

*Director Ward One
Harold Kelly*

*Director Ward Two
Tony Norris*

*Director Ward Three
Guy Kay*

*Director Ward Four
David Finigan*

*Director Ward Five
Myrna Abramowitz*

AGENDA

NAPA COUNTY REGIONAL PARK AND OPEN SPACE DISTRICT BOARD OF DIRECTORS

Monday January 8, 2007 2:00 P.M.
1195 Third Street, Third Floor, Napa, CA

GENERAL INFORMATION

Agenda items will generally be considered in the order indicated below, except for Set Matters, which will be considered at the time indicated. Agenda items may from time to time be taken out of order at the discretion of the Chair.

The meeting room is wheelchair accessible. Assistive listening devices and interpreters are available through the Committee Secretary. Requests for disability related modifications or accommodations, aids, or services may be made to the Secretary's office no less than then 48 hours prior to the meeting date by contacting (707) 259-8603.

Any member of the audience desiring to address the Committee on a matter on the Agenda, please proceed to the rostrum and, after receiving recognition from the Chair, give your name, address, and your comments or questions. In order that all interested parties have an opportunity to speak, please be brief and limit you comments to the specific subject under discussion. Time limitations shall be at the discretion of the Chair.

1. Call to Order by John Woodbury
2. Nomination and election of Board President and Board Vice President
3. Public Comment

In this time period, anyone may address the Board of Directors regarding any subject over which the Board has jurisdiction but which is not on today's posted agenda. In order to provide all interested parties an opportunity to speak, time limitations shall be at the discretion of the Chair. As required by Government Code, no action or discussion will be undertaken on any item raised during this Public Comment period.

3. Set Matters

- A. 3:30 p.m.
Presentation on the Napa County General Plan Update by Hillary Gitelman,
Napa County Director of Conservation, Development and Planning

4. Administrative Items

- A. Determination by lot which two wards shall have a four year term, and which three wards shall have a two year term, at the next general election.
- B. Discussion and adoption of District By-Laws
- C. Presentation and discussion of the Ralph M Brown Act
- D. Discussion of requirement to file Statements of Economic Interest, participate in ethics training pursuant to AB 1234, and adopt a District Conflict of Interest Code
- E. Discussion and possible action on draft agreement granting funds from the County of Napa to the District, and draft agreement regarding the services which the District will contract to receive from the County of Napa
- F. Discussion and appointment of District Officers, including General Manager, Controller, Treasurer, and Secretary
- G. Discussion and possible action on adoption of District Seal and District Logo
- H. Discussion and possible adoption of Local Procedures for Implementing the California Environmental Quality Act
- I. Discussion and possible action on advisory, outreach, and partnership strategies

5. Announcements by Board and Staff

In this time period, members of the Board of Directors and staff will announce meetings, events and other matters of interest. No action will be taken by the Board on any announcements.

6. Agenda Planning

In this time period, members of the Board of Directors and staff will discuss matters for possible consideration at future meetings. No action will be taken by the Board other than whether and when to agendize such matters.

7. Adjournment



STAFF REPORT

Date: January 8, 2007

Agenda Item: 4.A

Subject: Determination by lot which two wards shall have a four-year term, and which three wards shall have a two-year term, at the next general election

Recommendation

Draw lots to determine the length of the terms of office for the Directors to be elected in November 2008.

Background

Public Resources Code Section 5533.5 specifies the method by which the terms of office for the Board of Directors are staggered. At the initial formation of the District, all of the elected Directors serve for a two-year term. At the first meeting of the District Board of Directors, Directors are required to draw lots to determine, for the November 2008 election, in which two wards the voters will elect Directors to four-year terms, and in which three wards the voters will elect Directors to two-year terms. Thereafter, all wards will elect Directors to four-year terms.

NAPA COUNTY REGIONAL PARK AND OPEN SPACE DISTRICT

BYLAWS

(draft for January 8, 2007)

I. NAME, AUTHORITY AND OFFICE.

- A. **Name.** The official name of the district shall be the “Napa County Regional Parks and Open Space District” (District).
- B. **Authority.** The District has been created and shall operate pursuant to Public Resources Code section 5500 *et seq.*, and County of Napa Resolutions 06-110 and 06-111. References in these By-Laws to the Public Resources Code are indicated by brackets.
- C. **Office.** The District office is located at 1195 Third Street, Room 210, Napa, California, 94559

II. BOARD OFFICERS. The officers of the Napa County Regional Park and Open Space District shall be the President and Vice-President, chosen as follows:

- A. **Time of Election.** At the first organizational meeting of the Board, and annually thereafter at the first regular meeting of each calendar year, the Board shall elect from among its members a President and Vice-President. If for any reason the Board does not elect one or both of these officers at this prescribed time, or in the event one or both of these positions becomes vacant in the middle of a term, the Board may hold an election at any regular meeting of the Board.
- B. **Term.** The President and Vice-President shall begin their terms of office immediately upon election and serve until their successors are elected.
OPTION 1: The Board may appoint a nominating committee consisting of two of its members to nominate one or more candidates for consideration by the Board of Directors to serve as Board Officers.
- C. **Duties of the President and Vice-President.** The President shall act as the presiding officer of the Board of Directors and in that capacity shall preserve order and decorum, decide questions of order subject to being overruled by a four-fifths vote and perform such other duties as are required by these Bylaws or by vote of the Board of Directors. The President shall sign all contracts and conveyances on behalf of the District after they have been approved by the Board. The presiding officer shall have all the rights and duties enjoyed by any other member of the Board of

Directors, including the right to make and second motions. In the absence of the President, or in the event of his/her inability to act, the Vice-President shall perform all of the powers and duties of the President. If both the President and Vice-President are absent or unable to act, the Board of Directors may select a President Pro Tempore, who shall perform all the powers and duties of the President. [PRC 5535, 5547, 5548]

III. ADMINISTRATIVE OFFICERS

- A. General Manager.** The Board of Directors shall appoint a General Manager, who shall be the chief administrative officer of the District. The General Manager may be an employee of or a contractor to the District. The General Manager shall hold office at the pleasure of the Board. [PRC 5538] The General Manager has the following administrative and executive functions, powers, and duties, and shall do all of the following:
- (1) Enforce all ordinances and regulations of the district, and the applicable provisions of Article 3 of Chapter 3 of Division 5 of the Public Resources Code.
 - (2) Appoint subordinates, clerks, and other employees, and exercise supervision and control over all departments and offices of the district. Those appointees shall hold employment at the pleasure of the general manager.
 - (3) Attend all meetings of the board unless excused by the board.
 - (4) Submit to the board for adoption any measures, ordinances, and regulations he or she deems necessary or expedient.
 - (5) Enforce all terms and conditions imposed in favor of the district or its inhabitants in any contract and report any violations to the board or the police department, as appropriate.
 - (6) Prepare and submit the annual budget to the board, and perform all other duties imposed by this article or by the board.
 - (7) With the approval of the board, the general manager may bind the district, in accordance with board policy, and without advertising, for the payment for supplies, materials, labor, or other valuable consideration for any purpose other than new construction of any building, structure, or improvement in amounts not exceeding ten thousand dollars (\$10,000), and for the payment for supplies, materials, or labor for new construction of any building, structure, or improvement in amounts not exceeding twenty-five thousand dollars (\$25,000). All expenditures shall be reported to the board of directors at its next regular meeting. [PRC 5549]
- B. Controller.** The Board of Directors shall appoint a Controller, who may be an employee of or a contractor to the District. The Controller shall hold office at the pleasure of the Board. [PRC 5538]

The controller is the custodian of the funds of the district and shall make payments by check or by warrant drawn upon the district's depositories for obligations that have been first approved by a majority of the board of

directors at a meeting of the board of directors. The board of directors also may, by resolution and under any terms and conditions which it may prescribe in the resolution, authorize the controller to pay demands against the district, without the prior, specific approval of the board, that are for any purpose for which an expenditure has been previously authorized in the district's adopted budget and which do not exceed the amount of expenditure so authorized. Demands so paid shall be presented to the board of directors at the next regular meeting for its review and approval. If the funds of the district are maintained solely in the county treasury, the county auditor shall exercise the powers otherwise conferred by this section on the controller. [PRC 5552]

The board of directors shall by ordinance or resolution authorize signatories for checks or warrants drawn in payment of obligations and demands against the district. Authorized signatories shall be selected from members of the board of directors of the district, the general manager of the district, the administrative secretary, or any other officers and employees which may be designated by the board. [PRC 5552]

The controller shall keep an account of all receipts and disbursements, and shall deposit all money received by him or her in a depository or depositories selected by the board of directors. [PRC 5552]

The controller shall install and maintain a system of auditing and accounting, which will at all times show the financial condition of the district, and shall perform such other duties as may be imposed upon him/her by Article 3 of Chapter 3 of Division 5 of the Public Resources Code, the Board of Directors, or the General Manager. Payment of employee salaries and benefits and other recurring claims may be authorized annually by the Board of Directors. [PRC 5553]

- C. Secretary.** The Board of Directors shall designate a Secretary who shall countersign and affix the seal to all contracts and conveyances on behalf of the District, shall act as secretary to the Board of Directors and keep a record of its proceedings, and shall perform such other duties as may be imposed by the Board of Directors and/or Article 3 of Chapter 3 of Division 5 of the Public Resources Code. In the event the regularly-designated Secretary is absent from a meeting of the Board of Directors, the Board of Directors may appoint another person to serve in that capacity on an interim basis.

OPTION 2a: The Secretary shall be an employee of or contractor to the District

OPTION 2b: The Secretary shall be a member of the Board of Directors. [PRC 5535 and 5551]

- D. Treasurer.** The Board of Directors shall designate a Treasurer who shall perform such duties as may be imposed by the Board of Directors and/or Article

3 of Chapter 3 of Division 5 of the Public Resources Code. [PRC 5535][PRC 5568

OPTION 3a: The Treasurer shall be an employee of or contractor to the District

OPTION 3b: The Treasurer shall be a member of the Board of Directors.

E. District Counsel. The County Counsel of the County of Napa shall be the legal counsel of the District. [PRC 5556]

IV. MEETINGS

A. Date of Regular Meetings. Regular meetings of the Board of Directors shall be held the second Monday of each month, unless this date coincides with an official holiday, in which case an alternate time is adopted as part of the calendar described herein. The District shall annually adopt a schedule for its regular meetings for the subsequent Calendar year. Notwithstanding the foregoing, any regularly scheduled meeting of the Board of Directors may be canceled by majority vote of the Board of Directors or, for lack of business or a quorum, by the President or Secretary.

OPTION 4: Select a date other than the second Monday of each month

B. Time of Regular Meetings. Regular meetings of the Board of Directors shall commence at 2:00 p.m. and end not later than 5:00 p.m. .

OPTION 5: Select a time other than 2:00 to 5:00 pm

C. Location of Regular Meetings. Unless otherwise stated on the posted meeting agenda as authorized by prior motion of the Board of Directors, regular meetings of the Board of Directors shall be held in the Board of Supervisors Chambers on the third floor of the County Administration Building, 1195 Third Street, in the City of Napa, California.

D. Emergency Meetings. Emergency meetings of the Board of Directors shall be called in conformance with the provisions of the Brown Act [GOV 54950 and following].

E. Special Meetings. A special meeting may be called at any time by the President or upon the request of two of the members of the Board by delivering written notice to each member and to each person or entity entitled by law to receive such notices. Notices to the Board shall be sufficient if delivered to the Secretary. The notice shall specify the time and place of the special meeting and the business to be transacted and shall be posted at least 24 hours prior to the special meeting in a location that is freely accessible to members of the public. No other business shall be considered at such meetings by the Board.

