient to cover depreciation expense, indicating that the District may have difficulty fully funding capital repair and replacement.

2. Combined utility rates are well below maximum standards.
3. The District's positive liquidity ratio and unrestricted net position demonstrate adequate reserves, although declining net asset value and net annual surpluses that are less than depreciation (see above) indicate a potential need for increased capital funding.
4. The District has no capital improvement program, no cost of service or rate study, and no long-term projections to provide the basis for determining future operating and capital needs.

G. Congress Valley Water District

1. The CVWD relies on the City of Napa for the provision of water; the City bills District customers directly for water and retains all revenues, and the City is responsible for all operations, maintenance and capital planning.
2. The District relies primarily on property tax to fund District administrative costs. These costs vary annually depending on needs for engineering and financial biennial auditing services. The FY19 budget showed a \$40,000 shortfall, largely due to funding of a portion of customer's water bills to pay for the difference between the City's rates for residents vs. non-residents. The shortfall was funded by reserves.
3. The District's cash balance and unrestricted net position appear to be more than adequate as operational reserves; however, future capital needs are unknown.
4. The net value of the District's capital assets showed no additions in FY18, and the net value declined by nine percent. The District has no capital plan, and the City's capital plans do not explicitly identify District needs or future costs.

H. Lake Berryessa Resort Improvement District

1. The District has benefited from loans provided by the County which it has been unable to fully repay to-date.
2. A recent rate review and forecast indicated that rate increases were not required during the five-year forecast period; however, capital improvements and County loan repayment were not explicitly included in the forecast.

3. Current rates exceed typical burden measures compared to resident incomes. The area has been designated as a Disadvantaged Community, which is provided a significant amount of low or no-cost funding and grants.
4. The District appears to have adequate reserves to fund operations, however, the lack of a five-year capital plan precludes a determination as to the adequacy of rates and reserves to fund future improvements.

I. Los Carneros Water District

1. All recycled water operations are managed by Napa Sanitation District, which bills District customers directly for services. Napa Sanitation District owns the distribution system which was funded by a combination of grants and assessment debt secured by District property owners.
2. The District's revenues consist almost entirely of benefit assessments. The majority of the assessments pay for debt service that funded system construction; a small portion of the assessment revenue pays for District operations costs.
3. The District maintains adequate reserves for annual administrative costs and retains a restricted fund to include required debt service reserves.
4. The District's Capital Improvement Fund's balance was zero at the end of FY19. Since the system is owned and maintained by Napa Sanitation District, there is no need for District capital reserves.

J. Napa Berryessa Resort Improvement District

1. The District's net surplus does not fully cover annual depreciation, indicating that the District may have difficulty accumulating adequate funds for future capital repair and replacement.
2. A recent rate review and forecast indicated that rate increases were required during the five-year forecast period; capital improvements were not explicitly included in the forecast.
3. Current rates approach maximum typical burden measures compared to resident incomes.
4. The District appears to have adequate reserves relative to operating costs, however, the lack of a five-year capital plan precludes a determination as to the adequacy of rates and reserves to fund future improvements.

K. Napa County Flood Control and Water Conservation District

1. The District provides “conduit” services to obtain and direct financial resources to infrastructure and service needs of other agencies and communities.
2. The District does not receive a share of property tax and has no ongoing sources of funding other than project grants and pass-throughs of subcontractor payments.

L. Napa River Reclamation District No. 2109

1. NRRD has the ability to continue providing wastewater services. Reserves appear to be sufficient to fund anticipated repair and replacement of aging infrastructure, however, NRRD does not have a CIP or other plan to identify future capital needs and funding sources.
2. The expansion of reclamation services depends on additional funding such as assessments, which are currently being discussed by NRRD with the community.

M. Napa Sanitation District

1. Napa Sanitation District has the ability to continue providing wastewater services. Revenues exceed expenditures (including debt) by about \$10 million, or almost 50 percent of expenditures.
2. The District allocates net revenues to reserves, which exceed minimum targets, and to capital improvements. Ending fund balances, net position and liquidity measures are all positive and indicate a stable position.
3. Napa Sanitation District established a five-year schedule of rate increases through FY21. Current rates are well below maximum burdens given median household incomes in the District.
4. The District’s increase in net capital assets in FY18 exceeded depreciation. The District maintains and regularly updates its 10-year capital improvement plan that includes anticipates costs and available funding. The District generally has funded the Plan each year consistent with the needs identified in the Plan.

N. Spanish Flat Water District

1. The Spanish Flat Water District has the ability to continue providing water and wastewater services. However, the value of its infrastructure is depreciating at a rate greater than can be covered by its budget surplus. The assets declined with no offsetting investment.
 2. The District appears to have adequate liquidity and operating reserves, although declining net asset value and net annual surpluses that are less than depreciation (see above) indicate a potential need for increased capital funding.
 3. The value of the District's depreciated infrastructure is less than 50 percent of initial value, indicating the potential need for capital improvements. The District has no capital improvement program, no cost of service or rate study, and no long-term projections to provide the basis for determining future operating and capital needs.
5. Status of, and Opportunities for, Shared Facilities (Government Code 56430(a)(5)):

A. City of American Canyon

1. American Canyon shares interconnections with the cities of Vallejo and Napa.
2. The City is a member of the Sites Reservoir Project, which is a potential future water supply source in Colusa County. Among the few dozen other participants are Los Angeles, Sacramento, San Bernardino, Antelope Valley and Santa Clara.
3. The City has considered and will continue to consider opportunities for water exchanges or transfers with water right holders, if opportunities present themselves at the right price and under acceptable terms and conditions.
4. American Canyon closely collaborates and exchanges information with Napa Sanitation District.

B. City of Calistoga

1. The City participates in the Bay Area Integrated Regional Water Management Plan (IRWMP). The City additionally is participating in a Memorandum of Understanding (MOU) among Napa County municipal water purveyors to develop a drought contingency plan.

2. Calistoga shares an interconnection with the City of Napa through which the City of Calistoga receives potable treated water from the City of Napa on a regular basis and in case of emergencies.
3. The City does not share wastewater infrastructure with other agencies. Due to the distance between the municipal systems, no opportunities for facility sharing were identified.

C. City of Napa

1. The City shares interconnections with Calistoga, St. Helena, American Canyon, Yountville, and the California Veterans Home.
2. City of Napa partners with the Napa Sanitation District to run a large recycling program for oils (Recycle More Program). The two agencies also benefit from a joint water conservation program and collaboration on pipeline projects. Also, Napa Sanitation District, the City of Napa, and Napa Recycling coordinate scheduled tours of the wastewater treatment plant, water treatment plant, and recycling facility for Napa area students.
3. In conjunction with the cities of St. Helena and Calistoga, City of Napa is looking for grant funding to make improvements to the Dwyer booster pump station in order to ensure reliable and adequate pressure for fire protection purposes.
4. In addition, the City is monitoring regulations currently under study to define requirements for direct potable reuse (DPR). The regulations are likely to be finalized within five to 10 years. The proximity of Napa Sanitation District's Soscol WRF to the Barwick Jamieson treatment plant shows great potential for DPR, subject to capital improvements including a pump station and added treatment trains.
5. The City is open to further collaboration and resource sharing with regional municipal water purveyors as demonstrated by its participation in the Napa Valley Drought Contingency Plan.

D. City of St. Helena

1. St. Helena shares an interconnection with the City of Napa through which the City of St. Helena buys potable treated water from Napa on a regular basis and in case of emergencies.

2. In conjunction with the cities of Napa and Calistoga, St. Helena is looking for grant funding to make improvements to the Dwyer booster pump station in order to ensure reliable and adequate pressure for fire protection purposes.
3. Given the separation of municipal systems, further opportunities for facility sharing are limited. However, the City is open to collaboration and resource sharing with regional municipal water purveyors as demonstrated by its participation in the Napa Drought Contingency Plan.

E. Town of Yountville

1. Yountville shares two interconnections with the Veterans Home and two interconnections with the City of Napa. Additionally, the Town makes use of and pays for a portion of operations at the CDVA-owned and operated Rector Reservoir and water treatment plant.
2. Due to the distance of other water providers, there are limited options for further facility sharing. However, the Town is open to collaboration and resource sharing with regional municipal water purveyors as demonstrated by its participation in the Napa Drought Contingency Plan.

F. Circle Oaks County Water District

1. COCWD practices resource sharing with other agencies by sharing a general manager and operator with Spanish Flat Water District.
2. An opportunity for facility sharing may be contracting with another agency for a portion or all operations, such as the City of Napa or Napa Sanitation District.

G. Congress Valley Water District

CVWD relies upon shared facilities with the City of Napa for water conveyance to the District's boundaries. Additionally, the contract service structure allows for resource sharing as the City operates and maintains the Districts' distribution system.

H. Lake Berryessa Resort Improvement District

LBRID is administered by County staff in concert with NBRID. The two County-dependent resort improvement districts also share contract services by a single operator.

I. Los Carneros Water District

1. Having no infrastructure or facilities of its own, LCWD relies upon shared facilities from Napa Sanitation District to provide reclaimed water to its customers.
2. LCWD collaborates with Napa Sanitation District via its contract service arrangement. The two agencies maintain a good working relationship with a regular reporting structure to ensure transparency.

J. Napa Berryessa Resort Improvement District

NBRID is administered by County staff in concert with LBRID. The two County-dependent resort improvement districts also share contract services by a single operator.

K. Napa County Flood Control and Water Conservation District

The District collaborates with local agencies on projects, planning and technical efforts on shared and regional facilities.

L. Napa River Reclamation District No. 2109

1. NRRD collaborates with NCFCWCD on various reclamation-related activities, including shared funding of a study of reclamation needs. Governance structure options exist whereby this collaboration could be formalized and expanded, for example, if NRRD were to become a zone of NCFCWCD for reclamation purposes.
2. As noted by prior MSRs and SOI reviews, NRRD and its residents should explore opportunities to work with the Napa County Resource Conservation District (NCRCD) to educate constituents with regard to activities to control settlement along their portion of the levee.

M. Napa Sanitation District

1. While the District does not practice facility sharing with regard to wastewater and recycled water infrastructure with other agencies, it collaborates with other agencies on joint projects and initiatives.
2. Napa Sanitation District partners with the City of Napa to run a large recycling program for oils (Recycle More Program). The two agencies also benefit from a joint water conservation program and collaboration on pipeline projects. Also, Napa Sanitation District, the City of Napa, and Napa Recycling coordinate scheduled tours of the wastewater treatment plant, water treatment plant, and recycling facility for Napa area students.

3. The recently completed Coombsville recycled water truck filling station in the MST area is a joint project with the County and funding coming from the MST CFD and the State.
4. No further opportunities for facility sharing were identified.