- F. Closed Sessions.** Nothing contained in these bylaws shall be construed to prevent the Board from holding closed sessions during a regular or special meeting concerning any matter permitted by law to be considered in a closed session.
- G. Adjourning Meetings and Continuing Public Hearings to Other Times or Places.** The President, or Board by majority vote, may adjourn any meeting. Less than a quorum may so adjourn from time to time. If all Board members are absent from any regular meeting or adjourned regular meeting the General Manager of the District may declare the meeting adjourned to a stated time and place and shall cause a written notice of the adjournment to be given in the same manner as provided for special meetings unless such notice is waived as provided for special meetings. A copy of the order or notice of adjournment shall be conspicuously posted on or near the door of the place where the meeting was held within 24 hours after the time of the adjournment. When an order of adjournment of any meeting fails to state the hour at which the adjourned meeting is to be held, it shall be held at the hour specified for regular meetings.

Any public hearing being held, or any hearing noticed or ordered to be held at any meeting, may by order or notice of continuance be continued or re-continued to any subsequent meeting in the same manner and to the same extent set forth herein for the adjournment of the meetings; provided, that if the hearing is continued to a time less than 24 hours after the time specified in the order or notice of hearing a copy of the order or notice of continuance shall be posted immediately following the meeting at which the order or declaration of continuance was adopted or made.

- H. Agendas.** At least 72 hours before a regular meeting, an agenda containing a brief general description of each item of business to be transacted or discussed shall be posted at a location freely accessible to members of the public. The agenda shall specify the time and location of the regular meeting. No action shall be taken on any item not appearing on the posted agenda except as permitted by law. If not so included, questions or comments regarding the item shall be limited to the scope permitted for "public comment" under the Brown Act. Supplemental agendas will be prepared and considered by the Board of Directors only under the following conditions:
- 1. Emergencies.** Upon a determination by the Board of Directors that an emergency situation exists, as defined in Section 54956.5 of the Government Code.
 - 2. Need Arising after Posting.** Upon a determination by a two-thirds vote of the Board of Directors (4 votes) or, if less than two-thirds of the potential votes are present, a unanimous vote of the

Board of Directors present (3 votes required), that there is a need to take immediate action and the need to take action came to the attention of the Board of Directors or the Administrative Officers of the District subsequent to the regular agenda being posted.

3. **Recently Continued Item.** The item was properly posted for a prior meeting of the Board of Directors occurring not more than five calendar days prior to the date action is taken on the item, and at the prior meeting the item was continued to the meeting at which action is being taken.

V.. CONDUCT OF MEETINGS

- A. **Order of Business.** The regular order of business of the Board of Directors shall be:
 1. Call to order.
 2. Approval of the minutes of the previous meeting.
 3. Public comment on unagendized items.
 4. Consideration and action on Agenda Items.
 5. Adjournment.
- B. **Parliamentary Procedure.** The rules of parliamentary procedure set forth in the Sturgis' Standard Code of Parliamentary Procedure, 4th Edition, shall govern all meetings of the Authority, except as otherwise herein provided.
- C. **Recording of Meetings.** Any meeting of the Board of Directors, other than a closed session permitted under the Brown Act, may be recorded by any person, unless the Board of Directors determines that such recording could constitute a disruption of the proceedings.
- D. **Presentations to the Board of Directors.** Any person desiring to address the Board of Directors shall be requested, when recognized by the President, to give their name and address to facilitate preparation of the minutes. No persons shall be denied recognition or denied the opportunity to speak solely because they decline to state their names and addresses. The President may, in the interest of facilitating the business of the District, set reasonable time limits in advance of oral presentations of public input. Persons may be required to submit written testimony in lieu of oral testimony if the President determines that a reasonable opportunity for oral presentations has been provided, and in such a case, the matter

may be continued to a later date to allow a reasonable time for such submittals to occur.

- E. Recordation of Board of Directors Actions.** All official actions or decisions by the Board of Directors shall be entered in the minute book of the Board of Directors kept by the Secretary. The vote or votes of each member of the Board of Directors on every question shall be recorded. Only written action minutes will be maintained, however, electronic recordings will be made by the Secretary of each meeting of the Board of Directors which shall be available to the public for inspection by request made at the Napa County Department of Conservation, Development and Planning, Room 210, 1195 Third Street, Napa, California 94559.

IV. VOTING AND QUORUM

- A. Roll Call Vote.** A roll call vote may be required for voting upon any motion of the Board of Directors, at the discretion of the President.
- B. Inaudible Votes.** Any member present who does not vote in an audible voice shall be recorded as voting "aye". A member may abstain from voting only if the member has recused himself or herself from participating due to a conflict of interest under Government Code section 87100 and following, in which case the member shall not be present in the meeting room during the discussion and action on the item.
OPTION 6: Allow abstentions without limitation.
- C. Quorum.** A majority of the members of the Board shall constitute a quorum for the purpose of conducting its business. [PRC 5535]
- D. Voting Affected by Conflict of Interest.** As a general rule, no member shall participate as a member in any discussion or voting if to do so would constitute a conflict of interest. However, if a quorum cannot be achieved or the required number of affirmative votes for action obtained because conflicts of interest exist that prevent members having such conflicts from discussing or voting on the matter, and the conflicts are such that an insufficient number of non-conflicted members will be available to vote at a later date even if the matter is continued, then the matter shall not be continued and a sufficient number of members having conflicts of interest, selected by lot, shall be allowed to participate to provide enough votes for the Board of Directors to form a quorum and take affirmative action.
- E. Motion to Reconsider.** The Board of Directors may reconsider a matter during the meeting at which the vote was taken, provided all members who were present when the matter was discussed and voted upon are still present and provided further that the motion to reconsider is made by a member who voted with the majority. A motion for reconsideration shall

have precedence over every motion except a motion to adjourn. A final vote on any matter may also be placed on the agenda for reconsideration by the Board of Directors upon motion of any member at any later meeting. When the Board of Directors approves a motion for reconsideration, the Board of Directors may, in its discretion, reconsider the matter immediately or at a later date, subject to the provisions of the Brown Act.

- F. Actions of the Board.** The Board of Directors shall act only by ordinance, resolution, or a motion duly recorded in the minutes of the meeting. The ayes and noes shall be taken upon the passage of all ordinances or resolutions, and entered upon the journal of the proceedings of the board. An ordinance, resolution, or motion shall not be passed or become effective without the affirmative votes of at least a majority of all the members of the board. Each member shall have one vote. No votes may be cast by proxy. The enacting clause of all ordinances passed by the board shall be in these words: "Be it ordained by the Board of Directors of the Napa County Regional Park and Open Space District." All resolutions and ordinances shall be signed by the President and attested by the Secretary, administrative secretary, or clerk, and all ordinances shall be published once within 30 days after adoption, in a newspaper of general circulation printed, published, and circulated in the district. [PRC 5547]

V. SUBCOMMITTEES.

- A. Ad Hoc Subcommittees.** The Board of Directors hereby authorizes the creation of ad hoc subcommittees on special subjects from time to time so that Board of Directors having the necessary expertise to conduct field, plan or other specialized reviews may investigate, observe, review or otherwise study and report back their observations and conclusions to the full Board of Directors for possible further action. When creating such ad hoc committees, the Board of Directors shall specify the subject to be investigated and time to report, and shall appoint those Directors who will serve on the ad hoc subcommittee. Ad hoc committees shall consist of two Directors. Upon presentation of its report to the full Board of Directors, each such ad hoc subcommittee shall cease to exist. Ad hoc subcommittees created pursuant to this subsection shall not be subject to the Brown Act.
- B. Standing Subcommittees.** The Board of Directors may create and appoint its members to standing subcommittees to look into specific subjects on an ongoing basis. Each standing subcommittee shall consist of two Directors. All standing subcommittees shall be subject to the Brown Act.

VI. COMPENSATION AND EXPENSES

A. Compensation. Members of the Board of Directors shall not receive compensation of any kind for attendance at meetings or the conduct of District business, except for expenses as provided herein.

B. Expenses. Members of the Board of Directors may receive reimbursement for expenses related to their duties as members of the Board of Directors, but only to the extent funds are included and available in the adopted District budget, and subject further to documentation and approval procedures adopted by the Board of Directors. [PRC 5536, 5536.5, GOV 53232.2, 53232.3]

VII. CHANGES TO BYLAWS

The provisions of these Bylaws may be altered, amended, or repealed by the Board of Director sat any time, within limitations imposed by the Brown Act, Article 3 of Chapter 3 of Division 5 of the Public Resources Code, and all other applicable laws and regulations.



STAFF REPORT

Date: January 8, 2007
Agenda Item: 4.B
Subject: Discussion and adoption of District By-Laws

Recommendation

Discuss the attached draft District By-Laws, choose among options where indicated, make any other amendments desired by the Board, and adopt the By-Laws.

Background

The attached draft By-Laws reflect typical By-Laws, state law requirements, and standard County of Napa practices. References in brackets are to the applicable California Public Resources Code or Government Code sections. Options are highlighted in a few areas where either the state law specifically provides for local choice, or where practices vary considerably among governmental bodies.

**NAPA COUNTY REGIONAL PARK
AND OPEN SPACE DISTRICT**

BYLAWS

(draft for January 8, 2007)

I. NAME, AUTHORITY AND OFFICE.

- A. **Name.** The official name of the district shall be the “Napa County Regional Parks and Open Space District” (District).
- B. **Authority.** The District has been created and shall operate pursuant to Public Resources Code section 5500 *et seq.*, and County of Napa Resolutions 06-110 and 06-111. References in these By-Laws to the Public Resources Code are indicated by brackets.
- C. **Office.** The District office is located at 1195 Third Street, Room 210, Napa, California, 94559

II. BOARD OFFICERS. The officers of the Napa County Regional Park and Open Space District shall be the President and Vice-President, chosen as follows:

- A. **Time of Election.** At the first organizational meeting of the Board, and annually thereafter at the first regular meeting of each calendar year, the Board shall elect from among its members a President and Vice-President. If for any reason the Board does not elect one or both of these officers at this prescribed time, or in the event one or both of these positions becomes vacant in the middle of a term, the Board may hold an election at any regular meeting of the Board.
- B. **Term.** The President and Vice-President shall begin their terms of office immediately upon election and serve until their successors are elected.
OPTION 1: The Board may appoint a nominating committee consisting of two of its members to nominate one or more candidates for consideration by the Board of Directors to serve as Board Officers.
- C. **Duties of the President and Vice-President.** The President shall act as the presiding officer of the Board of Directors and in that capacity shall preserve order and decorum, decide questions of order subject to being overruled by a four-fifths vote and perform such other duties as are required by these Bylaws or by vote of the Board of Directors. The President shall sign all contracts and conveyances on behalf of the District after they have been approved by the Board. The presiding officer shall have all the rights and duties enjoyed by any other member of the Board of

Directors, including the right to make and second motions. In the absence of the President, or in the event of his/her inability to act, the Vice-President shall perform all of the powers and duties of the President. If both the President and Vice-President are absent or unable to act, the Board of Directors may select a President Pro Tempore, who shall perform all the powers and duties of the President. [PRC 5535, 5547, 5548]

III. ADMINISTRATIVE OFFICERS. The administrative officers of the Napa County Regional Park and Open Space District shall be as follows. Where such services are provided by employees of County by contract between County and District, District and County expressly waive any conflict of interest or incompatibility of employment created thereby.

A. General Manager. The Board of Directors shall appoint a General Manager, who shall be the chief administrative officer of the District. The General Manager may be an employee of or a contractor to the District. The General Manager shall hold office at the pleasure of the Board. [PRC 5538] The General Manager has the following administrative and executive functions, powers, and duties, and shall do all of the following:

(1) Enforce all ordinances and regulations of the district, and the applicable provisions of Article 3 of Chapter 3 of Division 5 of the Public Resources Code.

(2) Appoint subordinates, clerks, and other employees, and exercise supervision and control over all departments and offices of the district. Those appointees shall hold employment at the pleasure of the general manager.

(3) Attend all meetings of the board unless excused by the board.

(4) Submit to the board for adoption any measures, ordinances, and regulations he or she deems necessary or expedient.

(5) Enforce all terms and conditions imposed in favor of the district or its inhabitants in any contract and report any violations to the board or the police department, as appropriate.