N. Spanish Flat Water District

1. SFWD practices resource sharing with other agencies by sharing a general manager and operator with Circle Oaks County Water District.
 2. An opportunity for facility sharing may be contracting with another agency for a portion or all operations, such as the City of Napa or Napa Sanitation District.
 3. Transitioning to a CSA would allow for sharing of County staff resources.
6. Accountability for Community Service Needs, Including Governmental Structure and Operational Efficiencies (Government Code 56430(a)(6)):

A. City of American Canyon

1. The City Council holds regular appropriately noticed meetings.
2. American Canyon makes available most documents on its website, including minutes, agendas, and financial and planning reports. The website also provides a means to solicit comments and complaints from customers. The City is compliant with the agenda-posting requirements outlined in AB 2257.

B. City of Calistoga

1. The City Council holds regular appropriately noticed meetings.
2. Calistoga makes available most documents on its website, including minutes, agendas, and financial and planning reports. The website also provides a means to solicit comments and complaints from customers. The City is compliant with the agenda-posting requirements outlined in AB 2257.

C. City of Napa

1. The City Council holds regular appropriately noticed meetings. Meetings are also broadcast live on the City's website.

2. The City makes available most documents on its website, including minutes, agendas, and financial and planning reports. The City is compliant with the agenda-posting requirements outlined in AB 2257.

D. City of St. Helena

1. The City Council holds regular appropriately noticed meetings.
2. St. Helena makes available most documents on its website, including minutes, agendas, and financial and planning reports. The City is compliant with the agenda-posting requirements outlined in AB 2257.

E. Town of Yountville

1. The Town Council holds regular appropriately noticed meetings.
2. Yountville makes available most documents on its website, including minutes, agendas, and financial and planning reports. The website also provides a means to solicit comments and complaints from customers. The Town is compliant with the agenda-posting requirements outlined in AB 2257.
3. Enhanced communication and collaboration between CDVA and the Town are essential to ensuring sustainable water supply.

F. Circle Oaks County Water District

1. The District Board holds regular appropriately noticed meetings.
2. COCWD primarily conducts outreach via its website, which makes available comprehensive information and documents to the public. COCWD is fully compliant with the SB 929 and SB 2257 requirements.
3. Governance structure alternatives include contracting with another agency for services or reorganization with a countywide county water district.

G. Congress Valley Water District

1. The District Board holds regular appropriately noticed meetings.
2. The District has not developed a website to make information available to the public as recommended in the 2017 MSR. CVWD reports that it expects to have a website in place by “the fall of 2020.”

3. CVWD and the City of Napa maintain a good working relationship; however, improvements could be made by initiating a regular reporting structure to keep the District informed.

H. Lake Berryessa Resort Improvement District

1. The County Board of Supervisors serves as directors of the District, and hold regular, noticed meetings.
2. The District maintains a website; however, it contains minimal content beyond payment links and posted responses to questions from 2016.
3. District staff inform residents through mailings and newsletters, posts on the NextDoor social media site, and in-person meetings as needed.

I. Los Carneros Water District

1. The District Board holds regular appropriately noticed meetings.
2. The District primarily conducts outreach via its website, which makes available comprehensive information and documents to the public and solicits input from customers. LCWD is fully compliant with the SB 929 requirements.
3. Given that Napa Sanitation District provides almost all services to the customers within LCWD's boundaries, which in essence is a "functional consolidation," there is potential to streamline the service structure by eliminating a level of administration through a "full consolidation" of the two agencies.

J. Napa Berryessa Resort Improvement District

1. The County Board of Supervisors serves as directors of the District, and hold regular, noticed meetings.
2. The District maintains a website; however, it contains minimal content beyond payment links and posted responses to questions from 2016.
3. District staff inform residents through mailings and newsletters, posts on the NextDoor social media site, and in-person meetings as needed.

K. Napa County Flood Control and Water Conservation District

1. The District's board includes membership by all County supervisors, and representatives of all incorporated cities/town and a council member from the City of Napa.
2. The District is empowered with the ability to create "zones of benefit" that could enable small communities to benefit from the staff expertise of a larger organization for reclamation purposes.

L. Napa River Reclamation District No. 2109

NRRD conducts regular public hearings in conformance with the Brown Act and maintains a website to provide information to its residents.

M. Napa Sanitation District

1. The District Board holds regular appropriately noticed meetings.
2. The District primarily conducts outreach via its website, which makes available comprehensive information and documents to the public and solicits input from customers. The website complies with SB 929 and AB 2257 requirements.
3. The District has made significant strides towards improving efficiency of its system and making use of alternative energy sources. In FY 17-18, the District was able to power the treatment facility with 53 percent of self-generated energy through efforts to reduce energy usage and increase energy production and storage.

N. Spanish Flat Water District

1. The District Board holds regular appropriately noticed meetings.
2. The District struggled to respond to requests for information in a timely manner.
3. SFWD recently developed a website to comply with SB 929. The District continues to organize and post documents and information to the website. While finalizing the site, SFWD should ensure that it is also meeting the agenda posting requirements in AB 2257.

4. Governance structure alternatives include contracting with another agency for services, reorganization with a countywide county water district, and transitioning into a county service area.
7. Relationship with Regional Growth Goals and Policies (Government Code 56430(a)(7)):

A. City of American Canyon

1. The City of American Canyon has adopted an Urban Limit Line (ULL) to manage its growth. The ULL represents an agreement with Napa County and is consistent with the County's General Plan and agricultural protection ordinances.
2. The City of American Canyon and four other municipalities of Napa County participate in the Napa Valley Transportation Authority (NVTA), which functions as the region's Congestion Management Agency and provides input to the Bay Area-wide Metropolitan Transportation Commission's (MTC) 20-year Regional Transportation Plan. Plans applicable to American Canyon include Napa Countywide Pedestrian Plan, Vision 2040 Moving Napa Forward – A Countywide Transportation Plan, Countywide Bicycle Plan, SR 29 Gateway Corridor Implementation Plan, and Plan Bay Area.
3. Napa LAFCO has adopted a resolution defining the City's water and wastewater service areas. According to the resolution, the City may not provide new or extended water and sewer services within its adopted service areas without prior written LAFCO authorization, with the exception of the Airport Industrial Zone, which is outside of the City boundaries but is exempt from this requirement. This policy is consistent with the California Code §56133 on out-of-area services.
4. The City's boundaries include three non-contiguous parcels that are outside of its Sphere of Influence (SOI), which are owned by the City and used for municipal purposes. Typically, this would indicate LAFCO's anticipation that these areas be detached from the City; however, it has been Napa LAFCO's practice to not include city-owned property within a city's SOI pursuant to Government Code §56742, which is specific to noncontiguous territories. LAFCO may wish to consider including the noncontiguous city-owned properties in the City of American Canyon's SOI during its next update, or if LAFCO wishes to continue the practice of excluding these properties from the City's SOI, then it may consider clarifying its intent in its policies.

B. City of Calistoga

1. Calistoga has adopted the Resource Management System and the Growth Management System to manage growth within the City and maintain its small-town character. This objective protects agriculture within and surrounding the municipality, which align with the County's Agricultural Preserve policies.
2. The City of Calistoga and four other municipalities of Napa County participate in the Napa Valley Transportation Authority (NVTA), which functions as the region's Congestion Management Agency and provides input to the Bay Area-wide Metropolitan Transportation Commission's (MTC) 20-year Regional Transportation Plan. Plans applicable to Calistoga include Napa Countywide Pedestrian Plan, Vision 2040 Moving Napa Forward – A Countywide Transportation Plan, Countywide Bicycle Plan, SR 29 Gateway Corridor Implementation Plan, and Plan Bay Area.
3. The City participates in the Bay Area Integrated Regional Water Management Plan (IRWMP) that aims to coordinate and improve water supply reliability, protect water quality, manage flood protection, maintain public health standards, protect habitat and watershed resources, and enhance the overall health of the San Francisco Bay.
4. The City of Calistoga provides water services to 78 connections outside of its boundary area. Although the exact dates of connection are unknown, most likely water service to these unincorporated properties was established prior to G.C. §56133 and is specifically exempt given that the service was extended prior to January 1, 2001. New water connections to parcels outside the City's jurisdictional boundary have been prohibited by the municipal code since 2005, which aligns with State legislation and LAFCO policy.
5. The City provides recycled water services to 15 customers. Recycled water services are exempt from requiring LAFCO approval prior to extension of services beyond an agency's boundaries under Government Code §56133.
6. The City makes its recycled water available for trucking through a filling station at the City's Wastewater Treatment Plant. There is no limit as to the quantity of recycled water that can be trucked as long as the purchaser obtains a prior permit through the City's WWTP. The City indicated that the trucked water is inappropriate to support development due to its boron levels.

C. City of Napa

1. The City's growth area is limited by the voter-approved Rural Urban Limit (RUL). This constraint on growth aligns with the County's Agricultural Preserve policy.
2. The City of Napa and four other municipalities of Napa County participate in the Napa Valley Transportation Authority (NVTA), which functions as the region's Congestion Management Agency and provides input to the Bay Area-wide Metropolitan Transportation Commission's (MTC) 20-year Regional Transportation Plan. Plans applicable to City of Napa include Napa Countywide Pedestrian Plan, Vision 2040 Moving Napa Forward – A Countywide Transportation Plan, Countywide Bicycle Plan, SR 29 Gateway Corridor Implementation Plan, and Plan Bay Area.
3. The City of Napa provides outside water services to 2,213 connections. A majority of these connections were established prior to G.C. §56133 and are specifically exempt. The City has adopted policy limiting extension of services outside of the RUL in its Charter Section 180. There are no similar policies regarding extension of services outside the city limits but inside the RUL.
4. The City makes its potable water available for trucking through a filling station. There are no limitations on who may make use of the water for trucking.

D. City of St. Helena

1. St. Helena aims to control and limit development in order to contain development and preserve open space and agricultural lands in and adjacent to the City. To accomplish this goal, the City has adopted an Urban Limit Line, designated Urban Reserve Areas, and developed the Residential Growth Management System. These growth-limiting practices align with the County's Agricultural Preserve policy.
2. The City of St. Helena and four other municipalities of Napa County participate in the Napa Valley Transportation Authority (NVTA), which functions as the region's Congestion Management Agency and provides input to the Bay Area-wide Metropolitan Transportation Commission's (MTC) 20-year Regional Transportation Plan. Plans applicable to Yountville include Napa Countywide Pedestrian Plan, Vision 2040 Moving Napa Forward – A Countywide Transportation Plan, Countywide Bicycle Plan, SR 29 Gateway Corridor Implementation Plan, and Plan Bay Area.

3. The City of St. Helena provides outside water services to 361 residential, commercial and industrial connections. Water service to these unincorporated properties was established prior to G.C. §56133 and is specifically exempt given that the service was extended prior to January 1, 2001. New water connections to parcels located outside the City's jurisdictional boundary are not prohibited by municipal code, which aligns with State legislation and LAFCO policy.