(6) Prepare and submit the annual budget to the board, and perform all other duties imposed by this article or by the board.

(7) Bind the district, in accordance with board policy, and without advertising, for the payment for supplies, materials, labor, or other valuable consideration for any purpose other than new construction of any building, structure, or improvement in amounts not exceeding ten thousand dollars (\$10,000), and for the payment for supplies, materials, or labor for new construction of any building, structure, or improvement in amounts not exceeding twenty-five thousand dollars (\$25,000). All expenditures shall be reported to the board of directors at its next regular meeting.

[PRC 5549]

B. Controller. The Board of Directors shall appoint a Controller, who may be an employee of or a contractor to the District. The Controller shall hold office at the pleasure of the Board. [PRC 5538]

The controller is the custodian of the funds of the district and shall make payments by check or by warrant drawn upon the district's depositories for obligations that have been first approved by a majority of the board of directors at a meeting of the board of directors. The board of directors also may, by resolution and under any terms and conditions which it may prescribe in the resolution, authorize the controller to pay demands against the district, without the prior, specific approval of the board, that are for any purpose for which an expenditure has been previously authorized in the district's adopted budget and which do not exceed the amount of expenditure so authorized. Demands so paid shall be presented to the board of directors at the next regular meeting for its review and approval. If the funds of the district are maintained solely in the county treasury, the county auditor shall exercise the powers otherwise conferred by this section on the controller. [PRC 5552]

The board of directors shall by ordinance or resolution authorize signatories for checks or warrants drawn in payment of obligations and demands against the district. Authorized signatories shall be selected from members of the board of directors of the district, the general manager of the district, the administrative secretary, or any other officers and employees which may be designated by the board. [PRC 5552]

The controller shall keep an account of all receipts and disbursements, and shall deposit all money received by him or her in a depository or depositories selected by the board of directors. [PRC 5552]

The controller shall install and maintain a system of auditing and accounting, which will at all times show the financial condition of the district, and shall perform such other duties as may be imposed upon him/her by Article 3 of Chapter 3 of Division 5 of the Public Resources Code, the Board of Directors, or the General Manager. Payment of employee salaries and benefits and other recurring claims may be authorized annually by the Board of Directors. [PRC 5553]

- C. Secretary.** The Board of Directors shall designate a Secretary who shall countersign and affix the seal to all contracts and conveyances on behalf of the District, shall act as secretary to the Board of Directors and keep a record of its proceedings, and shall perform such other duties as may be imposed by the Board of Directors and/or Article 3 of Chapter 3 of Division 5 of the Public Resources Code. In the event the regularly-designated Secretary is absent from a meeting of the Board of Directors, the Board of Directors may appoint another person to serve in that capacity on an interim basis.

OPTION 2a: The Secretary shall be an employee of or contractor to the District

OPTION 2b: The Secretary shall be a member of the Board of Directors.

[PRC 5535 and 5551]

D. Treasurer. The Board of Directors shall designate a Treasurer who shall perform such duties as may be imposed by the Board of Directors and/or Article 3 of Chapter 3 of Division 5 of the Public Resources Code. [PRC 5535][PRC 5568

OPTION 3a: The Treasurer shall be an employee of or contractor to the District

OPTION 3b: The Treasurer shall be a member of the Board of Directors.

E. District Counsel. The County Counsel of the County of Napa shall be the legal counsel of the District. [PRC 5556]

IV. MEETINGS

A. Date of Regular Meetings. Regular meetings of the Board of Directors shall be held the second Monday of each month, unless this date coincides with an official holiday, in which case an alternate time is adopted as part of the calendar described herein. The District shall annually adopt a schedule for its regular meetings for the subsequent Calendar year. Notwithstanding the foregoing, any regularly scheduled meeting of the Board of Directors may be canceled by majority vote of the Board of Directors or, for lack of business or a quorum, by the President or Secretary.

OPTION 4: Select a date other than the second Monday of each month

B. Time of Regular Meetings. Regular meetings of the Board of Directors shall commence at 2:00 p.m. and end not later than 5:00 p.m. .

OPTION 5: Select a time other than 2:00 to 5:00 pm

C. Location of Regular Meetings. Unless otherwise stated on the posted meeting agenda as authorized by prior motion of the Board of Directors, regular meetings of the Board of Directors shall be held in the Board of Supervisors Chambers on the third floor of the County Administration Building, 1195 Third Street, in the City of Napa, California.

D. Emergency Meetings. Emergency meetings of the Board of Directors shall be called in conformance with the provisions of the Brown Act [GOV 54950 and following].

E. Special Meetings. A special meeting may be called at any time by the President or upon the request of two of the members of the Board by delivering written notice to each member and to each person or entity entitled by law to receive such notices. Notices to the Board shall be sufficient if delivered to the Secretary, who shall deliver all other required notices. The notice shall specify the time and place of the special meeting and the business

to be transacted and shall be posted at least 24 hours prior to the special meeting in a location that is freely accessible to members of the public. No other business shall be considered at such meetings by the Board.

F. Closed Sessions. Nothing contained in these bylaws shall be construed to prevent the Board from holding closed sessions during a regular or special meeting concerning any matter permitted by law to be considered in a closed session.

G. Adjourning Meetings and Continuing Public Hearings to Other Times or Places. The President, or Board by majority vote, may adjourn any meeting. Less than a quorum may so adjourn from time to time. If all Board members are absent from any regular meeting or adjourned regular meeting the General Manager of the District may declare the meeting adjourned to a stated time and place and shall cause a written notice of the adjournment to be given in the same manner as provided for special meetings unless such notice is waived as provided for special meetings. A copy of the order or notice of adjournment shall be conspicuously posted on or near the door of the place where the meeting was held within 24 hours after the time of the adjournment. When an order of adjournment of any meeting fails to state the hour at which the adjourned meeting is to be held, it shall be held at the hour specified for regular meetings.

Any public hearing being held, or any hearing noticed or ordered to be held at any meeting, may by order or notice of continuance be continued or re-continued to any subsequent meeting in the same manner and to the same extent set forth herein for the adjournment of the meetings; provided, that if the hearing is continued to a time less than 24 hours after the time specified in the order or notice of hearing a copy of the order or notice of continuance shall be posted immediately following the meeting at which the order or declaration of continuance was adopted or made.

H. Agendas. At least 72 hours before a regular meeting, an agenda containing a brief general description of each item of business to be transacted or discussed shall be posted at a location freely accessible to members of the public. The agenda shall specify the time and location of the regular meeting. No action shall be taken on any item not appearing on the posted agenda except as permitted by law. If not so included, questions or comments regarding the item shall be limited to the scope permitted for "public comment" under the Brown Act. Supplemental agendas will be prepared and considered by the Board of Directors only under the following conditions:

1. Emergencies. Upon a determination by the Board of Directors that an emergency situation exists, as defined in Section 54956.5 of the Government Code.

2. **Need Arising after Posting.** Upon a determination by a two-thirds vote of the Board of Directors (4 votes) or, if less than two-thirds of the potential votes are present, a unanimous vote of the Board of Directors present (3 votes required), that there is a need to take immediate action and the need to take action came to the attention of the Board of Directors or the Administrative Officers of the District subsequent to the regular agenda being posted.
3. **Recently Continued Item.** The item was properly posted for a prior meeting of the Board of Directors occurring not more than five calendar days prior to the date action is taken on the item, and at the prior meeting the item was continued to the meeting at which action is being taken.

V.. CONDUCT OF MEETINGS

- A. **Order of Business.** The regular order of business of the Board of Directors shall be:
 1. Call to order.
 2. Approval of the minutes of the previous meeting.
 3. Public comment on unagendized items.
 4. Consideration and action on Agenda Items.
 5. Adjournment.
- B. **Parliamentary Procedure.** The rules of parliamentary procedure set forth in the Sturgis' Standard Code of Parliamentary Procedure, 4th Edition, shall govern all meetings of the Authority, except as otherwise herein provided.
- C. **Recording of Meetings.** Any meeting of the Board of Directors, other than a closed session permitted under the Brown Act, may be recorded by any person, unless the Board of Directors determines that such recording could constitute a disruption of the proceedings.
- D. **Presentations to the Board of Directors.** Any person desiring to address the Board of Directors shall be requested, when recognized by the President, to give their name and address to facilitate preparation of the minutes. No persons shall be denied recognition or denied the opportunity to speak solely because they decline to state their names and addresses. The President may, in the interest of facilitating the business of the

District, set reasonable time limits in advance of oral presentations of public input. Persons may be required to submit written testimony in lieu of oral testimony if the President determines that a reasonable opportunity for oral presentations has been provided, and in such a case, the matter may be continued to a later date to allow a reasonable time for such submittals to occur.

- E. Recordation of Board of Directors Actions.** All official actions or decisions by the Board of Directors shall be entered in the minute book of the Board of Directors kept by the Secretary. The vote or votes of each member of the Board of Directors on every question shall be recorded. Only written action minutes will be maintained, however, electronic recordings will be made by the Secretary of each meeting of the Board of Directors which shall be available to the public for inspection by request made at the Napa County Department of Conservation, Development and Planning, Room 210, 1195 Third Street, Napa, California 94559.

IV. VOTING AND QUORUM

- A. Roll Call Vote.** A roll call vote may be required for voting upon any motion of the Board of Directors, at the discretion of the President.
- B. Inaudible Votes.** Any member present who does not vote in an audible voice shall be recorded as voting "aye". A member may abstain from voting only if the member has recused himself or herself from participating due to a conflict of interest under Government Code section 87100 and following, in which case the member shall not be present in the meeting room during the discussion and action on the item.
OPTION 6: Allow abstentions without limitation.
- C. Quorum.** A majority of the members of the Board shall constitute a quorum for the purpose of conducting its business. [PRC 5535]
- D. Voting Affected by Conflict of Interest.** As a general rule, no member shall participate as a member in any discussion or voting if to do so would constitute a conflict of interest. However, if a quorum cannot be achieved or the required number of affirmative votes for action obtained because conflicts of interest exist that prevent members having such conflicts from discussing or voting on the matter, and the conflicts are such that an insufficient number of non-conflicted members will be available to vote at a later date even if the matter is continued, then the matter shall not be continued and a sufficient number of members having conflicts of interest, selected by lot, shall be allowed to participate to provide enough votes for the Board of Directors to form a quorum and take affirmative action.

- E. Motion to Reconsider.** The Board of Directors may reconsider a matter during the meeting at which the vote was taken, provided all members who were present when the matter was discussed and voted upon are still present and provided further that the motion to reconsider is made by a member who voted with the majority. A motion for reconsideration shall have precedence over every motion except a motion to adjourn. A final vote on any matter may also be placed on the agenda for reconsideration by the Board of Directors upon motion of any member at any later meeting. When the Board of Directors approves a motion for reconsideration, the Board of Directors may, in its discretion, reconsider the matter immediately or at a later date, subject to the provisions of the Brown Act.
- F. Actions of the Board.** The Board of Directors shall act only by ordinance, resolution, or a motion duly recorded in the minutes of the meeting. The ayes and noes shall be taken upon the passage of all ordinances or resolutions, and entered upon the journal of the proceedings of the board. An ordinance, resolution, or motion shall not be passed or become effective without the affirmative votes of at least a majority of all the members of the board. Each member shall have one vote. No votes may be cast by proxy. The enacting clause of all ordinances passed by the board shall be in these words: "Be it ordained by the Board of Directors of the Napa County Regional Park and Open Space District." All resolutions and ordinances shall be signed by the President and attested by the Secretary, administrative secretary, or clerk, and all ordinances shall be published once within 30 days after adoption, in a newspaper of general circulation printed, published, and circulated in the district. [PRC 5547]
- V. SUBCOMMITTEES.**
- A. Ad Hoc Subcommittees.** The Board of Directors hereby authorizes the creation of ad hoc subcommittees on special subjects from time to time so that Board of Directors having the necessary expertise to conduct field, plan or other specialized reviews may investigate, observe, review or otherwise study and report back their observations and conclusions to the full Board of Directors for possible further action. When creating such ad hoc committees, the Board of Directors shall specify the subject to be investigated and time to report, and shall appoint those Directors who will serve on the ad hoc subcommittee. Ad hoc committees shall consist of two Directors. Upon presentation of its report to the full Board of Directors, each such ad hoc subcommittee shall cease to exist. Ad hoc subcommittees created pursuant to this subsection shall not be subject to the Brown Act.
- B. Standing Subcommittees.** The Board of Directors may create and appoint its members to standing subcommittees to look into specific

subjects on an ongoing basis. Each standing subcommittee shall consist of two Directors. All standing subcommittees shall be subject to the Brown Act.