E. Town of Yountville

1. The Town has maintained a conservative SOI in the interest of "seeking to protect its small-town character through land use planning." This objective protects agriculture within and surrounding the municipality, which aligns with the County's Agricultural Preserve policy.
2. The Town of Yountville and four other municipalities of Napa County participate in the Napa Valley Transportation Authority (NVTA), which functions as the region's Congestion Management Agency and provides input to the Bay Area-wide Metropolitan Transportation Commission's (MTC) 20-year Regional Transportation Plan. Plans applicable to Yountville include Napa Countywide Pedestrian Plan, Vision 2040 Moving Napa Forward – A Countywide Transportation Plan, Countywide Bicycle Plan, SR 29 Gateway Corridor Implementation Plan, and Plan Bay Area.
3. The Town of Yountville provides outside water services to 36 rural residences. Water service to these unincorporated properties was established in the 1950s, prior to G.C. §56133 and is specifically exempt given that the service was extended prior to January 1, 2001. New water connections to parcels located outside the Town's jurisdictional boundary have been prohibited by municipal code since 1977, which aligns with State legislation and LAFCO policy.
4. The Town of Yountville provides outside wastewater services to the Domaine Chandon property. Wastewater service to the unincorporated property was established prior to G.C. §56133 and is specifically exempt given that the service was extended prior to January 1, 2001. The Town extended services to the property with the understanding that the property would be annexed. The territory has been added to the Town's SOI in anticipation of annexation, which is in alignment with regional planning objectives and LAFCO's policies and mandate.

5. The recycled water service area encompasses the Town's municipal boundaries, and approximately 4,000 acres of vineyards in unincorporated Napa County. Recycled water services are exempt from requiring LAFCO approval prior to extension of services beyond an agency's boundaries under Government Code §56133.
6. The Town makes its recycled water available for trucking through a filling station at the reclamation facility. There are no limitations on who may make use of the recycled water for trucking.

F. Circle Oaks County Water District

1. COCWD is not a land use authority that takes part in regional planning efforts and therefore does not impact growth policy.
2. LAFCO's adopted policies relating to special district spheres discourage any expansions of COCWD's existing sphere to promote urban development based on current land use designations of lands located within close proximity to the District.

G. Congress Valley Water District

1. CVWD is not a land use authority that takes part in regional planning efforts and therefore does not impact growth policy.
2. LAFCO's adopted policies relating to special district spheres discourage any expansions of CVWD's existing sphere to promote urban development based on current land use designations of lands located within close proximity to the District.

H. Lake Berryessa Resort Improvement District

1. LBRID is not a land use authority that takes part in regional planning efforts and therefore does not impact growth policy.
2. LBRID's SOI excludes substantial areas within its boundaries which are designated for single-family development, however, those areas currently are not served by the District and there are minimal prospects of those lands developing and requiring services within a ten-year time horizon.

I. Los Carneros Water District

1. LCWD is not a land use authority that takes part in regional planning efforts and therefore does not impact growth policy.

2. LAFCO's adopted policies relating to special district spheres discourage any expansions of LCWD's existing sphere to promote urban development based on current land use designations of lands located within close proximity to the District.
- J. Napa Berryessa Resort Improvement District
1. NBRID is not a land use authority that takes part in regional planning efforts and therefore does not impact growth policy.
 2. NBRID's SOI excludes substantial areas within its boundaries which are designated for single-family development, however, those areas currently are not served by the District and there are minimal prospects of those lands developing and requiring services within a ten-year time horizon.
- K. Napa County Flood Control and Water Conservation District
- County departments staff the District and provide for close coordination with regional growth goals and policies.
- L. Napa River Reclamation District No. 2109
1. NRRD's SOI excludes substantial areas within its boundaries which are owned and utilized by NRRD for its wastewater plant, and which are designated by the County as "Agriculture, Watershed, and Open Space" similar to adjacent lands outside the District.
 2. Excluding approximately 20 acres consisting of NRRD's wastewater plant from NRRD's SOI is consistent with LAFCO's policy to not promote "urban development within land designated as agriculture or open-space under the County General Plan."
- M. Napa Sanitation District
1. Napa Sanitation District is not a land use authority that takes part in regional planning efforts and therefore does not impact growth policy.
 2. Napa Sanitation District provides outside wastewater services to four connections outside of its boundaries—four residences (two served by one connection) and the Napa State Hospital. Two connections were established prior to G.C. §56133 and are specifically exempt given that the service was extended prior to January 1, 2001. For the other two connections, LAFCO approval was appropriately sought. Napa Sanitation District does not have policies specific to the extension of services outside of its boundaries or sphere of influence.

3. A majority of the Napa Sanitation District's recycled water service area lies outside of its boundaries to the northeast, southeast, and west. Recycled water services are exempt from requiring LAFCO approval prior to extension of services beyond an agency's boundaries under Government Code §56133.
4. Napa Sanitation District makes its recycled water available for trucking through two filling stations. The District has appropriately adopted limitations on the location and type of uses for trucked water, to which users are required to sign agreement.
5. The Monticello Park community is experiencing failing septic systems, and replacement is cost prohibitive. There is a need for wastewater services in the area that could be provided by Napa Sanitation District. Extension of needed services to the already developed area through provisions in Government Code §56133.5 is an option that would allow for needed services to the defined developed area.

N. Spanish Flat Water District

1. SFWD is not a land use authority that takes part in regional planning efforts and therefore does not impact growth policy.
2. LAFCO's adopted policies relating to special district spheres discourage any expansions of SFWD's existing sphere to promote urban development based on current land use designations of lands located within close proximity to the District.

William D. Ross
David Schwarz
Kypros G. Hostetter

Law Offices of
William D. Ross
400 Lambert Avenue
Palo Alto, California 94306
Telephone: (650) 843-8080
Facsimile: (650) 843-8093

Los Angeles Office:
P.O. Box 25532
Los Angeles, CA 90025

File No: 199/6.20

September 22, 2020

VIA ELECTRONIC MAIL

The Honorable Kenneth Leary, Chairperson
and Members of the Local Agency Formation Commission
of Napa County
1030 Seminary Street, Suite B
Napa, CA 94559

Re: Revised; October 5, 2020 Regular Meeting; **Consideration and Approval
of Water and Wastewater Municipal Service Review**

Dear Chair Leary and Commission Members,

This office serves as the City Attorney for the City of American Canyon (“City”), which at a properly noticed Closed Session of its City Council on September 15, 2020, authorized this office and the City Manager, Jason B. Holley, to take all actions necessary before the Commission at the October 5, 2020 meeting, to *oppose* the consideration and possible adoption of the draft Countywide Water and Wastewater Municipal Service Review (the “MSR”).

The Local Agency Formation Commission (“LAFCO”) Executive Officer, Staff and Consultants maintain that the Water Service Area (“WSA”) of the City, is the City’s current boundaries rather than that established at the City’s incorporation in 1992.

Discussions on this issue have been ongoing between this Office, the City Manager and LAFCO representatives *since February 8, 2019*. At that time, the City was contacted by LAFCO Staff to obtain the incorporation documents for the City from 1992 for use by the MSR Consultants. No explanation was offered as to why the City incorporation documents were not present in LAFCO records. LAFCO Staff was supplied with not only the incorporation documents, but those documents associated with their environmental review under the California Environmental Quality Act (Public Resources Code Section 21000 *et seq.*, (“CEQA”)).

Notwithstanding the meetings between City Staff, LAFCO Staff and Consultants, there remain several unresolved factual and legal issues concerning the LAFCO Executive Officer's claim that the City WSA at the time of incorporation is not the City WSA, but rather is the existing City limits.

The City disagrees with the LAFCO Executive Officer's conclusion and the proposal to move forward despite these unresolved issues by a simple statement, that the issue remains unresolved. *See*, LAFCO Comment Log (attached as Exhibit "A"), page 1, line 5.

In the Commission's Workshop on July 13, 2020, it was precisely stated that the matter is a "detailed and complex problem" to be resolved with the LAFCO Executive Officer, Staff and Project Consultants.

Given the significant impacts of the possible adoption of this MSR by the Commission *without* City WSA resolution, the City demands that the matter *be continued* until the issues are fully resolved with the LAFCO Executive Officer, Legal Counsel and Consultants. Both the undersigned and Mr. Holley will be available for questions on October 5, 2020¹ before the Commission.

At the August 3, 2020 Commission meeting, the matter was considered under Agenda Item No. 7.c., where the Staff Report incorporated a reference to "MSR figure 3-14; Governance Structure Options," a copy of which is attached as Exhibit "B." Under the heading "Governance Structure Options," the following is set forth with respect to the City of American Canyon Governance Options:

- Clarification of LAFCO - approved service area;
- Inclusion of non-contiguous city-owned property in SOI or clarification of LAFCO policy; and,
- Participation in a county water agency.

Stated differently, how can LAFCO proceed to consider and adopt any of the draft MSR "Governance Options" *until* it is known what the baseline footprint is with respect to the City WSA?

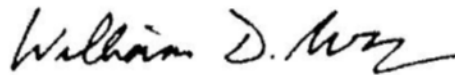
The City fails to see how there is evidence, or an analysis, by the Executive Officer, LAFCO Staff, Legal Counsel or Consultants that establishes a Governance baseline so that

¹ The City representatives at the Commission July 13, 2020 Workshop are also referenced in Exhibit "B." *See*, the next to last page.

the critical issues associated with the City WSA, can serve as a basis for further recommendations to the Commission.

The City also maintains that the lack of *any* substantive analysis of the MSR under the CEQA, provides a second reason why the proposed action should be continued.

Very truly yours,



William D. Ross
City Attorney

WDR:as

cc: Brendon Freeman, Executive Officer
Local Agency Formation Commission

The Honorable Leon Garcia and Members of the City Council
Jason B. Holley, City Manager
City of American Canyon

Enclosures: ~~Exhibit "A" (Comment Log)~~
~~Exhibit "B" (Staff Report)~~

Exhibits removed due to file size.

Exhibit "A" is available online at:

https://www.napa.lafco.ca.gov/uploads/documents/DraftMSR_CommentLog.pdf

Exhibit "B" is available online at:

https://www.napa.lafco.ca.gov/uploads/documents/8-3-20_7c_CommentsDraftWaterWastewaterMSR.pdf

William D. Ross
David Schwarz
Kypros G. Hostetter

Law Offices of
William D. Ross
400 Lambert Avenue
Palo Alto, California 94306
Telephone: (650) 843-8080
Facsimile: (650) 843-8093

Los Angeles Office:
P.O. Box 25532
Los Angeles, CA 90025

File No: 199/6.20

October 5, 2020

VIA ELECTRONIC MAIL

The Honorable Kenneth Leary, Chairperson
and Members of the Local Agency Formation Commission
of Napa County
1030 Seminary Street, Suite B
Napa, CA 94559

Re: October 5, 2020 Regular Commission Meeting; Agenda Item No. 7.a. Final Map
and Countywide Water and Wastewater Municipal Service Review and Associated
CEQA Findings

Dear Chair Leary and Commission Members,

This office serves as the City Attorney for the City of American Canyon (“City”), and again respectfully maintains with respect to the proposed Napa Countywide Water and Waste Water Municipal Service Review (“proposed MSR”) that the Water Service Area (“WSA”) of the City is that which was succeeded to at the time of incorporation of the former American Canyon County Water District (“ACCWD”), rather than what has been maintained by the Project Consultants and LAFCO Staff as the corporate boundaries of the City.

The action of the Consultants in evaluating this issue supports the City’s position. Originally, with respect to the Draft Municipal Service Review (“Draft MSR”) on pages 64, 86 and 92, it was maintained that the ACCWD was in fact dissolved. A dissolution under the Cortese-Knox Reorganization Act of 1985 and presently under the Cortese-Knox-Hertzberg Reorganization Act of 2000, is a “change of organization.”¹

In other words, there had to be *another change of organization* at the time of incorporation to provide the legal basis for the current LAFCO Staff, Executive Officer and LAFCO Counsel position.

¹ See, current Government Code Section 56021(h), a part of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code Section 56000 et seq., (the “Act”). The Act was and is a substantial update of its predecessor, the Cortese-Knox Local Government Reorganization Act of 1985 (former Government Code Section 56000 et seq.). (the “Former Act”). All references will be to the Government Code unless otherwise noted.

A review of Attachment 6 by LAFCO Counsel to the current Staff Report does not change the City's position. Respectfully, issues associated with the Sewer Service Area, although occurring within the same broad time period, are not relevant to the issue of determining the City WSA for purposes of analysis in the proposed MSR.

As City has noted previously, a "merger" of the ACCWD was accomplished with the City at the time of incorporation in 1992. A "merger" is legally defined under the Former Act and the Act by Section 56056: a merger results in the successor local agency, here the City, *assuming all the merged entity's rights and obligations*. These rights and obligations were set forth in Exhibit B, entitled "American Canyon Incorporation Terms and Conditions" to Commission Resolution No. 91-18, which is enclosed.

Among those conditions were the following:

1. The City of American Canyon *shall be the successor to the American Canyon County Water District for the purpose to succeeding all the rights, duties and obligations of said District* with respect to enforcement, performance or payment of any outstanding voter approved bonds and implied or expressed contracts, judgments and obligations of said Districts; and,
2. *All property, whether real or personal, including all monies or funds (including cash on hand and monies due but uncollected) of the American Canyon County Water District shall be transferred to and vested in the City of American Canyon. All equities, reserves and fund balances (operating, dead service and construction) generated through past operation of the American Canyon County Water District, shall be transferred to the City of American Canyon to be maintained or dispersed for the water utility, sewer or recreation purposes for which they were established. (Emphasis added).*

Stated differently, under the conditions of Exhibit B (pp B5-B7), the City became legally obligated to supply domestic water to the unincorporated area of South County, as set forth in the ACCWD WSA at the time. This would be consistent with applicable law. In *People ex rel. City of Downey v. Downey* (1962) 202 Cal. App. 2d786, 797. When a city acquires a water system from a county water district, the city thereafter has the duties and obligations that the county water district previously had, and the inhabitants of the county water district have the same rights to receive water from the city that they formerly had to receive water from the District.

As previously noted, these conclusions are fully supported by the Final Environmental Impact Report for the incorporation where the ACCWD WSA is portrayed, which is enclosed.

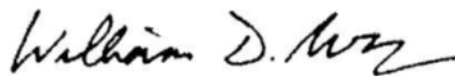
The City has retained Michael B. Colantuono, of Colantuono, Highsmith & Whatley, PC, for peer review of this issue. His conclusions are as follows:

1. When the City was incorporated, it was authorized to provide water and sewer services outside the City limits in a territory formerly served by a special district to which the City is the successor agency. Those service rights cannot be taken from the City other than by a reorganization approved pursuant to the Cortese-Knox-Hertzberg Act.
2. Because the City is a city, and not a special district, LAFCO has no power to initiative a change of organization to strip the City of authority to provide water and sewer services in its extra-territorial service area. It matters not that the City acquired those rights as the successor agency to a special district; it has those rights as city. If a change of organization is to be proposed to alter the status quo, an affected agency (likely the City or the County) will need to initiative it. LAFCO's power to initiate changes of organization is limited to those affecting special districts.

In summary, whether by detachment or dissolution, another change of organization must take place to support the current Commission position.

The City respectfully requests that the matter be continued in order to address and resolve this ongoing conflict, between the law and facts, as reflected in the documents between the City and Commission on the extent of the City WSA.

Very truly yours,



William D. Ross
City Attorney

WDR:jf

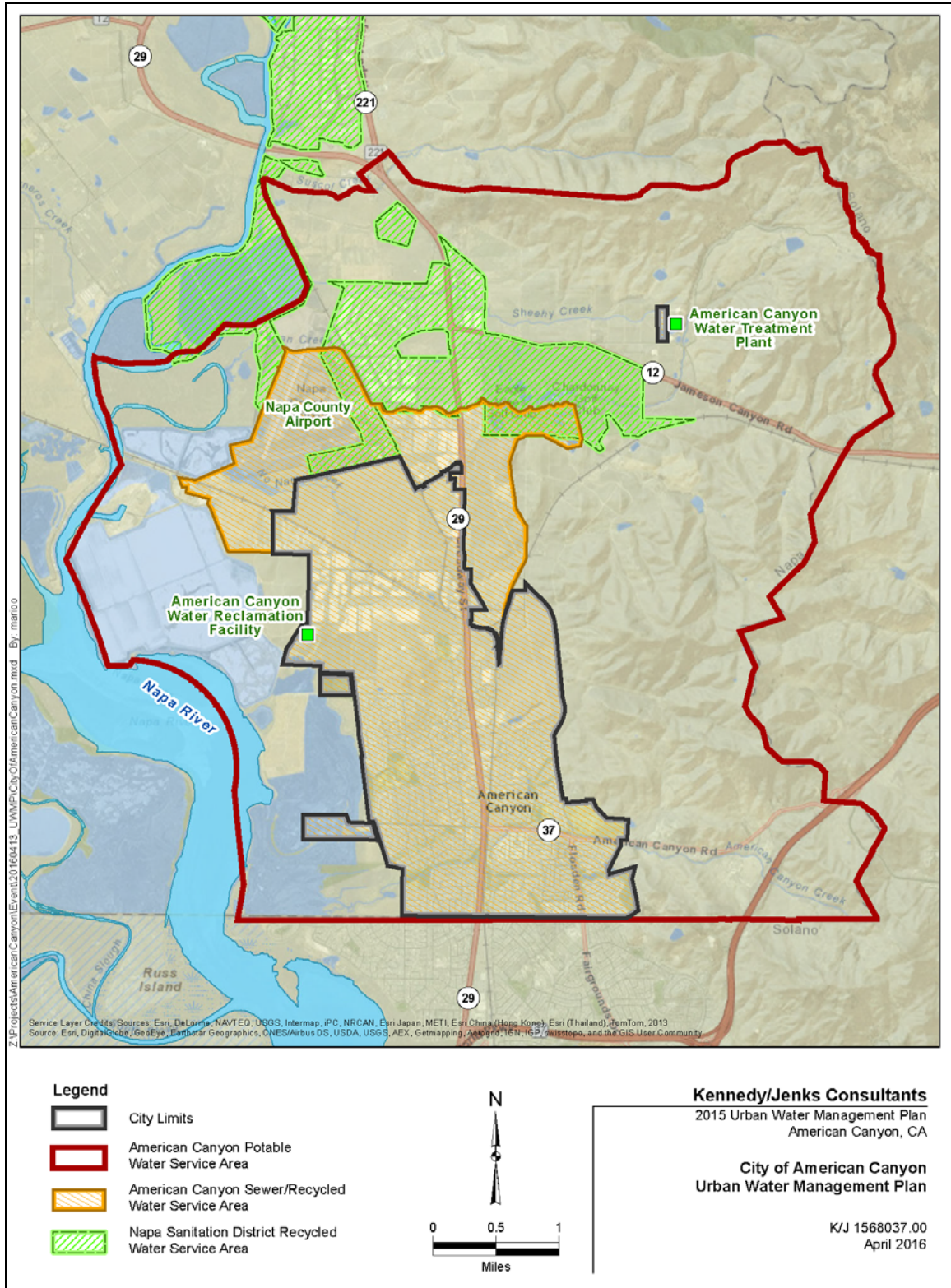
cc: Brendon Freeman, Executive Officer
Local Agency Formation Commission

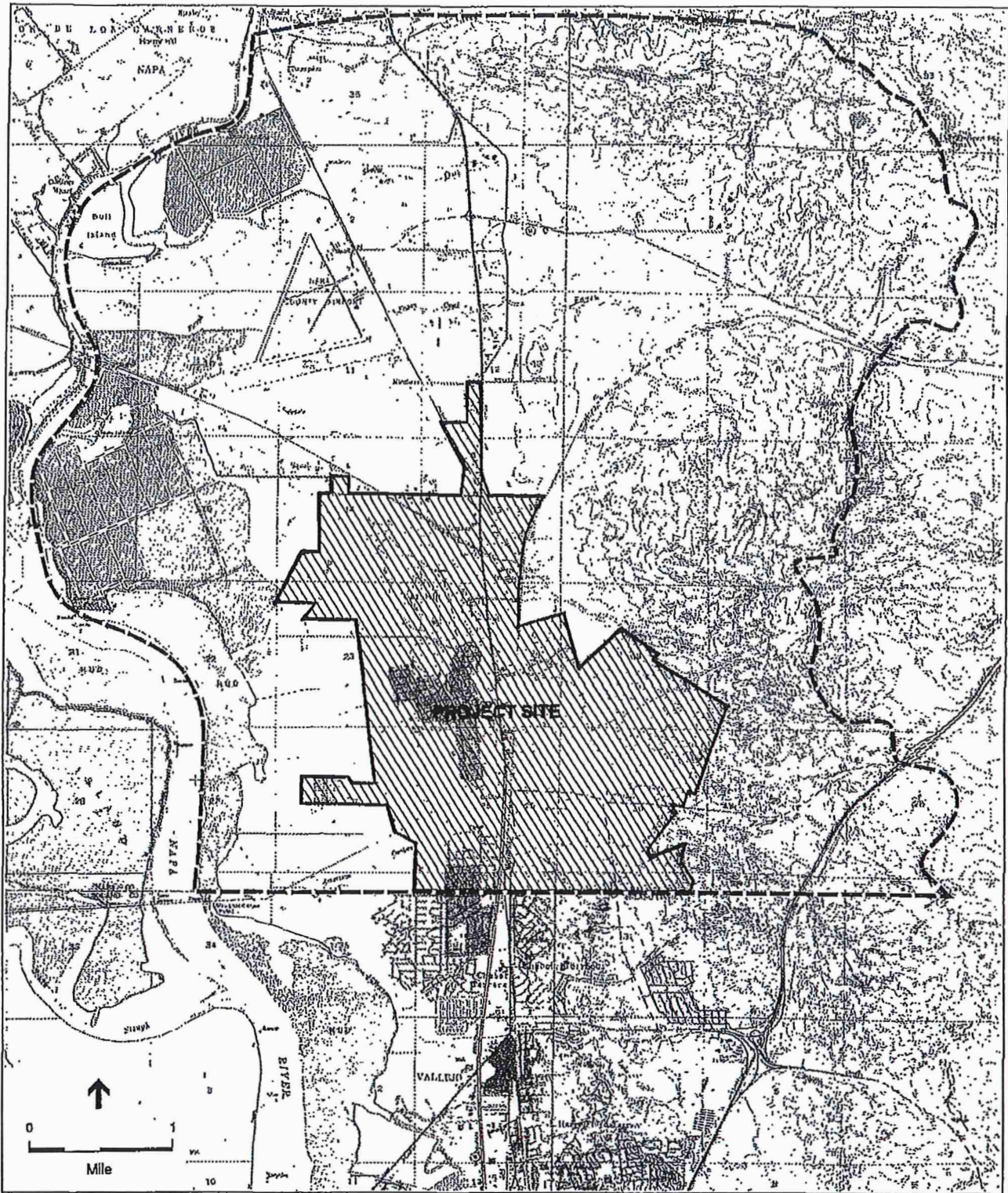
The Honorable Leon Garcia and Members of the City Council
Jason B. Holley, City Manager
City of American Canyon