VI. COMPENSATION AND EXPENSES

A. Compensation. Members of the Board of Directors shall not receive compensation of any kind for attendance at meetings or the conduct of District business, except for expenses as provided herein.

B. Expenses. Members of the Board of Directors may receive reimbursement for expenses related to their duties as members of the Board of Directors, but only to the extent funds are included and available in the adopted District budget, and subject further to documentation and approval procedures adopted by the Board of Directors. [PRC 5536, 5536.5, GOV 53232.2, 53232.3]

VII. CHANGES TO BYLAWS

The provisions of these Bylaws may be altered, amended, or repealed by the Board of Director sat any time, within limitations imposed by the Brown Act, Article 3 of Chapter 3 of Division 5 of the Public Resources Code, and all other applicable laws and regulations.

<p>APPROVED AS TO FORM District Counsel</p> <p>By: <i>Chris R.Y. Apallas</i> _____ (by e-signature)</p> <p>Date: January 4, 2007 _____</p>



STAFF REPORT

Date: January 8, 2007
Agenda Item: 4.D
Subject: Discussion of requirement to file Statements of Economic Interests, participate in ethics training pursuant to AB 1234, and adopt a District Conflict of Interest Code

Recommendation

No Board action required at this time

Background

All District Directors are required to file Form 700—Statement of Economic Interests, within 30 days of assuming office. The date Directors took the oath of office, which was December 14th, is considered to be the assuming office date. Therefore, each Director must complete and file Form 700 no later than Saturday January 13th. Completed forms should be filed with Gladys Coil in Public Works (Room 201). Since the County offices are closed on Saturday, if you are not able to deliver the completed form before 5:00 pm on Friday, January 12th, you may fax the form to 299-4468, provided you mail the original within 24 hours to Gladys Coil, County of Napa, 1195 Third Street, Room 201, Napa, CA 94559.

An interactive Form 700 is available on the California Fair Political Practices web site at www.fppc.ca.gov (the form for 2005/2006 is the correct form to use).

The District is required to adopt a District Conflict of Interest Code. A draft Conflict of Interest Code will be ready for Board consideration at either the February or March meeting. Until the Code is adopted, all District Directors and staff required to file Form 700 must complete the entire Form 700 (eg, all disclosure categories).

Note that all District Directors will need to also file the Form 700 annual statement by April 1, 2007. The FPPC web site will have the 2007 Form 700 available on their web site shortly.

In addition, Assembly Bill 1234 requires District Directors to take a two-hour ethics training course within one year of taking office, and bi-annually thereafter. The County of Napa and the City of Napa have sponsored these courses periodically over the past year, and will do so again this year, although no time has been set. Alternatively, the course can be taken on the internet through the California Attorney General's web site, which is <http://ag.ca.gov/ethics/>. Since the course covers a wide range of responsibilities and restrictions which are effective immediately upon assuming office, it is recommended that all Directors take the interactive web site course, and do so as soon as possible, rather than wait for a course to be offered locally.



STAFF REPORT

Date: January 8, 2007

Agenda Item: 4.E

Subject: Discussion and possible action on draft agreement granting funds from the County of Napa to the District, and draft agreement regarding the services which the District will contract to receive from the County of Napa

Recommendation

Review and discuss the attached preliminary draft support services agreement, and provide guidance to staff as appropriate, so that a final draft support services agreement can be ready for District Board approval at its February meeting.

Background

Two agreements are proposed to specify the legal, financial and services relationship between the County of Napa and the District: one agreement will specify an amount of grant funding provided to the District by the County and the purposes for which these grant funds may be used, while the other will specify the support services which the District will contract to receive from the County.

Both agreements will need to be approved by the District Board of Directors and the County Board of Supervisors. Staff hopes to have both agreements in place effective April 1, 2007.

A draft support services agreement is well on its way to completion, and is attached for your review and discussion. Note that while the term of this agreement is only until June 30, 2007, it is set up to automatically renew for an additional year at the end of each fiscal year unless either party provides a written notice of intention to not renew.

The draft grant agreement has not been prepared yet. One key element of the draft agreement will be to specify the purposes for which the grant may be used. Staff is proposing that the primary focus of the February Board meeting be on District goals, objectives and development of a work program. Concurrently, a County Board of Supervisors subcommittee will be working to develop guidelines for the use of the Transient Occupancy Tax/Special Projects Fund. These two processes will provide the basis for staff to prepare a draft grant agreement for consideration by the District Board at its March meeting, with consideration by the County Board of Supervisors later in the same month.

NAPA COUNTY AGREEMENT NO. _____

SUPPORT SERVICES AGREEMENT

THIS AGREEMENT is made and entered into as of this _____ day of _____, 2007, by and between the COUNTY OF NAPA, a political subdivision of the State of California, hereinafter referred to as "CONTRACTOR", and the NAPA COUNTY REGIONAL PARK AND OPEN SPACE DISTRICT, a Special District, whose mailing address is 1195 Third Street, Napa, California, 94559, hereinafter referred to as "DISTRICT".

RECITALS

WHEREAS, DISTRICT is special district organized pursuant to Public Resources Code section 5500 et seq.; and

WHEREAS, DISTRICT wishes to enter into a contract to obtain administrative, planning, accounting, auditing, legal, treasury and other support services, as authorized by Public Resources Code section 5538.4; and

WHEREAS, CONTRACTOR is willing and able to provide the administrative and other support services desired by DISTRICT as more particularly described and under the terms and conditions set forth below;

TERMS

NOW, THEREFORE, DISTRICT and CONTRACTOR agree as follows:

1. **Term of the Agreement.** The term of this Agreement shall commence on the date first above written and shall expire on June 30, 2007, unless terminated earlier in accordance with Paragraphs 9 (Termination for Cause), 10 (Termination for Convenience) or 23(a) (Covenant of No Undisclosed Conflict); except that the obligations of the parties under Paragraphs 7 (Insurance) and 8 (Indemnification) shall continue in full force and effect after said expiration date or early termination in relation to acts or omissions occurring prior to such dates during the term of the Agreement, and the obligations of DISTRICT and CONTRACTOR to each other shall also continue after said expiration date or early termination in relation to the obligations prescribed by Paragraphs 15 (Confidentiality), 20 (Taxes) and 21 (Access to Records/Retention). The term of this Agreement shall be automatically renewed for an additional year at the end of each fiscal year, under the terms and conditions then in effect, unless either party gives the other party written notice of intention not to renew no less than sixty (60) days prior to the expiration of the then current term. For purposes of this Agreement, "fiscal year" shall mean the period commencing on July 1 and ending on June 30.

2. **Scope of Services.** CONTRACTOR shall provide DISTRICT those services set forth in Exhibit "A", attached hereto and incorporated by reference herein.

3. **Compensation.**

(a) Rates. In consideration of CONTRACTOR's provision of the services required under this Agreement, DISTRICT shall pay CONTRACTOR at the rates set forth in Exhibit "B", attached hereto and incorporated by reference herein. The rates set forth in Exhibit "B" represent the CONTRACTOR'S best estimate of the actual costs incurred by CONTRACTOR in providing services under this Agreement. CONTRACTOR and DISTRICT hereby authorize the Napa County Auditor-Controller and the Directors of each affected CONTRACTOR Department to update these rates throughout the term of this Agreement on a semi-annual basis, after consultation with the DISTRICT's General Manager, with the first update effective on July 1, 2007, to reflect actual costs including salaries and benefits calculated in accordance with the personnel ordinances adopted by CONTRACTOR from time to time. Such adjustments shall be deemed to automatically amend this Agreement. Napa County Auditor-Controller and the Directors of each affected CONTRACTOR Department shall provide notice to DISTRICT of the rate update within 60 days of July 1st and January 1st, who shall be bound thereby, effective as of the July 1st or January 1st date to which the update applies, or if after 60 days, as of the date notice is deemed to have been received in accordance with Paragraph 13.

(b) Expenses. Expenses incurred by CONTRACTOR in providing the services required under this Agreement shall be reimbursed to the extent and in accordance with the methodologies set forth in Exhibit "B".

4. **Method of Payment.** All payments for compensation and reimbursement for expenses shall be made only upon presentation by CONTRACTOR to DISTRICT of an itemized billing invoices in a form acceptable to DISTRICT's Auditor. Invoices for compensation for services shall indicate, at a minimum, itemization of the hours worked or, where compensation is on a per-task basis, a description of the tasks completed during the billing period, the position(s) actually performing the services, and the approved hourly rate and total amount due. Invoices for expense reimbursement shall include a description of the nature and cost of the expense item and the date incurred. Invoices shall be submitted by CONTRACTOR's affected departments not more often than monthly to DISTRICT's designated accounting personnel who, after review and approval as to form and content, shall submit the invoice for payment no later than fifteen (15) calendar days following receipt. Submission and payment of invoices may occur in written form or through electronic means in a manner acceptable to the Napa County Auditor.

5. **Relationship of Parties Regarding Independent Contractor Status of CONTRACTOR and Benefits, Control and Discipline of Assigned CONTRACTOR Employees.**

(a) Independent Contractor; Governing Agreement. CONTRACTOR shall perform its obligations under this Agreement as an independent contractor and not as an agent or joint venturer of DISTRICT.

(b) Status of Employees for Benefit and Tax Purposes. CONTRACTOR and the officers, agents and employees of CONTRACTOR are not, and shall not be deemed, DISTRICT employees for purposes of workers' compensation, unemployment insurance, retirement or employee benefits. DISTRICT shall not deduct or withhold any amounts whatsoever from the compensation paid to CONTRACTOR, including, but not limited to amounts required to be withheld for state and federal taxes. As between the parties to this Agreement, CONTRACTOR

shall be solely responsible for all such payments.

(c) Direction and Control of Work of Assigned Employees. Notwithstanding (a), the officers and employees of CONTRACTOR assigned by CONTRACTOR to provide the services described in Exhibit "A" shall be deemed to be under the direction and/or control of DISTRICT and to be acting on behalf of DISTRICT and not CONTRACTOR when performing those services, but in performing those services such employees shall remain subject to all CONTRACTOR policies, rules, and procedures pertaining to employees, as such may be amended from time to time, which are hereby incorporated by reference as if set forth herein.

(d) Hiring, Promotion, Discipline and Termination of Assigned Employees. CONTRACTOR shall retain the right to hire, promote, terminate or otherwise discipline such persons in the same manner as for any other CONTRACTOR officer or employee.

6. **Specific Performance.** It is agreed that CONTRACTOR, including the agents or employees of CONTRACTOR, shall be the sole providers of the services required by this Agreement.

7. **Insurance.** CONTRACTOR shall obtain and maintain in full force and effect throughout the term of this Agreement, and thereafter as to matters occurring during the term of this Agreement, the following insurance coverage or equivalent self-insurance or a combination thereof:

(a) Workers' Compensation insurance. To the extent required by law during the term of this Agreement, CONTRACTOR shall provide workers' compensation insurance for the performance of any of CONTRACTOR's duties under this Agreement, including but not limited to, coverage for workers' compensation and employer's liability and a waiver of subrogation, and shall provide DISTRICT with certification of all such coverages upon request by DISTRICT's Risk Manager, General Manager or governing board.

(b) Liability Insurance.