Deanne Gillick, General Counsel
Napa County LAFCO

Enclosures

Figure 3-1: Water Service Area Map





SOURCE: American Canyon County Water and Sewer District

American Canyon / 0384 ■

Figure 14
ACCWD Water Service Area

From: [Phil Brun](#)
To: [Jennifer Stephenson](#); [Freeman, Brendon](#)
Cc: [Joy Eldredge](#); [Patrick Costello](#); [Michael Barrett](#)
Subject: Revised Draft Water/Wastewater MSR
Date: Tuesday, September 15, 2020 8:50:01 AM
Attachments: [C2019 323 Carneros Mutual Water Compandy.pdf](#)

[External Email - Use Caution]

Jennifer and Brendon,

I have briefly looked through the redline draft of the LAFCO Water/Wastewater MSR and don't have any significant concerns with revisions, however I wanted to advise you that Carneros Mutual Water Company (referred to as Carneros Inn in the report) has activated their service from the City of Napa pursuant to the attached agreement. I understand that the County has placed conditions on Carneros Inn related to groundwater use once the connection to the City has been made. These details seem appropriate for the new section on private water companies that has been added to the report.

PHIL

Phil Brun Jr., PE
Utilities Director, Utilities Department
City of Napa | P.O. Box 660 | Napa, CA 94559-0660
☎ 707.257.9316 | 707.246-2824 (cell) | ✉ pbrun@cityofnapa.org
Water • Solid Waste • Recycling

**WHOLESALE WATER SUPPLY AGREEMENT BETWEEN
THE CITY OF NAPA AND CARNEROS MUTUAL WATER COMPANY**

This Wholesale Water Supply Agreement ("**Agreement**") by and between the City of Napa, a California charter city ("**City**"), and the Carneros Inn Mutual Water Company dba Carneros Mutual Water Company, a nonprofit mutual water company ("**Water Company**"), is effective on the Effective Date identified on the signature page.

RECITALS

A. City is the owner and operator of a water system in the County of Napa, State of California, and is engaged in the supply and distribution of water to customers inside and outside of the City's corporate limits.

B. Water Company is the owner and operator of an on-site water treatment and distribution system for groundwater in the County of Napa, State of California, and is engaged in the distribution of water to customers within the boundaries of its service area.

C. Due to challenges with groundwater quality and quantity, Water Company has been purchasing water from the City since 2008 through a hydrant and trucking it on site. To reduce the water truck trips, Water Company requested wholesale water service from the City to serve existing development within Water Company's service area depicted on **Exhibit A ("Carneros Water Service Area")**, which is attached hereto and incorporated by this reference.

D. City staff has determined that the City has sufficient treatment, storage, and conveyance capacity to accommodate Water Company's request and that providing the wholesale water service will have no adverse effect on water supply availability.

E. Congress Valley Water District ("**District**") was formed in 1949 to provide water service to the unincorporated community of Congress Valley. The District currently provides water service to approximately 99 active connections through pipelines owned by the District ("**CVWD Pipes**"). The District has no developed water supply resources or storage facilities. Instead, the City has supplied water to the District since 1951 pursuant to a Water Supply Agreement ("**CVWD Contract**"). Under the CVWD Contract, the City has the right to wheel water through CVWD Pipes to serve City customers.

F. To receive City water, Water Company intends to connect its system via a private water line to an 8-inch diameter pipeline that is part of CVWD's Pipes located on Old Sonoma Road approximately 2,700 feet from the Carneros Water Service Area and more particularly identified on **Exhibit B ("Interconnection")**, which is attached hereto and incorporated by this reference. On December 10, 2018, the District's Board adopted Resolution 67 approving conditions of approval for Water Company's connection and pipeline extension.

G. City Charter Section 180 prohibits extension of water service outside City limits and the City Rural Urban Limit Line ("**RUL**") unless the extension is approved by a four-fifths (4/5) vote of the City Council (or under limited exceptions not applicable here).

H. Water Company's water service area is outside the City limits and outside the RUL and requires a four-fifths (4/5) vote of approval by the City Council to be granted service.

I. Under the Cortese-Knox-Hertzberg Local Government Reorganization Act, particularly California Government Code Sections 56133 and 56133.5, the Local Agency Formation

Commission of Napa County ("LAFCO") is required to review and approve any proposed new or extended water service outside the City's sphere of influence to support existing uses.

J. City staff and Water Company developed a non-binding summary of conceptual terms of a wholesale water agreement described in **Exhibit C ("Term Sheet")**, which is attached hereto and incorporated by this reference. The Term Sheet identified the service area and uses for City water, established a maximum water supply, specified applicable rates and fees for water service, and identified the infrastructure requirements for the water service. The Term Sheet also specified a supplemental contribution to be paid by Water Company towards the design and construction of a new water storage tank to serve the Browns Valley area as consideration to induce the City to extend water service to the Water Company and to facilitate the regional effort to promote water sustainability.

K. On March 20, 2018, the City Council adopted by a 4-1 vote, Resolution R2018-032, authorizing extension of outside-City water service to Water Company, subject to: (a) execution of a Wholesale Water Agreement in a form satisfactory to the Public Works Director, and approved as to form by the City Attorney, in substantial conformance with the Term Sheet; (b) authorization from LAFCO, pursuant to Government Code Sections 56133 and 56133.5, to extend the water service to existing uses involving public or private properties; and (c) approval of a use permit or use permit modification authorizing the water line extension and connection and associated California Environmental Quality Act ("**CEQA**") analysis by Napa County.

L. The City and Water Company now wish to formalize the terms and conditions conceptually established in the Term Sheet.

NOW THEREFORE, the City and Water Company, for the mutual consideration described herein, agree as follows:

1. **TERM**. The term of this Agreement begins on the date it is signed by the City Clerk, below, attesting to full execution of the Agreement by both parties ("**Effective Date**"), and ends on June 30, 2069 ("**Term**"), unless terminated earlier as provided herein.

2. **WHOLESALE WATER SERVICE**. Subject to the terms and conditions set forth herein, City shall annually deliver to Water Company the quantity and quality of water described herein for the Term of this Agreement. The term "annually" or "fiscal year" as used herein shall refer to the period from July 1 of any year through June 30 of the following year.

3. **QUANTITY OF WATER DELIVERIES**.

3.1 **Water Supply**. City shall deliver and Water Company shall accept and purchase up to a maximum of forty-three (43) acre-feet of water annually ("**Water Supply**"). Any portion of the Water Supply that is available for delivery by City and that is not accepted and/or purchased by Water Company during a given fiscal year shall be forfeited and shall not roll over to the next fiscal year. If City, in its sole and absolute discretion, agrees to deliver unused Water Supply water in a subsequent fiscal year, such late delivery shall be an accommodation to Water Company and shall not constitute a waiver or amendment to the terms of this Agreement.

3.2 **Inadvertent Excess Water Use**. City shall have no obligation to supply water in excess of the annual Water Supply provided for under this Agreement. If Water Company inadvertently exceeds the maximum annual use of water in any fiscal year, the City shall report the excess use to the County of Napa, and Water Company shall decrease its annual use in the subsequent year so that the average annual water use over any two years will not exceed 43 acre-feet.

3.3 **Water Conservation Requirements**. If a water supply shortage occurs, as determined by City in its sole and exclusive discretion, upon receipt of written notice from City, Water Company shall apply water conservation requirements and restrictions to its customers that are no less

restrictive than those placed on City customers. City shall not determine that there is a water supply shortage unless it is imposing water conservation requirements and restrictions on its own customers.

3.4 Trucked Water. The water provided under this Agreement shall be conveyed to Water Company via the City meter located within the Interconnection as described in Paragraph 6.1 (Point of Delivery). Commencing with the delivery of water to Water Company under this Agreement, City shall have no obligation to provide, and Water Company agrees to waive any right to request or receive, trucked water for any use within the Carneros Water Service Area; provided, however, that to the extent Water Company presents evidence of interruption of delivery as described in Paragraph 6.3 (Interruption of Delivery), City may provide trucked water to Water Company in an amount not to exceed a total of 43 acre-feet of water per fiscal year.

4. WATER QUALITY.

4.1 Potability. The Water Supply delivered to Water Company by City shall be of suitable quality for human consumption and of the same quality that City delivers to its residential customers. No later than 24 hours after either party becomes aware of any significant impairment of water quality (delivered under this Agreement) that affects its suitability for human consumption, that party shall notify the other party. City and Water Company shall cooperate to identify the cause of such change in water quality. To the extent that the quality standards which are applicable to Water Company exceed the quality standards provided for in this Agreement, Water Company shall be responsible for any necessary additional treatment of the Water Supply. Water Company shall be solely responsible for any actual liability resulting from a change in water quality occurring beyond the Point of Delivery (as described in Paragraph 6.1), including any additional treatment undertaken by Water Company, and shall indemnify and hold City harmless from any actual liability which arises from any such change in the manner provided for in Paragraph 11.2 (Indemnification).

4.2 Double Check Valve. Water Company shall install and maintain a double check valve cross connection control device as close as practical to the Interconnection described in Paragraph 6.1 (Point of Delivery). The double check valve shall be approved by City prior to installation. Water Company shall provide yearly testing reports to City to certify that the device is operational. Water Company shall repair or replace a malfunctioning or failing device within fifteen (15) days of notification.

5. PRICE AND PAYMENT.

5.1 Fees and Charges. City shall charge Water Company, and Water Company shall pay the City, the then-current fees and charges in effect for "Commercial Customers" that are "Outside City Limits," (as those terms are defined by applicable City Council resolutions) including any and all one-time fees and charges to cover the City's costs to install or modify water services and/or to establish connection to the City's water system. As of the execution of this Agreement, the current fees and charges in effect are documented in the City's Master Fee Schedule, which includes the water rates established by City Council Resolution R2017-153 (and the water service customer classes are defined in Exhibit D thereto). The parties acknowledge and agree that the current fees and charges may be updated from time to time by City Council resolution, and incorporated into this Agreement as if set forth in full.