(1) General Liability. Each party shall obtain and maintain in full force and effect during the term of this Agreement commercial or comprehensive general liability insurance coverage (personal injury and property damage) of not less than ONE MILLION DOLLARS (\$1,000,000) combined single limit per occurrence, issued by a company having an A.M. Best Rating of no less than A:VII, covering liability for any personal injury, including death, to any person and/or damage to the property of any person arising from the acts or omissions of that party under this Agreement except for acts or omissions performed in compliance with express direction the other party's governing board, officers or personnel. If the coverage includes an aggregate limit, the aggregate limit shall be no less than twice the per occurrence limit. DISTRICT acknowledges and accepts as satisfactory for purposes of this requirement that CONTRACTOR may be self-insured for up to \$300,000.

[ADD DIRECTOR'S INSURANCE PROVISION]

(2) Professional Liability. *[Reserved]*

(3) Comprehensive Automobile Liability Insurance. *[Reserved]*

(c) Certificates of Coverage. Where the foregoing coverages are provided by insurance rather than by self-insurance (written proof of which shall be provided to the other party), the coverages shall be evidenced by one or more certificates of coverage which shall be filed with the other party's Secretary or Clerk prior to reimbursement for performance of any of the party's duties under this Agreement; shall reference this Agreement by its CONTRACTOR

number or title and department; and shall provide that the inclusion of more than one insured shall not operate to impair the rights of one insured against another insured, the coverage afforded applying as though separate policies had been issued to each insured, but the inclusion of more than one insured shall not operate to increase the limits of the company's liability. For the insurance coverages referenced in 7(b)(1) and (3), DISTRICT shall also file with the evidence of coverage an endorsement from the insurance provider naming CONTRACTOR, its officers, employees, agents and volunteers as additional insureds and waiving subrogation, and the certificate or other evidence of coverage shall provide that if the same policy applies to activities of DISTRICT not covered by this Agreement then the limits in the applicable certificate relating to the additional insured coverage of CONTRACTOR shall pertain only to liability for activities of DISTRICT under this Agreement, and that the insurance provided is primary coverage to CONTRACTOR with respect to any insurance or self-insurance programs maintained by CONTRACTOR. The additional insured endorsements for the general liability coverage shall use Insurance Services Office (ISO) Form No. CG 20 09 11 85 or CG 20 10 11 85, or equivalent, including (if used together) CG 2010 10 01 and CG 2037 10 01; but shall not use the following forms: CG 20 10 10 93 or 03 94. Upon request by the other party, the party shall provide or arrange for the insurer to provide the other party with certified copies of the actual insurance policies or relevant portions thereof within thirty (30) days of the request.

(d) Deductibles/Retentions. Any deductibles or self-insured retentions shall be declared to CONTRACTOR's Risk Manager and to DISTRICT's General Manager or governing board, upon request from such persons.

8. **Hold Harmless/Defense/Indemnification.**

(a) In General. To the full extent permitted by law, DISTRICT and CONTRACTOR shall each defend, indemnify and hold harmless each other as well as their respective officers, agents and employees from any claims, suits, proceedings, loss or liability, including reasonable attorney's fees, for personal injury (including death) or damage to property, arising out of or connected with any acts or omissions of that party or its officers, agents, employees, volunteers, Contractors or subcontractors when performing any activities or obligations required of that party under this Agreement, except when such acts or omissions have been requested by and non-negligently performed in compliance with the express direction of the other party. Each party shall notify the other party immediately in writing of any claim or damage related to activities performed under this Agreement. The parties shall cooperate with each other in the investigation and disposition of any claim arising out of the activities under this Agreement, providing that nothing shall require either party to disclose any documents, records or communications that are protected under peer review privilege, attorney-client privilege, or attorney work product privilege.

(b) Employee Character and Fitness. CONTRACTOR accepts responsibility for determining and approving the character and fitness of its employees (including volunteers, agents or representatives) to provide the services required of CONTRACTOR under this Agreement, including completion of a satisfactory criminal/background check and period rechecks to the extent permitted by law. Notwithstanding anything to the contrary in this Paragraph, CONTRACTOR shall hold DISTRICT and its officers, agents and employees harmless from any liability for injuries or damages resulting from a breach of this provision or CONTRACTOR's actions in this regard.

9. **Termination for Cause.** If either party shall fail to fulfill in a timely and proper manner that party's obligations under this Agreement or otherwise breach this Agreement and fail to cure such failure or breach within ten (10) days of receipt of written notice from the other party describing the nature of the breach, the non-defaulting party may, in addition to any other remedies it may have, terminate this Agreement by giving five (5) days prior written notice to the defaulting party in the manner set forth in Paragraph 13 (Notices). CONTRACTOR hereby authorizes the Napa County Executive Officer to make all decisions and take all actions required under this Paragraph to terminate this Agreement on behalf of CONTRACTOR for cause. Notwithstanding the foregoing, the Napa County Auditor is authorized to terminate those components of this agreement for cause as they relate to the provision of auditor-controller services, but may exercise such authority only after consultation with, and concurrence of, the County Counsel and the County Executive Officer.

10. **Termination for Convenience.** This Agreement may be terminated by either party for any reason and at any time by giving no less than sixty (60) days prior written notice of such termination to the other party and specifying the effective date thereof; provided, however, that no such termination may be effected by DISTRICT unless an opportunity for consultation is provided prior to the effective date of the termination. CONTRACTOR hereby authorizes the Napa County Executive Officer to make all decisions and take all actions required under this Paragraph to terminate this Agreement on behalf of CONTRACTOR for the convenience of CONTRACTOR. Notwithstanding the foregoing, the Napa County Auditor is authorized to terminate those components of this agreement for convenience as they relate to the provision of auditor-controller services, but may exercise such authority only after consultation with, and concurrence of, the County Counsel and the County Executive Officer.

11. **Disposition of, Title to and Payment for Work upon Expiration or Termination.**

(a) All documents created by employees of CONTRACTOR when performing services to DISTRICT under this Agreement shall be considered at all times during the term of this Agreement and after expiration or termination thereof to be records of and owned by DISTRICT and not records of CONTRACTOR for purposes of subpoenas, Public Records Act (Government Code section 6250 et seq.) requests or copyrights. Upon expiration of this Agreement or termination for cause under Paragraph 9 or termination for the convenience of a party under Paragraph 10, all such finished or unfinished documents and other materials, if any, shall be promptly returned to the physical possession of DISTRICT, although CONTRACTOR may retain copies of any non-confidential documents. Unless otherwise expressly provided in this Agreement, any copyrightable or patentable work created by CONTRACTOR for DISTRICT under this Agreement shall be deemed a "work made for hire" for purposes of copyright or patent law and only DISTRICT shall be entitled to claim or apply for the copyright or patent thereof.

(b) CONTRACTOR shall be entitled to receive compensation for any satisfactory work completed prior to receipt of the notice of termination or commenced prior to receipt of the notice and completed satisfactorily prior to the effective date of the termination.

12. **No Waiver.** The waiver by either party of any breach or violation of any requirement of this Agreement shall not be deemed to be a waiver of any such breach in the future, or of the breach of any other requirement of this Agreement.

13. **Notices.** All notices required or authorized by this Agreement shall be in writing and shall be delivered in person or by deposit in the United States mail, by certified mail, postage prepaid, return receipt requested. Any mailed notice, demand, request, consent, approval or communication that either party desires to give the other party shall be addressed to the other party at the address set forth below. Either party may change its address by notifying the other party of the change of address. Any notice sent by mail in the manner prescribed by this paragraph shall be deemed to have been received on the date noted on the return receipt or five days following the date of deposit, whichever is earlier.

CONTRACTOR

DISTRICT

Hillary Gitelman
Director of Conservation, Development & Planning
1195 Third Street, Suite 210
Napa, CA 94559

NCRPOSD General Manager
1195 Third Street, Suite 210
Napa, CA 94559

14. **Compliance with CONTRACTOR Policies on Waste, Harassment, Drug/Alcohol-Free Workplace, and Computer Use.** CONTRACTOR and DISTRICT hereby agree to comply, and require their employees and subcontractors to comply, with the following policies, copies of which are on file with the Clerk of the Board of Supervisors and incorporated by reference herein. CONTRACTOR also agrees that it shall not engage in any activities, or permit its officers, agents and employees to do so, during the performance of any of the services required under this Agreement, which would interfere with compliance or induce violation of these policies by CONTRACTOR employees or contractors.

(a) Waste Source Reduction and Recycled Product Content Procurement Policy adopted by resolution of the Board of Supervisors on March 26, 1991.

(b) County of Napa "Policy for Maintaining a Harassment and Discrimination Free Work Environment" revised effective August 23, 2005.

(c) County of Napa Drug and Alcohol Policy adopted by resolution of the Board of Supervisors on June 25, 1991.

(d) Napa County Information Technology Use and Security Policy adopted by resolution of the Board of Supervisors on April 17, 2001. To this end, all employees and subcontractors of DISTRICT whose performance of services under this Agreement requires access to any portion of the CONTRACTOR computer network shall sign and have on file with CONTRACTOR's ITS Department prior to receiving such access the certification attached to said Policy.

(e) Napa County Workplace Violence Policy, adopted by the BOS effective May 23, 1995 and subsequently revised effective November 2, 2004, which is located in the County of Napa Policy Manual Part I, Section 37U.

15. **Confidentiality.** Confidential information is defined as all information disclosed to CONTRACTOR which relates to DISTRICT's past, present, and future activities, as well as activities under this Agreement. CONTRACTOR shall hold all such information as CONTRACTOR may receive, if any, in trust and confidence, except with the prior written approval of DISTRICT, expressed through its governing board. Upon cancellation or expiration

of this Agreement, CONTRACTOR shall return to DISTRICT all written and descriptive matter which contains any such confidential information, except that CONTRACTOR may retain for its files a copy of CONTRACTOR's work product if such product has been made available to the public by DISTRICT or if retention of such records, in confidence, is required by any state, federal or local law or regulation.

16. No Assignments or Subcontracts.

(a) In general. A consideration of this Agreement is the expertise of CONTRACTOR and its staff with parks and open space within the County of Napa; therefore, CONTRACTOR shall not assign any interest in this Agreement or subcontract any of the services CONTRACTOR is to perform hereunder without the prior written consent of DISTRICT, which shall not be unreasonably withheld. The inability of the assignee to provide personnel equivalent in experience, expertise, and numbers to those provided by CONTRACTOR, or to perform any of the remaining services required under this Agreement within the same time frame required of CONTRACTOR shall be deemed to be reasonable grounds for DISTRICT to withhold its consent to assignment.

17. Amendment/Modification. Except as specifically provided herein, this Agreement may be modified or amended only in writing and with the prior written consent of both parties. In particular, only DISTRICT, through its governing board in the form of an amendment of this Agreement, may authorize extra and/or changed work if beyond the scope of services prescribed by Exhibit "A". Failure of CONTRACTOR to secure such authorization in writing in advance of performing any of the extra or changed work shall constitute a waiver of any and all rights to adjustment in the contract price or contract time and no compensation shall be paid for such extra work.

18. Interpretation; Venue.

(a) Interpretation. The headings used herein are for reference only. The terms of the Agreement are set out in the text under the headings. This Agreement shall be governed by the laws of the State of California without regard to the choice of law or conflicts.

(b) Venue. This Agreement is made in Napa County, California. The venue for any legal action in state court filed by either party to this Agreement for the purpose of interpreting or enforcing any provision of this Agreement shall be in the Superior Court of California, County of Napa, a unified court. The venue for any legal action in federal court filed by either party to this Agreement for the purpose of interpreting or enforcing any provision of this Agreement lying within the jurisdiction of the federal courts shall be the Northern District of California. The appropriate venue for arbitration, mediation or similar legal proceedings under this Agreement shall be Napa County, California; however, nothing in this sentence shall obligate either party to submit to mediation or arbitration any dispute arising under this Agreement.