5.2 Supplemental Contribution. In consideration for City's discretionary approval of the terms of this Agreement and the mutually beneficial goal of increasing the sustainability of the region's water supply, Water Company shall pay City an amount equal to half of the City's costs to design and construct a new water storage tank to serve the Browns Valley area ("**Contribution**"), provided that Water Company's Contribution shall not exceed 1.75 million dollars (\$1,750,000.00). Water Company shall pay the Contribution to City no later than the initial delivery of wholesale water from City to Water Company, whereupon City shall deposit said funds into an escrow account and hold the funds for the sole benefit of City until construction of the storage tank is complete. The principal

in the escrow account may not be withdrawn until City determines the construction is final and complete and City notifies Water Company in writing of the same. Upon completion, City shall retain the entire \$1.75 million payment; provided, however, that if the cost of construction is less than \$3.5 million, then City shall reimburse Water Company with the escrow funds in an amount equal to \$1.75 million less 50% of the cost of design and construction. Water Company shall be responsible for paying all fees for the expenses incurred by the escrow agent and City in administering the escrow account. The interest earned on the funds held in escrow shall be for the sole account of Water Company and shall be paid to Water Company upon final disposition of the Contribution.

5.3 Billing.

5.3.1 Invoices. City shall bill Water Company no more frequently than on a monthly basis for water supplied during the previous month(s), and Water Company shall pay the bill within thirty (30) days of the date of the bill. The amount payable by Water Company to City shall consist of a Fixed Service Charge (based on meter size) and a Water Quantity Charge (based on the total quantity of water delivered per 1,000 gallon units) multiplied by the applicable fees and charges (as determined in Paragraph 5.1 (Fees and Charges)), and an Elevation Charge (for pumped zone customers), plus any other costs, fees or charges due and payable by Water Company pursuant to City's master schedule of water fees and charges as may be amended from time to time by the City Council. Delinquent bills shall bear interest at the rate of ten percent (10%) per annum. A supplemental bill will be sent at the end of a fiscal year if less than 33 acre-feet of water is taken to ensure Water Company makes the minimum payment provided for in Paragraph 5.3.2 (Minimum Payment).

5.3.2 Minimum Payment. Notwithstanding any other provisions in this Agreement, Water Company shall be obligated to pay City for all water delivered or made available for delivery by City to the Interconnection, which amount shall be no less than 33 acre-feet annually, whether or not: (a) Water Company has taken less than 33 acre-feet of water as of the final billing for a fiscal year, or (b) Water Company is able to make beneficial use of the total quantity of such water. Water Company's failure or refusal to accept delivery of water to which it is entitled under this Agreement shall in no way relieve Water Company of its obligation to make payments to City as provided for in this Agreement.

5.3.3 Billing Disputes. If Water Company contests the accuracy of any bill submitted to it pursuant to this Agreement, it shall give City notice thereof at least ten (10) days prior to the day upon which payment of the stated amounts is due. To the extent that City finds Water Company's contentions regarding the bill to be correct, it shall revise the bill accordingly, and Water Company shall make payment of the revised amounts on or before the due date. To the extent that City does not find Water Company's contentions to be correct or where time is not available for a review of such contentions prior to the due date, Water Company shall make payment of the stated amounts on or before the due date but may make the contested part of such payment under protest and seek to recover the amount thereof from City. If the parties are unable to reach an agreement regarding disputed charges, disputes shall be resolved pursuant to Section 10 (Dispute Resolution).

5.3.4 Nonpayment. If Water Company defaults in the payment of any money required to be paid to City hereunder, City may, upon not less than thirty (30) days written notice to Water Company, suspend deliveries of water under this Agreement for so long as such default continues. During such period, Water Company shall remain obligated to make all payments required under this Agreement. Action taken pursuant to this paragraph shall not deprive City of or limit the applicability of any remedy provided by this Agreement or by law for the recovery of money due or which may become due under this Agreement.

6. DELIVERY OF WATER.

6.1 Point of Delivery. The physical point of delivery of water pursuant to this Agreement shall be the City-installed meter located at the proposed interconnection between the Water Company water distribution system and an 8-inch diameter pipeline on Old Sonoma Road operated by the District as is more particularly depicted in Exhibit B.

Water Company has the physical ability to control the rate, time, and amount of delivery, and shall not take delivery of more water than it is entitled to receive under this Agreement or at rates greater than that set forth in Paragraph 6.2 (Rate of Delivery).

6.2 Rate of Delivery. Absent *force majeure* or other exigent circumstances beyond Water Company's control, the rate of delivery shall not exceed one hundred sixty (160) gallons per minute at any time.

6.3 Interruption of Delivery. City may temporarily discontinue or reduce water deliveries as herein provided for the purposes of investigation, inspection, maintenance, repair or replacement of its water system facilities necessary for the delivery of water to Water Company, as well as due to outages in, or reduction in capabilities of such facilities beyond City's control, or in the event of an emergency or disaster, including, but not limited to *force majeure*, earthquakes, droughts, floods, storms, explosions, fires, labor troubles, strikes, insurrection, riots, acts of the public enemy, or federal or state order, rule, or regulation preventing the City, in whole or in part, from delivering water as provided herein. City shall provide notice as far in advance as practicable of any such interruption, except in the case of emergency or disaster in which case no advance notice will be required, but notice shall be given as promptly as feasible. City shall use its best efforts to avoid and minimize any such temporary interruption of deliveries, and shall resume deliveries as soon as City determines, in its sole and exclusive discretion, that it is practicably feasible to do so. Interruption in deliveries shall not affect Water Company's payment obligation for water delivered set forth herein.

6.4 Measurement of Water Delivered. The water delivered under this Agreement shall be measured by a meter at the interconnection. The meter shall be owned, operated, maintained, replaced and read by City, subject to Water Company's right to annual testing and calibration of the flow meter to verify accuracy. Each party shall have the right to test the meter at its own expense.

6.5 Operations. Water Company recognizes and agrees that City shall have the right, in its sole and exclusive discretion, to operate the City water system including but not limited to treatment plants, transmission facilities, storage tanks, and pump stations. Water Company recognizes and agrees that there is no guarantee of consistent pressure at the meter and that fluctuations will occur based on City's operation of various treatment plants. Water Company bears full responsibility for providing adequate conveyance facilities to accept and make beneficial use of the water once it passes through the meter.

6.6 Reporting. Water Company shall report all water delivered under this Agreement to the applicable reporting agencies, including, but not limited to, County of Napa, which shall be responsible for all permit and license enforcement.

7. WATER COMPANY'S OBLIGATIONS.

7.1 Facilities. Water Company shall be solely responsible, at its own expense, for designing, constructing, operating, and maintaining the private water line to the City meter at the interconnection. Water Company shall be solely responsible for obtaining any and all necessary licenses, easements, rights of way, and property interests as may be reasonably necessary to build the interconnection and deliver the water to Water Company.

7.2 Permitting. Water Company shall be solely responsible, at its own expense, for obtaining any and all regulatory and environmental permits, licenses or other approvals necessary to

construct and operate the Interconnection, including, but not limited to construction permits from the County of Napa and associated CEQA and other environmental clearances.

7.3 Water Distribution. Water Company shall be solely responsible for the control, carriage, handling, use, disposal, and distribution of water supplied to Water Company hereunder after it has passed through the City meter.

7.4 Boundaries of Water Use. Water Company shall only supply water received under this Agreement to its shareholders for their own use within the Carneros Water Service Area in effect as of March 1, 2018, as depicted on Exhibit A and in accordance with applicable law and the Company's articles of incorporation. Neither Water Company nor any of its shareholders shall use the water supplied under this Agreement outside of those boundaries, even if the boundaries are amended from time to time, without first amending this Agreement pursuant to Section 12.11.

7.5 Limitations on Water Users. Notwithstanding any future changes to the number or type of units served by Water Company, the use of the water supplied under this Agreement shall be limited to the existing number of units within the current boundaries, unless this Agreement is amended. The existing units are comprised of 86 resort cottages (including 10 two-cottage suites), 24 whole ownership homes, and 17 fractional ownership homes depicted on a map (**Exhibit D**), which is attached hereto and incorporated by this reference. Water Company shall not transfer, remarket, or sell the water supplied under this Agreement to any parties or persons within the Carneros Water Service Area except its shareholders, or any other parties or persons outside the Carneros Water Service Area, without first amending this agreement pursuant to Section 12.11, and shall utilize best efforts to prevent its shareholders from doing so.

7.7 Records of Performance. Water Company shall maintain adequate records of performance under this Agreement (including invoices for payment and payments received) and make these records available to City for inspection, audit, and copying, during the term of this Agreement and until four years after the Agreement has expired or been terminated.

8. CONDITIONS PRECEDENT TO THIS AGREEMENT. Water Company and City acknowledge and agree that the following are conditions precedent to the City's execution of this Agreement: (a) LAFCO's authorization for City to extend water service, pursuant to Government Code Sections 56133 and 56133.5; and (b) County of Napa's approval for Water Company to construct a water line and connect to the Interconnection, pursuant to the issuance of a use permit (or comparable land use approval) and analysis thereof under the California Environmental Quality Act ("**CEQA**"). Because the LAFCO and County approvals are essential consideration for this Agreement, failure to obtain either or both approvals will preclude City from entering into this Agreement.

9. TERMINATION AND DEFAULT.

9.1 Termination. In addition to any other rights of termination and suspension set forth under this Agreement or at law, City shall have the right, in its sole and exclusive discretion, to terminate this Agreement upon thirty (30) days' written notice for the following causes: (a) Water Company takes water at a rate greater than that specified or at times not authorized in this Agreement, (b) Water Company defaults in payment of the monthly bill for greater than ninety (90) days, and/or (c) an approval which was a condition precedent to this Agreement is revoked or terminated.

9.2 Default. Water Company shall be deemed in default of this Agreement if Water Company is not complying with the terms of this Agreement or fails to provide City with reasonable assurances of Water Company's ability to perform its obligations under this Agreement within thirty (30) days of City's written request. If either of these circumstances exist, City may give written notice of default to Water Company and demand that the default be cured or corrected within ten (10) days of the notice, unless City determines that additional time is reasonably necessary to cure the default. If Water Company fails to cure the default within the time specified in the notice, and Water Company fails to give adequate written assurance of due performance within the specified

time, then City may terminate this Agreement in accordance with Paragraph 9.1 (Termination), or the City may pursue dispute resolution in accordance with Section 10 (Dispute Resolution).

9.3 Surviving Clauses. The following provisions shall survive expiration or termination of this Agreement: Paragraph 7.7 (Records of Performance), Section 10 (Dispute Resolution), Paragraph 11.2 (Indemnification), and Section 12 (General Provisions).

10. DISPUTE RESOLUTION.

10.1 Meet and Confer. If any dispute arises between the parties in relation to this Agreement, the Authorized Representatives for each party shall meet, in person, as soon as practicable, to engage in a good faith effort to resolve the dispute informally. If the parties are unable to resolve the dispute, in whole or in part, through informal discussions, the parties agree to participate in mediation. Notwithstanding the existence of a dispute, City shall continue providing Water Company with the Water Supply during the course of any dispute, except as otherwise provided for in this Agreement.