19. Compliance with Laws. CONTRACTOR and DISTRICT shall observe and comply with all applicable Federal, State and local laws, ordinances, and codes. Such laws shall include, but not be limited to, the following, except where prohibited by law:

(a) Non-Discrimination. During the performance of this Agreement, CONTRACTOR and its subcontractors shall not deny the benefits thereof to any person on the basis of sex, race, color, ancestry, religion or religious creed, national origin or ethnic group

identification, sexual orientation, marital status, age (over 40), mental disability, physical disability or medical condition (including cancer, HIV and AIDS), nor shall they discriminate unlawfully against any employee or applicant for employment because of sex, race, color, ancestry, religion or religious creed, national origin or ethnic group identification, sexual orientation, marital status, age (over 40), mental disability, physical disability or medical condition (including cancer, HIV and AIDS), or use of family care leave. CONTRACTOR shall ensure that the evaluation and treatment of employees and applicants for employment are free of such discrimination or harassment. In addition to the foregoing general obligations, CONTRACTOR shall comply with the provisions of the Fair Employment and Housing Act (Government Code section 12900, et seq.), the regulations promulgated thereunder (Title 2, California Code of Regulations, section 7285.0, et seq.), the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (sections 11135-11139.5) and any state or local regulations adopted to implement any of the foregoing, as such statutes and regulations may be amended from time to time. To the extent this Agreement subcontracts to CONTRACTOR services or works required of DISTRICT by the State of California pursuant to agreement between DISTRICT and the State, the applicable regulations of the Fair Employment and Housing Commission implementing Government Code section 12990 (a) through (f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are expressly incorporated into this Agreement by reference and made a part hereof as if set forth in full, and CONTRACTOR and any of its subcontractors shall give written notice of their obligations thereunder to labor organizations with which they have collective bargaining or other agreements.

(b) Documentation of Right to Work. CONTRACTOR agrees to abide by the requirements of the Immigration and Control Reform Act pertaining to assuring that all newly-hired employees of CONTRACTOR performing any services under this Agreement have a legal right to work in the United States of America, that all required documentation of such right to work is inspected, and that INS Form 1-9 (as it may be amended from time to time) is completed and on file for each employee. CONTRACTOR shall make the required documentation available upon request to DISTRICT for inspection.

(c) Inclusion in Subcontracts. To the extent any of the services required of CONTRACTOR under this Agreement are subcontracted to a third party, CONTRACTOR shall include all of the provisions of this Paragraph in all such subcontracts as obligations of the subcontractor.

20. **Taxes.** CONTRACTOR agrees to file all applicable withholding documents and to make all required withholdings on amounts paid to CONTRACTOR, including any withholdings required in connection with state and federal income and FICA taxes. CONTRACTOR shall indemnify and hold DISTRICT harmless from any liability DISTRICT might incur to the United States or the State of California as a consequence of CONTRACTOR's failure to pay or withhold, when due, all such taxes and obligations. In the event that DISTRICT is audited for compliance regarding any withholding or other applicable taxes or amounts, CONTRACTOR agrees to furnish DISTRICT with proof of payment of taxes or withholdings on those earnings.

21. **Access to Records/Retention.** DISTRICT, any federal or state grantor DISTRICT funding all or part of the compensation payable hereunder, the State Controller, the Comptroller General of the United States, or the duly authorized representatives of any of the above, shall

have access to any books, documents, papers and records of CONTRACTOR which are directly pertinent to the subject matter of this Agreement for the purpose of making audit, examination, excerpts and transcriptions. Except where longer retention is required by any federal or state law, CONTRACTOR shall maintain all required records for at least seven (7) years after DISTRICT makes final payment for any other work authorized hereunder and all pending matters are closed, whichever is later.

22. **Authority to Contract.** DISTRICT and CONTRACTOR each warrant hereby that they are legally permitted and otherwise have the authority to enter into and perform this Agreement.

23. **Conflict of Interest. Conflict of Interest.**

(a) Covenant of No Undisclosed Conflict. The parties to the Agreement acknowledge that they are aware of the provisions of Government Code section 1090, et seq., and section 87100, et seq., relating to conflict of interest of public officers and employees. CONTRACTOR hereby covenants that it presently has no interest not disclosed to DISTRICT and shall not acquire any interest, direct or indirect, which would conflict in any material manner or degree with the performance of its services or confidentiality obligation hereunder, except as such as DISTRICT may consent to in writing prior to the acquisition by CONTRACTOR of such conflict. CONTRACTOR agrees that when assigning its employees to provide services to DISTRICT under this Agreement CONTRACTOR shall endeavor to avoid assigning persons whose duties to CONTRACTOR in CONTRACTOR's other activities might be incompatible with the services provided to DISTRICT. By executing this Agreement, DISTRICT expressly consents to the assignment of employees within the office of the Napa County Counsel to provide the legal services described in Exhibit "A" as long as such employees are not also assigned to represent the interests of CONTRACTOR or any special districts or other public agencies legally advised by the Napa County Counsel in the dealings of such entities with, or in matters affecting the interests of DISTRICT.

(b) Statements of Economic Interest. CONTRACTOR acknowledges and understands that DISTRICT may have developed and approved a Conflict of Interest Code as required by state law which may require employees of CONTRACTOR assigned to provide services to DISTRICT under this Agreement to file with the Elections Division of the Napa County Assessor-Clerk Recorder "assuming office", "annual", and "leaving office" Statements of Economic Interest as a "consultant", as defined in section 18701(a)(2) of Title 2 of the California Code of Regulations, unless it has been determined by authorized representatives of DISTRICT in writing that such employees of CONTRACTOR will be performing for DISTRICT a range of duties so limited in scope as to not be required to fully comply with the disclosure obligations in DISTRICT's Conflict of Interest Code. CONTRACTOR agrees to require each of its assigned employees to timely comply with all filing obligations for a consultant under DISTRICT's Conflict of Interest Code unless such a determination is on file for that employee's DISTRICT position on the filing dates for each of the required Statements of Economic Interest. DISTRICT agrees to provide a list of such determinations to the Napa County Executive Officer no less often than annually and to a particular assigned CONTRACTOR employee at any time upon request by that employee to DISTRICT's General Manager.

24. **Non-Solicitation of Employees.** Each party agrees not to solicit for employment the

employees of the other party who were directly involved in the performance of the services hereunder for the term of this Agreement and a period of six (6) months after termination of this Agreement except with the written permission of the other party, except that nothing in this Paragraph shall preclude either party from publishing or otherwise distributing applications and information regarding that party's job openings where such publication or distribution is directed to the public generally, and from processing filed applications in accordance with the party's general recruitment procedures.

25. **Third Party Beneficiaries.** Nothing contained in this Agreement shall be construed to create any rights in third parties and the parties do not intend to create such rights.

26. **Attorney's Fees.** In the event that either party commences legal action of any kind or character to either enforce the provisions of this Agreement or to obtain damages for breach thereof, the prevailing party in such litigation shall be entitled to all costs and reasonable attorney's fees incurred in connection with such action.

27. **Severability.** If any provision of this Agreement, or any portion thereof, is found by any court of competent jurisdiction to be unenforceable or invalid for any reason, such provision shall be severable and shall not in any way impair the enforceability of any other provision of this Agreement.

28. **Entirety of Contract.** Except where expressly provided otherwise in this Agreement, this Agreement constitutes the entire agreement between the parties relating to the subject of this Agreement and supersedes all previous agreements, promises, representations, understandings and negotiations, whether written or oral, among the parties with respect to the subject matter hereof. Notwithstanding the foregoing, in the event of a conflict between any provision of the JPA Agreement and this Agreement relating to officers or employees of DISTRICT, the provisions of the JPA Agreement shall prevail.

IN WITNESS WHEREOF, this Agreement was executed by the parties hereto as of the

/////

date first above written.

NAPA COUNTY REGIONAL PARK AND OPEN SPACE DISTRICT

By _____
XXX, President of the Board of Directors

ATTEST: Secretary of the Napa County Regional Park and Open Space District

"DISTRICT"

By _____

APPROVED AS TO FORM: ROBERT WESTMEYER, DISTRICT Legal Counsel

By _____
Chris Apallas, Deputy

COUNTY OF NAPA, a political subdivision of the State of California

By _____
HAROLD MOSKOWITE , Chair of the Board of Supervisors

ATTEST: Clerk of the Board of Supervisors "CONTRACTOR"

By _____

ASSENT: MARCIA HULL,
Napa County Treasurer-Tax Collector

ASSENT: Pamela A. Kindig
Napa County Auditor-Controller

By _____

By _____

Assent by Auditor-Controller

APPROVED AS TO FORM Office of County Counsel
By: _____ (by e-signature)
Date: _____

APPROVED BY THE NAPA COUNTY BOARD OF SUPERVISORS
Date: _____
Processed by: _____
Clerk of the Board

EXHIBIT "A"**SCOPE OF WORK**

CONTRACTOR shall provide DISTRICT with CONTRACTOR personnel to perform the following services and functions for DISTRICT, when and as requested by the DISTRICT:

1. General Manager.

(a) DISTRICT's governing board shall appoint as DISTRICT General Manager (hereinafter "General Manager") a CONTRACTOR employee designated by the CONTRACTOR Director of Conservation, Development and Planning with the advice and consent of the DISTRICT's governing board. The General Manager shall serve at the will of CONTRACTOR, although DISTRICT, through its Governing Board, shall have the right to request CONTRACTOR remove the General Manager, and CONTRACTOR shall comply with such request.

(b) DISTRICT agrees that CONTRACTOR, as appointing authority, shall have responsibility for evaluating the performance of the General Manager. The General Manager's performance evaluation shall include input by both CONTRACTOR's Director of Conservation, Development and Planning and DISTRICT's governing board. Each year, CONTRACTOR's Director of Conservation, Development and Planning shall review the performance of duties with the General Manager and establish goals and objectives for the following year. Within 30 days of such review, the Director of Conservation, Development and Planning shall schedule a closed session with DISTRICT's governing board for the purpose of receiving input regarding the General Manager's goals and objectives. The closed session shall be conducted with both the Director of Conservation, Development and Planning and the General Manager present.

(c) The General Manager shall plan, organize, coordinate and direct the operations of AGENCY, and perform the functions described in Public Resources Code sections 5538 and 5549.

2. Secretary of the Board. CONTRACTOR, through its Department of Conservation, Development and Planning, shall designate a CONTRACTOR employee to serve as DISTRICT Secretary of the Board (hereinafter "Secretary"), who shall perform the functions described in Public Resources Code section 5551. The Secretary shall serve at the will of CONTRACTOR, although DISTRICT, through its Governing Board, shall have the right to request CONTRACTOR remove the Secretary, and CONTRACTOR shall comply with such request.

3. Treasurer. The Napa County Treasurer-Tax Collector shall serve as DISTRICT Treasurer and in that capacity shall be the depository and have custody of and collections authority for all the funds of DISTRICT, from whatever source.

4. Auditor-Controller. DISTRICT's governing board shall appoint as DISTRICT Auditor-Controller (hereinafter "Auditor-Controller") the Napa County Auditor-Controller, who shall perform the functions described in Public Resources Code 5538, 5552 and 5553.

5. Legal Counsel.

(a) CONTRACTOR, through the office of the Napa County Counsel shall provide the Legal Counsel to DISTRICT. The services of Legal Counsel shall include providing DISTRICT's governing board and contracted staff with legal advice concerning matters within DISTRICT's scope of powers and representing DISTRICT in all legal proceedings involving DISTRICT.

(b) Unless and until this Agreement is amended to state otherwise, the position of Legal Counsel shall be filled by an attorney within the office of the Napa County Counsel. While assignment of an attorney shall be structured by CONTRACTOR to avoid (to the maximum extent possible) any conflicts of interest by the assigned attorney between his or her duties to CONTRACTOR and DISTRICT, the parties to this Agreement acknowledge that minor conflicts may occur from time to time. Therefore, and notwithstanding anything to the contrary in Paragraph 23(a) of the Agreement, the parties expressly agree that the assigned attorney may continue to represent both CONTRACTOR and DISTRICT despite such minor or technical conflicts.

4. DISTRICT Management, Planning and Administrative Services.

CONTRACTOR, through its Department of Conservation, Development and Planning and Department of Public Works, shall provide such planning support and administrative services as may be necessary for the fulfillment of DISTRICT's mission. Planning support and administrative services may include, but are not limited to, the following:

- Executive management services to assist the General Manager in the planning, administering, directing and coordinating of all DISTRICT activities;
- Research and analysis services to assist the General Manager in identifying opportunities, evaluating options, designing projects and programs, preparing grant applications and environmental review documents, and similar services related to park, recreation and open space activities;
- DISTRICT administrative and clerical support services.

DISTRICT management, planning and administrative services provided by CONTRACTOR will be direct-billed to the DISTRICT based on the actual hours expended and expenses incurred, in the manner provided by this Agreement and at the rates specified in Exhibit B.

5. Departmental Support and Administrative Services.

CONTRACTOR, through its Department of Conservation, Development and Planning and Department of Public Works, shall provide such departmental support and administrative services as may be necessary for the fulfillment of DISTRICT's mission. Support and administrative services may include, but are not limited to, the following:

- Payroll support services – Clerical: clerical, data entry, and weekly time keeping services; distribution of the performance evaluation forms; and preparation of personnel action request forms;
- Payroll support services – Secretarial: oversight, review, reconciliation, and approval of

- payroll clerical, data entry, and timekeeping services provided DISTRICT;
- Management oversight of payroll support services, administration of departmental personnel support services and implementation of CONTRACTOR personnel policies, including timely completion of performance evaluations;
- Executive management and departmental oversight services; and
- Purchasing services. Upon request by DISTRICT, CONTRACTOR shall provide purchasing services to DISTRICT, including solicitation of and evaluation of quotes or bids and the issuance of purchase orders for the purchase of goods when the purchase of such goods is consistent with DISTRICT purchasing guidelines.

The cost of departmental support and administrative services related to the routine functions of CONTRACTOR employees contracted to the DISTRICT are included in the hourly rates contained in Exhibit B. If departmental support and administrative services exceed those routinely provided to CONTRACTOR employees, the cost of these services will be direct-billed to DISTRICT at a rate mutually agreed to by CONTRACTOR and the General Manager of the DISTRICT.

EXHIBIT "B"

COMPENSATION AND EXPENSE REIMBURSEMENT

1. Compensation. As compensation for the services described in Exhibit "A", DISTRICT shall pay CONTRACTOR in accordance with the following rates and/or methodologies identified below. These rates shall be subject to amendment on a semi-annual basis, with the first update occurring on July 1, 2007. For purposes of compensation, the cost of providing all facilities and supplies necessary to fulfill this function shall be deemed to be overhead included in the hourly rates of compensation which shall be consistent with the then applicable salary rates adopted by CONTRACTOR for the County officers and employees specified in Paragraph 3 this Exhibit.

2. Expense Reimbursement. Routine expenses for materials, supplies and mileage are deemed to be overhead and are included in the hourly rates of compensation specified in Paragraph 3 of this Exhibit. Expenses incurred by CONTRACTOR employees when assigned to provide services to DISTRICT under this Agreement shall be claimed by such employees of CONTRACTOR to CONTRACTOR, and CONTRACTOR shall reimburse such employees for such expenses in accordance with CONTRACTOR's adopted policies and rates for reimbursement of expenses incurred by CONTRACTOR employees when providing services to CONTRACTOR. If these expenses exceed those routinely incurred by CONTRACTOR employees in the performance of CONTRACTOR work, CONTRACTOR shall invoice DISTRICT for these exceptional expenses, and DISTRICT shall then reimburse CONTRACTOR for the cost to CONTRACTOR for reimbursing such employees.

3. Specific Rates of Compensation and/or Expense Reimbursement.

(a) General Manager. See rates for Principal Planner under DISTRICT Planning, Management and Administrative Services.

(b) Secretary of the Board. See rates for Staff Services Analyst for DISTRICT Planning, Management and Administrative Services.

(c) Controller. TBD

(d) Legal Counsel.

Name	Position	Hourly Rate
Westmeyer	County Counsel	\$164.18
Woodbury	Chief Deputy	\$131.47
Anderson	Attorney IV	\$128.68

Darbinian	Attorney IV	\$132.55
Gong	Attorney IV	\$129.17
Martin	Attorney IV	\$128.42
Tyrrell	Attorney IV	\$132.42
Paul	Attorney IV	\$128.42
Yasumoto	Attorney III	\$132.55
Chopra	Attorney III	\$115.06
Gallagher	Attorney II	\$100.11
Killion	Attorney II	\$91.92
Apallas	Attorney I	\$75.53
Huber	Privacy Officer	\$83.37
Holbrook	Legal Admin Spec	\$68.92
Jack	Legal Secretary II	\$54.29
Ingalls	Paralegal	\$54.36
Periera	Paralegal	\$51.74
Prows	Legal Secretary II	\$53.09
DesJardins	Legal Secretary I	\$55.02
Brinsmead	Legal Secretary I	\$44.43

(e) DISTRICT Management, Planning and Administrative Services.

<u>Position</u>	<u>Hourly Rate</u>
Principal Planner-Parks and Open Space—CDP	\$84.00
Deputy Planning Director-Conservation Division--CDP	\$104.00
Planner III—CDP (CA)	\$81.00
Office Assistant II—CDP (RB)	TBD
Administrative Office Assistant—CDP (BR)	TBD
Staff Services Analyst – CDP I (RL)	TBD
Engineering Assistant II—PW (DH)	TBD
Deputy Public Works Director—PW	TBD

Staff Services Analyst II—PW (GC)

TBD

Other Positions Not Specified Above TBD by CONTRACTOR and DISTRICT General Manager using same methodology as used for other positions

- (g) CONTRACTOR Support and Administrative Services and Supplies.

The cost of CONTRACTOR support and administrative services and supplies related to the routine functions of CONTRACTOR employees contracted to the DISTRICT are included in the hourly rates contained in Exhibit B, Items 3a through 3f. If support and administrative services and supplies provided to DISTRICT exceed those routinely provided to CONTRACTOR employees, the cost of these services will be direct-billed to DISTRICT at a rate mutually agreed to by CONTRACTOR and the DISTRICT's General Manager.

4. Overtime Hourly Rates

(a) DISTRICT shall pay overtime compensation, as defined below, when incurred by CONTRACTOR. Overtime for CONTRACTOR employees (excluding extra help and FLSA exempt employees) is defined as any actual hours worked in excess of eight (8) hours in a consecutive twenty-four hour period or forty (40) hours of work in an employee's standard workweek. For employees who work an alternate schedule, including a "9/80" or a "4/10" schedule, overtime is defined as any time actually worked in excess of an employee's standard work day in a consecutive twenty-four hour period or forty (40) hours in an employee's standard work week.

(b) DISTRICT shall pay overtime compensation for CONTRACTOR extra help employees when incurred by CONTRACTOR. Overtime for CONTRACTOR extra help employees is defined as hours actually worked in excess of forty (40) hours of work in a workweek

(c) Overtime compensation shall be time and one-half (1 ½) of established hourly rates, except that overtime compensation for a CONTRACTOR employee who is scheduled to work on a CONTRACTOR paid holiday shall be billable to DISTRICT at twice the regular hourly rate.

(d) Overtime rates may be charged by CONTRACTOR only when advance written approval is given by DISTRICT's General Manager. Electronic mail shall be one of the acceptable formats for written approval by DISTRICT.



STAFF REPORT

Date: January 8, 2007
 Agenda Item: 4.F
 Subject: Discussion and appointment of District Officers, including General Manager, Controller, Treasurer, Secretary and Counsel

Recommendation

Appoint the following County staff as District Officers, subject to the County of Napa concurrence:

<u>District Officer</u>	<u>County Staff</u>	<u>County Position</u>
General Manager	John Woodbury	Principal Planner—Parks and Open Space
Controller	Pam Kindig	Auditor/Controller
Treasurer	Marcia Hull	Treasurer/Tax Collector
Secretary	Gladys Coil	Staff Services Analyst II
Counsel	Chris Apallas	Attorney I

Background

The Public Resources Code requires the District to have the above District Officers (with the exception of Counsel, which is optional). The Public Resources Code also indicates that the District may contract with the County to obtain the services of these District Officers as well as other support services that may be needed. The Board of Supervisors has, in its past actions and discussions regarding the formation of the District, assumed that at least initially the County would provide support services to the District, and the County would provide the funding necessary for these support services. Nonetheless, until a Support Services Agreement is approved by both the District and the County, the appointment by the District Board of the above persons to fill District Officer positions is conditioned on the willingness of the County to provide the required services.

Based on their experience and job assignments with the County, the persons identified above are the logical ones to fill the designated positions. The duties associated with these positions have been reviewed with the named persons, and both they and the County Executive Officer concur with these designations.

The draft By-Laws included in a previous agenda item describe the basic duties of these District Officers. As the District gains experience, the Board may want to develop more detailed descriptions of the powers and responsibilities associated with each position.

These assignments do have a few features which should be noted at this time. First, the Controller provides an internal audit and control function, including tracking all revenues and expenditures and the writing of all checks, but does not include the required independent audit function. It is staff's intention to add an independent audit of the District to the County's independent audit contract. This matter will be brought back to the Board of Directors when it is time to make that amendment to the County's contract.

Second, for practical purposes, for the County Auditor/Controller to serve as District Controller, the County's Treasurer needs to be the District's Treasurer. This is both efficient and reasonable given that the District's primary source of financial support is the County. However, this does mean that any revenues the District obtains, whether from the County or from outside sources, must be invested according to the County's investment policy. This policy is designed to first and foremost assure the safety and liquidity of public funds, and not to maximize long-term investment returns. The investment policy is not necessarily appropriate for managing enterprise fee-based revenues or gifts earmarked for specific purposes, such as for endowments. Faced with similar constraints, many other park district and departments have established affiliated 501(c)(3) non-profit foundations specifically for the purpose of managing gifts and other non-tax based revenues. This is an option which the District Board will want to consider in more detail at a later date.



STAFF REPORT

Date: January 8, 2007
Agenda Item: 4.G
Subject: Discussion and possible action on adoption of District Seal and District Logo

Recommendation

Adopt the graphic provided at the top of this page as the District Seal and Logo.

Background

Public Resources Code Section 5539 provides that the District may adopt a seal and alter it at pleasure. A seal is needed for various official acts of the District. The District may at some point want to undertake a deliberative process for developing a seal. However, at least in the interim, staff recommends adopting the graphic above for use as the District seal and logo on stationary and other documents.



STAFF REPORT

Date: January 8, 2007
Agenda Item: 4.H
Subject: Discussion and possible adoption of Local Procedures for Implementing the California Environmental Quality Act

Recommendation

Adopt the attached draft Local Procedures for Implementing the California Environmental Quality Act

Background

Any discretionary action by the District which could have a physical effect on the environment is subject to the California Environmental Quality Act (CEQA), unless specifically exempted by the Act or the State Guidelines for implementing the Act. CEQA requires all government jurisdictions to adopt local procedures for how they will implement CEQA.

The attached draft local procedures are based on those adopted by the County of Napa, modified as necessary to fit the District's structure and purposes. It is essential for the District to adopt local procedures now, so that potential upcoming projects are not delayed due to lack of adopted procedures. These local procedures can be modified in the future at any time.