10.2 Notice. Either party may give written notice to the other party of a request to submit a dispute to mediation, and a mediation session must take place within sixty (60) days of the date that such notice is given, or sooner if reasonably practicable. The parties shall jointly appoint a mutually acceptable mediator. The parties shall share equally the costs of the mediator; however, each party shall pay its own costs of preparing for and participating in the mediation, including any legal costs.

10.3 Conditions Precedent. Good faith participation in mediation pursuant to this Section 10 is a condition precedent to either party commencing litigation in relation to the dispute. In addition, any claims by Water Company arising from or related to this Agreement are subject to the claim presentment requirements in the Government Claims Act (Government Code section 900 et seq.).

11. LIABILITY AND INDEMNITY.

11.1 Limitation on Liability. Neither City nor any of its officers, agents, or employees shall be liable for the control, carriage, handling, use, disposal or distribution of water after it has passed the Interconnection hereunder, nor for any damage or claim of damage of any nature whatsoever, including but not limited to property damage, personal injury or death arising out of or connected with the same.

11.2 Indemnification. To the full extent permitted by law, Water Company shall indemnify, hold harmless, release and defend City, its officers, employees and agents from and against any and all actions, claims, demands, damages, disability, losses, expenses including attorney's fees and other defense costs and liabilities of any nature that may be asserted by any third party including, but not limited to, Congress Valley Water District, arising out of this Agreement excepting only liabilities due to the sole negligence or willful misconduct of City. This indemnification obligation is not limited in any way by any limitation on the amount or type of damages or compensation payable by or for Water Company under Worker's Compensation, disability or other employee benefit acts or the terms, applicability of limitations or any insurance held or provided by Water Company and shall continue to bind the parties after termination/completion of this Agreement.

11.3 Third Party Claims. Promptly following notice of any third party claims for which City is indemnified hereunder, City shall notify Water Company of such claim in writing. Water Company shall have a period of thirty (30) days following receipt of such notice to notify City of whether Water Company elects to assume the defense thereof. If Water Company so notifies City that it elects to assume the defense, Water Company thereafter shall undertake and diligently pursue the defense of the third party claim. Water Company shall not consent to entry of a judgment or enter into any settlement agreement without the consent of the City, which does not include a complete and unconditional release of City or which imposes injunctive or other equitable relief against City. City shall be entitled to participate in, but not control, the defense thereof, with counsel of its choice and at its own expense. If Water Company does not give the requisite notice, or fails to assume and

diligently pursue the defense of such third party claim, City may defend against such third party claim in such manner as it may deem appropriate, at Water Company's expense, including without limitation settlement thereof on such terms as City may deem appropriate and to pursue such remedies as may be available to City against Water Company. Notwithstanding the foregoing, City shall not consent to entry of a judgment or enter into any settlement agreement without the consent of Water Company, which does not include a complete and unconditional release of Water Company.

11.4 Notice of Claims. The parties shall promptly notify each other within ten (10) days of City or Water Company becoming aware of: (1) any claims or suits brought against City or Water Company which involve this Agreement or water supplied to Water Company pursuant to this Agreement, (2) any third party claims, and (3) any *force majeure* event.

11.5. No Damages. Under no circumstances shall either party be liable for any indirect, special, incidental, punitive or consequential damages of any kind under this Agreement even if the other party has been advised of the possibility of such damages.

12. GENERAL PROVISIONS

12.1 Headings. The heading titles for each section of this Agreement are included only as a guide to the contents and are not to be considered as controlling, enlarging, or restricting the interpretation of the Agreement.

12.2. Attorney's Fees. In the event any legal action is commenced to enforce this Agreement, the prevailing party is entitled to reasonable attorney's fees, costs, and expenses incurred.

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

12.4 Notices. All notices or requests required or contemplated by this Agreement shall be in writing and delivered to the other party's authorized representative by personal delivery, U.S. Mail, nationwide overnight delivery service, email, or as otherwise specified herein. Delivery is deemed effective upon the first to occur of: (a) actual receipt by a party's Authorized Representative, (b) actual receipt at the address identified below, or (c) three business days following deposit in the U.S. Mail of registered or certified mail sent to the address identified below. A party's contact information, below, may be changed by providing written notice of any change to the other party.

TO CITY: Phil Brun
 Utilities Director
 City of Napa
 P.O. Box 660
 Napa, CA 94559-0660
 pbrun@cityofnapa.org

TO CARNEROS: Greg Flynn
 Carneros Resort & Spa
 4048 Sonoma Highway
 Napa, CA 94559
 gflynn@flynnholdings.com

12.5 Books and Records. During regular office hours, each of the parties hereto and their duly authorized representatives shall have the right to inspect and make copies of any books, records, or reports of the other party pertaining to this Agreement or matters related hereto. Each

of the parties hereto shall maintain and make available for such inspection accurate records of all of its costs, disbursements and receipts with respect to its activities under this Agreement.

12.6. No Third Party Beneficiary. Nothing in this Agreement shall be construed or deemed as intending to create or confer any third party beneficiaries or rights in any third parties.

12.7. Successors and Assigns. This Agreement and all of its provisions shall apply to and bind the successors and assigns of the parties hereto.

12.8. Assignment and Delegation. This Agreement shall not be assigned or transferred in whole or in part, nor shall any of Water Company's duties be delegated unless and until it is approved in writing by City and made subject to such reasonable terms and conditions as City may impose. Any attempt to assign, transfer, or delegate this Agreement, in whole or any part, without the City's prior written consent shall be void and of no force or effect. Any consent by City to one assignment, transfer, or delegation shall not be deemed to be consent to any subsequent assignment, transfer, or delegation.

12.9. Privileges and Immunities. The parties hereby agree that the activities of each parties' officers, agents, and employees shall be subject to the privileges, immunities, and protections of Government Code section 6513.

12.10. Waiver. No waiver of a breach, default, or duty under this Agreement shall be effective unless it is in writing and signed by the party waiving the breach, default, or duty. Waiver of a breach, default, or duty under this Agreement shall not constitute a continuing waiver or a waiver of any subsequent breach, default, or duty under this Agreement.

12.11. Modifications. This Agreement may not be amended or modified orally. No amendment or modification of this Agreement is binding unless it is in a writing signed by both parties.

12.12. Provisions Deemed Inserted. Every provision of law required to be inserted or referenced in this Agreement shall be deemed to be inserted or referenced.

12.13. Interpretation. Each party to this Agreement has had an opportunity to review the Agreement, consult with its respective legal counsel regarding the meaning of the Agreement, and negotiate revisions to the Agreement. Accordingly, Civil Code Section 1654 shall not apply to interpret any uncertainty in the meaning of the Agreement.

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

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

12.16. Signatures. The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Agreement on behalf of the respective legal entities of Water Company and City.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement to be effective on the Effective Date set forth below.

CITY:

CITY OF NAPA, a California charter city


Phil Brun, Utilities Director

WATER COMPANY:

CARNEROS MUTUAL WATER COMPANY,
a nonprofit mutual water company

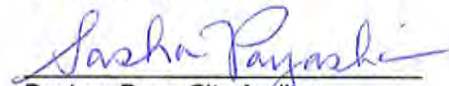

Greg Flynn, Vice President

ATTEST:


Tiffany Carranza, City Clerk

Date: 11/14/2019
("Effective Date")

COUNTERSIGNED:


Desiree Brun, City Auditor
For SASHA PAVASUAT, Deputy City Auditor

APPROVED AS TO FORM:


Michael W. Barrett, City Attorney

Attachments:

Exhibit A: Carneros Water Service Area

Exhibit B: Interconnection

Exhibit C: Term Sheet

Exhibit D: Existing Water Company Water Users

EXHIBIT A — CARNEROS WATER SERVICE AREA

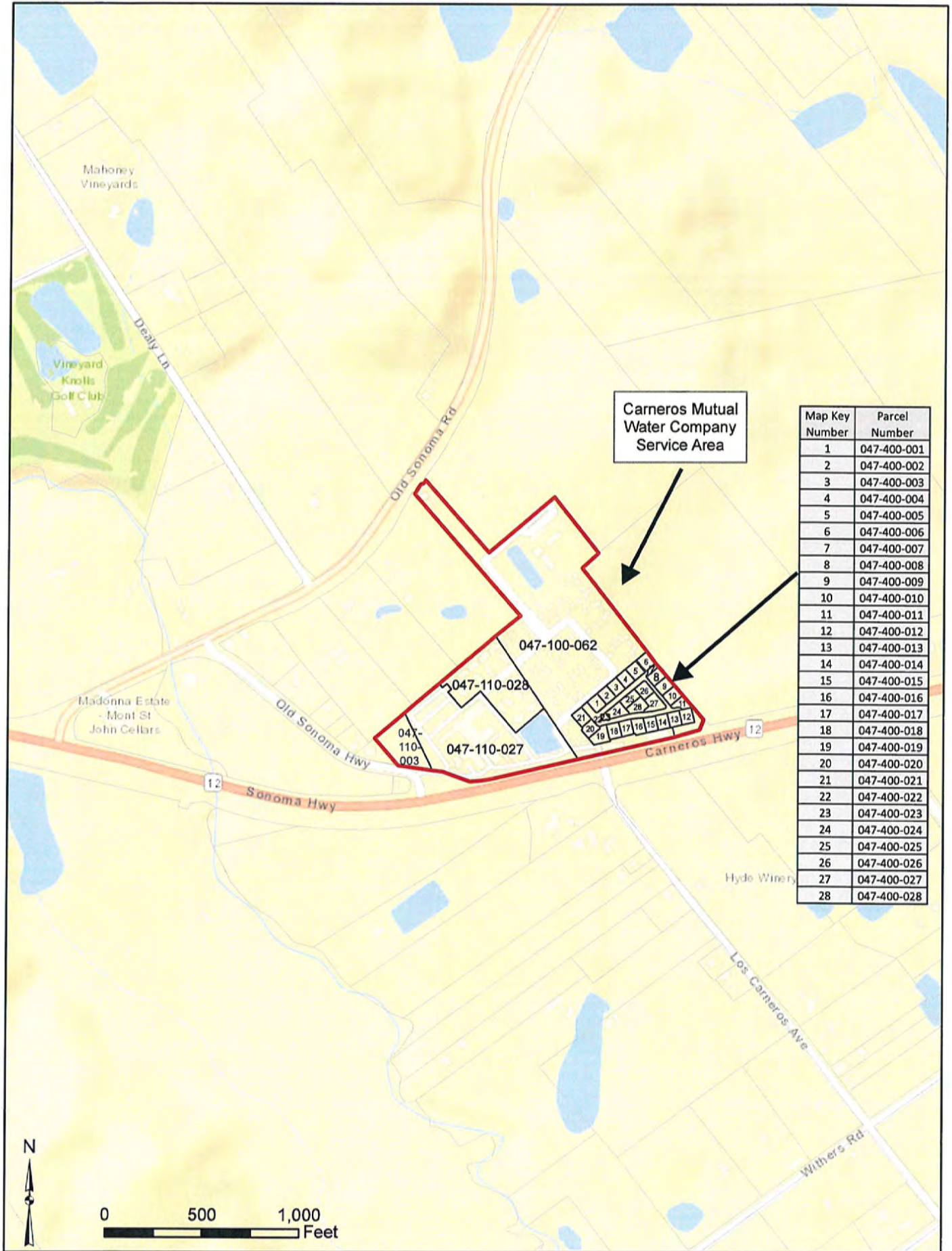
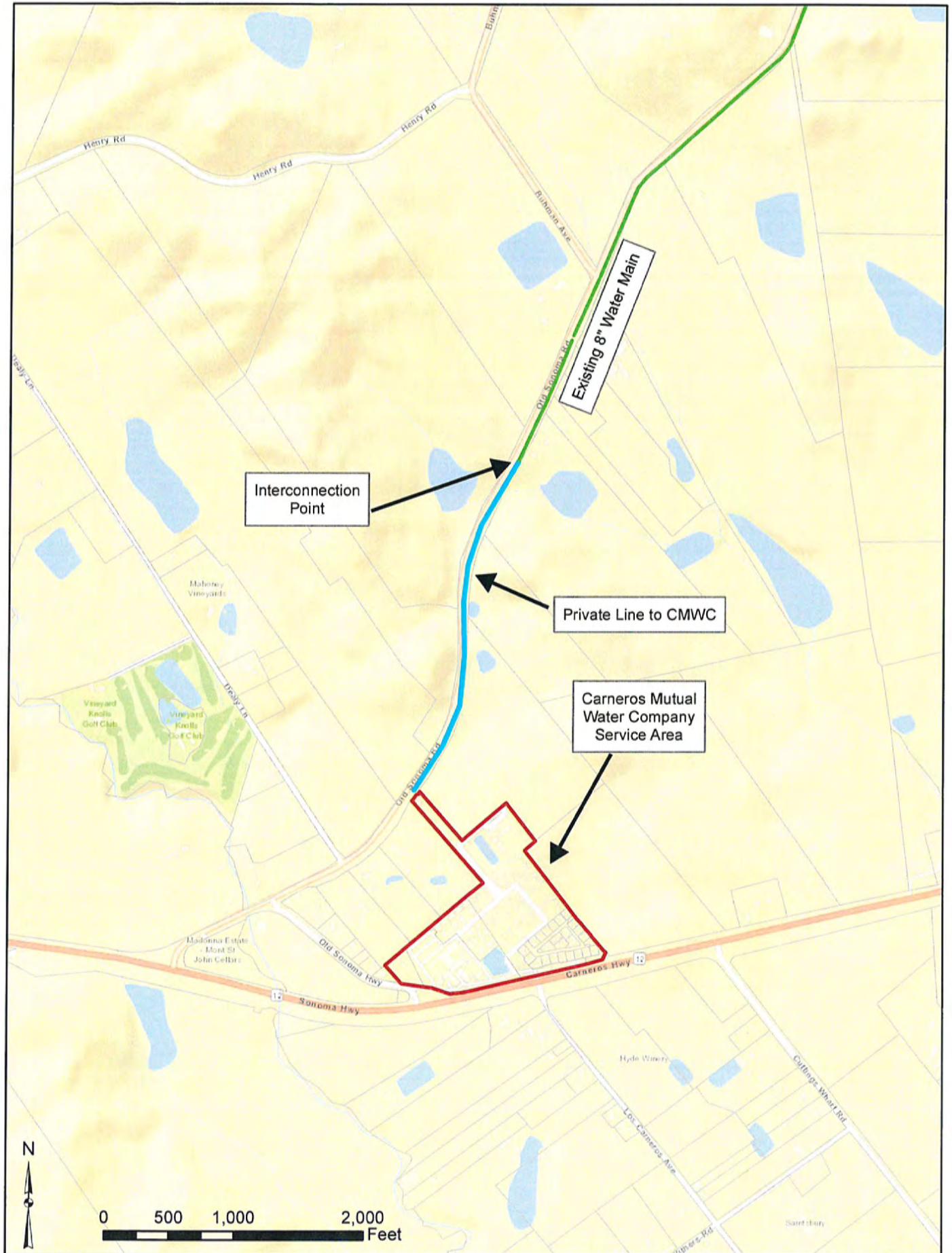


EXHIBIT B — INTERCONNECTION



**NON-BINDING SUMMARY OF CONCEPTUAL TERMS
of a
WHOLESALE WATER AGREEMENT
between the City of Napa
and Carneros Mutual Water Company**

(March 20, 2018)

This Non-Binding Summary of Conceptual Terms of a Wholesale Water Agreement (“Summary Terms”) is intended to reflect a summary of the conceptual terms tentatively agreed upon between the negotiating representatives from the City of Napa (“City”) and the Carneros Mutual Water Company (“Company”). These Summary Terms are not binding on either party unless they are embodied in a Wholesale Water Agreement negotiated and executed by both parties.

- 1. Supply: City will supply Company with a minimum of 33 and a maximum of 43 acre-feet of water per year. The water will be wheeled through Congress Valley Water District (“District”) pipes pursuant to the terms of the current water supply contract between the City and the District.**
- 2. Term: The term of the proposed Wholesale Water Agreement will be 50 years.**
- 3. Rates and Fees:**
 - Company will pay for water at City’s outside commercial rate, as that rate may be adjusted from time to time by resolution of the City Council.**
 - If Company receives less than 33 acre-feet in any fiscal year, Company will pay City the minimum annual payment for that fiscal year equal to the outside commercial rate for 33 acre-feet.**
 - Company will pay all standard water fees to establish connection to the system.**
- 4. Water Use: Company may only supply water to its shareholders for their own use within its service area, as provided by law and Company’s articles of incorporation. Neither Company nor its customers may provide water to third parties or transfer it for use outside the service area in effect on March 1, 2018 (the “Contract Service Area”).**
- 5. No Expansion: Neither the boundaries of the Contract Service Area nor the current number of units within it (86 resort cottages plus 24 whole ownership and 17 fractional ownership homes) shall be expanded during the term of the Wholesale Water Agreement.**

6. **Water Line:** Company will, at its own expense, design, build, maintain and operate a private water line from a City meter (to be installed by the City near the terminus of the existing 8-inch water line on Old Sonoma Road) to the Company's Contract Service Area (identified as the "proposed water line extension" on the map attached). Company will be responsible for obtaining all property interests necessary to construct, maintain, and operate the proposed water line extension, which may include the use of County of Napa ("County") right of way on Old Sonoma Road.
7. **Contribution:** Company will pay the City an amount equal to 50% of the City's cost to design and construct a new water storage tank to serve the Browns Valley area, up to a maximum payment by Company of \$1.75 million. This payment by Company represents a supplemental contribution by Company in consideration for the City's discretionary approval of the terms of the proposed Wholesale Water Agreement, since the Company's use of water under the proposed Wholesale Water Agreement does not require construction of the new tank. Company will pay the City \$1.75 million prior to receiving wholesale water from the City via the newly-constructed pipeline extension, and the City will place that amount in an escrow account until construction of the storage tank is complete. At the time of completion of construction of the storage tank: (a) if the cost of construction is \$3.5 million or greater, the City will retain the entire \$1.75 million payment; and (b) if the cost of construction is less than \$3.5 million, the City will reimburse Company in an amount equal to \$1.75 million less 50% of the cost of construction.
8. **Groundwater:** Nothing in the Wholesale Water Agreement will preclude Company from continuing to extract and use groundwater up to a maximum amount to be determined by County.
9. **Reporting:** City will report all water use to County, which will be responsible for all permit and license enforcement.
10. **Environmental:** Company will, at its own expense, obtain all permits necessary to construct and operate the water line. Since the County will be the lead agency for CEQA review, the County's approval of compliance with CEQA will be a condition precedent of the proposed Wholesale Water Agreement. Company will pay the cost of environmental review.
11. **City's Right to Interrupt Water Supply:** Company agrees that the terms of the proposed Wholesale Water Agreement will be subject to the City's standard terms of delivery of wholesale water, including the right to interrupt water supply due to circumstances that are outside the control of the City, based on terms similar to those set forth in the Water Supply Agreement between the City of Napa and the City of St. Helena.
12. **Remedies for Inadvertent Excess Water Use:** City will have no obligation to provide water supply to the Company beyond the maximum of 43 acre-feet of water per year under the Water Supply Agreement. In the event that Company

inadvertently exceeds the maximum annual use of water in any year, the City will report the excess use to the County, the Company will decrease the annual use in the subsequent year so that the average annual water use over any two years will not exceed 43-acre feet, and the Company will pay a surcharge to cover the City's costs of adjusting and monitoring the water use.

- 13. Trucked Water: City will not provide trucked water for any use within the Contract Service Area; except that, to the extent that the Company provides evidence of an unforeseen interruption of water supply from the City under the Water Supply Agreement, the City may provide trucked water. However, the total amount of all water supplied by the City to the Contract Service Area will not exceed the maximum of 43 acre-feet of water per year.**

ILLUSTRATIVE MASTER PLAN

LEGEND

- 1 MAIN ENTRY WITH IMPROVED SIGNAGE, CIRCULATION & LANDSCAPE
- 2 RESORT ENTRY WITH RAMMED EARTH WALLS AND SIGNATURE CANARY ISLAND PALMS
- 3 RESORT ENTRY DRIVE WITH ANCIENT OLIVE ALLEE
- 4 RELOCATED BOON FLY CAFE & OUTDOOR DINING TERRACE
- 5 RELOCATED MARKET INTO RETROFITTED SALES & MARKETING
- 6 IMPROVED LANDSCAPE AT FARM WITH KITCHEN GARDENS, FRUIT & NUT ORCHARD, VINE COVERED ARBOR, AND MULBERRY BOSQUE
- 7 EXISTING RESORT RECEPTION
- 8 EXISTING RESORT RECEPTION PLAZA & PORTE COCHERE
- 9 EXPANDED EXISTING PARKING LOT
- 9A EXTENDED PARKING LOT
- 10 CHICKEN COOP & RUN
- 11 EXISTING KIDS' WADING POOL
- 12 EXISTING TRELLIS OVER RAISED DECK & CHAIR LOUNGES
- 13 EXISTING IMPROVED ORCHARD MEADOW
- 14 EXISTING ENTRY PAVILION AT ORCHARD MEADOW
- 15 EXISTING RAISED CEREMONIAL TERRACE
- 16 EXISTING VINEYARD WALK
- 17 EXISTING CYPRESS WALK
- 18 EXISTING HILLTOP ENTRY
- 19 EXISTING MEMBERS CLUB
- 20 HILLTOP COTTAGE SUITES CLUSTER
- 21 RESTAURANT & HARVEST PATIO
- 22 EXISTING POOL WITH BEACH ENTRY, INFINITY EDGE & PLUNGE POOL
- 23 JACUZZI WITH TRELLIS, FIREPIT AND VINEYARD VIEWS
- 24 POOLSIDE CABANAS
- 25 EXISTING DECORATIVE FAYERS AT PEDESTRIAN CROSSING
- 26 CALFIRE SHED WITH GRAVEL DRIVEWAY TO OLD SONOMA HIGHWAY
- 27 NOT USED
- 28 EXISTING COTTAGE TO REMAIN
- 29 PICKLEBALL COURTS