Napa County Regional Park and Open Space District

Local Procedures
For Implementing the
California Environmental Quality Act

D R A F T

January 8, 2006

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NAPA COUNTY REGIONAL PARK AND OPEN SPACE DISTRICT

LOCAL PROCEDURES FOR IMPLEMENTING THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

The following local procedures for implementing the *California Environmental Quality Act* (“CEQA”) are adopted pursuant to this Act and Section 15022(a) of the State Guidelines (the “*State CEQA Guidelines*”). These local procedures (the “*District CEQA Guidelines*”) supplement the *State CEQA Guidelines* (Title 14 California Code of Regulations Section 15000, et seq.), as may be amended from time to time hereafter. For actions taken by the Napa County Regional Park and Open Space District (the “District”), the *State CEQA Guidelines* must be used in conjunction with the *District CEQA Guidelines* in order to determine the local policies and procedures to be followed in implementing CEQA. Cross-references to relevant sections in the *State CEQA Guidelines* are provided in this document. In case of conflict, the provisions of the *State CEQA Guidelines* shall control.

(*State CEQA Guidelines* Section 15022(a) requires that each public agency issue local procedures for implementing the *State CEQA Guidelines* in order to ensure the orderly evaluation and preparation of environmental documents. Such procedures shall be revised when needed to be kept current with changes to the *State CEQA Guidelines*; however, *State CEQA Guidelines* shall take precedence even if the local procedures are not updated).

CHAPTER 1. INTENT AND GENERAL PROVISIONS

Section 100. Intent.

These local *District CEQA Guidelines* are established, adopted and intended to meet the requirements of Section 15022(a) of the *State CEQA Guidelines* and to provide the public with information on the detailed criteria, policies, and procedures used by the District in the environmental review process.

Section 101. Applicability. [State CEQA Guidelines §15022(b)]

The rules and procedures established in these guidelines are applicable to both public and private projects under the jurisdiction of the District

Section 102. Compliance Required Prior to Project Approval. [State CEQA Guidelines §15004]

No project or permit shall be approved nor shall any permit be issued or approval given by any District official or body until all procedures required by the *State and District CEQA Guidelines* have been completed, including if required the preparation and certification of a Final Environmental Impact Report (FEIR) by the District. Compliance with CEQA shall be included in the planning process as early as possible in order to allow incorporation of environmental considerations into the design of the project.

Section 103. Public Records. *[Public Records Act]*

- (a) All final documents prepared pursuant to these rules shall be available for public inspection at the official office for the District, which is the Conservation, Development and Planning Department of the County of Napa, 1195 Third Street, Room 210, Napa, California. Drafts and working papers shall not be considered final documents.
- (b) All reports and documents submitted other than proprietary reports, confidential archaeological and special status species location studies and other confidential information shall be available for public inspection at the official office for the District.

Section 104. Use of Consultants. *[Authorized by State CEQA Guidelines §§15045, 15074, 15090, 15356, implemented via local procedure below]*

- (a) The District may from time to time use consultants to fulfill its obligations under CEQA including, but not limited to, the preparation of Initial Studies, Negative/Mitigated Negative Declarations, and EIRs. Either a Request for Proposal (RFP) or a sole source contract process may be used at the discretion of the General Manager.
 - (b) All consultant-prepared environmental documents utilized shall be prepared under contract with the District using the most current version of the District's Professional Services Agreement.
- (c) For projects not sponsored by the District, the project sponsor shall pay the full costs of draft and final document preparation including both consultant and District oversight and review costs. A deposit to cover District oversight and review costs shall be paid at the time of application. The deposit shall be made prior to the District contracting with a consultant and prior to commencement of document preparation and in no case later than thirty (30) days after issuance of the letter from the General Manager indicating the estimated cost to produce the document(s) involved.
- (d) When the General Manager determines that it is necessary to contract with a consultant to prepare an environmental document or document(s) for a public project, the final choice of consultant shall be made by the General Manager or, for contracts over \$10,000, the District Board of Directors based on:
 - (1) the scope-of-services proposed;
 - (2) the experience of the consultant with evaluating the type of project involved;
 - (3) the availability of the special expertise needed to adequately address the main environmental impacts expected;
 - (4) past experience with the firm and individuals involved; and
 - (5) the cost and time required to prepare the document.
- (e) No firm or person having a financial interest in a project shall be employed to prepare environmental documents on that project.

Section 105. Notice Generally. [*State CEQA Guidelines §§15072 and 15087 for (a)-(c); Local Procedure for (d)*]

- (a) The General Manager should make a concerted effort to provide early notice and solicit comments on environmental documents from the public and interested organizations so that a broad range of interests and opinions are available to decision-makers regarding the impacts of projects.
- (b) Any required notice shall be deemed given on the date of mailing, the date of posting or the first day of publication, whichever is later.
- (c) Errors, irregularities or neglect in the preparation of any required notice shall not in any way affect the validity or legality of the adoption or certification of environmental documents or approval or disapproval of a project unless such error, irregularity or neglect is clearly substantial and prejudicial and that by reason of such error, irregularity or neglect the party complaining suffered substantial injury and that a different result would have been probable if such error, irregularity or neglect had not occurred.

CHAPTER 2. DEFINITIONS

Section 200. General.

The following definitions which are specific to the District are intended to supplement the definitions found in Article 20 of the *State CEQA Guidelines*:

“Baseline Data Report” (BDR) means a master environmental assessment (MEA) as specified in Section 15169 of the *State CEQA Guidelines*, adopted by the County of Napa or the District, that contains a comprehensive inventory of the environmental and resource conditions at a specified time in all or a portion of the County, thereby setting the baseline for future environmental analysis in the area covered. An adopted BDR may be used in evaluating the impacts of future actions under CEQA and may be incorporated by reference into future environmental documents.

“Board” means the Board of Directors of the Napa County Regional Park and Open Space District

“County” means the County of Napa.

“District Official” means the General Manager or other District staff member responsible for approving the project or permit under consideration.

“Cumulative Impact” refers to two or more individual effects which, when considered together, are incrementally considerable or which compound or increase other environmental impacts to levels that are considered significant. The individual effects may be changes resulting from a single project or a number of separate projects. The cumulative impact from several projects may be deemed environmentally considerable and significant, when the combined or individual incremental impacts from one or all of the projects are taken into account along with other closely related, past, present and reasonably foreseeable probable future projects. “Past projects” are those projects

approved with still valid permits or undertaken in the last ten years. “Reasonably foreseeable probable future projects” are those projects currently under environmental review by the District or other agency with jurisdiction within the geographical limits of the District, those projects anticipated as later phases of previously approved projects, and public projects where money has been budgeted or the project has been included as part of an approved improvement plan. *[State CEQA Guidelines 15355]*

“**Days**” means business days, Saturdays, Sundays and County-recognized holidays, unless otherwise stated.

“**Decision-Making Body**” means the Board or District Official that has the ultimate responsibility for approving the project or permit under consideration.

“**Drainage**” means one of those drainages depicted on the County Drainage Areas map maintained by the County Planning Department.

“**Environmental Resource of Critical Value or Hazardous Concern**” means those resources required to be evaluated by the *State CEQA Guidelines*, and shall be evaluated based on delineation in the County’s Environmental Resource Mapping System (where such maps are available) or by observation and documentation in the field by a qualified professional.

“**Environmental Resource Mapping System**” means a set of hardcopy and electronic maps and related information maintained by the County Planning Department delineating, among other things, environmental resources and hazards within the County. *[Local Definition]*

“**Environmentally Sensitive Area**” means an area containing one or more environmental resources of critical value or hazardous concern that may affect or be affected by the specific project involved. *[Local Definition]*

“**General Rule Finding**” means a finding that it can be seen with certainty that there is no possibility the proposed action may have a significant effect on the environment and therefore CEQA is not applicable. *[State CEQA Guidelines §15061(b)(3)]*

“**Groundwater Deficient Area**” means the area shown on Map 13-1 (as may be amended), in Chapter 13.15 of the Napa County Code as well as any additional area formally identified by an ordinance adopted by the Board of Supervisors. *[Local definition, as defined by referenced Code Section]*

“**Mitigation Monitoring Program**” means a program specifying all mitigation measures adopted, the party responsible for implementing the measure, the timing for implementation, the party responsible for ensuring compliance, and the monitoring schedule to be followed in accordance with CEQA. It does not include other non-CEQA related conditions of project or permit approval. *[State CEQA Guidelines §15097]*

“**Permit**” means any permit, lease, license, certificate, approval, or other entitlement for use. *[State CEQA Guidelines §15378]*

“**Phase 1 Groundwater Extraction Standards**” means those standards implemented by the Department of Public Works in 1991 (or as amended in the future) which establish thresholds above which additional groundwater studies are required. *[Local Program]*

“General Manager” means the employee or contractor appointed by the Board as the General Manager of the District, or his/her designee.

“Project Sponsor” means any person, including private parties and public agencies, applying to the District for a permit along with the owner(s) of the property(ies) on which the project (including all accessory facilities) is located, **OR** any officer of the District who has the responsibility to carry out a public project for the District. *[State CEQA Guidelines §15377, 15379]*

“Scenic Resource” means, but is not limited to, a scenic vista; a prominent ridgeline or rock outcropping as defined by the County’s Viewshed Protection Program (Chapter 18.106 of the County Code); a visible historic rock wall; a stone bridge; or a historic building. *[State CEQA Guidelines, Appendix G, and Local Ordinance]*

“Special-status Animals” means animals that meet the definition of “rare, endangered, or threatened” under CEQA. *[State CEQA Guidelines §15380]*

“Special-status Plants” means plants that meet the definition of “rare, endangered, or threatened” under CEQA. *[State CEQA Guidelines §15380]*

“Special-status Species” means all special status animals and plants. *[State CEQA Guidelines §15380]*

“Special-status Species Habitat” means the physical and/or biological environment on which a special-status plant or animal species depends for its survival. *[State CEQA Guidelines §15380]*

“State CEQA Guidelines” means those guidelines adopted by the Resources Agency of California that are found in Title 14, Chapter 3 of the California Code of Regulations, commencing with Section 15000.

“Stream” means any stream as defined in Section 18.108.030 of the County Code. *[Local Ordinance]*

“Threshold of Significance” means an identifiable quantitative, qualitative or performance level for a particular environmental effect, exceedence of which means the effect will normally be determined significant and non-exceedence of which means the effect will normally be determined insignificant. *[State CEQA Guidelines §15064.7]*

CHAPTER 3. RESPONSIBILITIES

The responsibilities for implementation of CEQA for the District are as follows:

Section 300. Board of Directors.

When the Board of Directors is the decision-making body on a project, the Board is responsible for certifying the Final EIR, adopting a Negative/Mitigated Negative Declaration, or determining that the project is exempt from environmental review; considering the environmental document prepared prior to taking action on the project; and for making the findings required by *State CEQA Guidelines* Sections 15091 (Findings) and 15093 (Statement of Overriding Considerations).

The Board of Directors shall also act as the appeal board for District Official actions on environmental determinations, Negative/Mitigated Negative Declaration adoptions, determinations that an EIR is required, and Final EIR certifications. In addition, the Board shall set the procedures for implementing CEQA in the District by adopting *District CEQA Guidelines*, and be responsible for adopting any thresholds of significance promulgated.

Section 301. reserved

Section 302. District Official.

When a District Official is the decision-making body on a project, he/she is responsible for certifying the Final EIR, adopting a Negative/Mitigated Negative Declaration, or determining that the project is exempt from environmental review; considering the environmental document prepared prior to taking action on the project; and for making the findings required by *State CEQA Guidelines* Sections 15091 (Findings) and 15093 (Statement of Overriding Considerations).

Section 303. General Manager.

The General Manager or his/her designee is responsible for:

- (a) carrying out all environmental reviews undertaken by the District;
- (b) obtaining comments from other agencies on the expected environmental effects of a project;
- (c) identifying appropriate measures to reduce the potentially significant effects of a project to non-significant levels;
- (d) preparing and processing all environmental documents prepared by the District;
- (e) preparing Mitigation Monitoring and Reporting Programs where required;
- (f) reviewing and commenting on all environmental documents submitted to the District by other public agencies;
- (g) preparing, distributing and filing applicable environmental notices, including a Notice of Intent, Notice of Preparation, and Notice of Completion, and those Notices of Exemption and Notices of Determination for projects approved by the Board or District Official;
- (h) collecting Fish and Game fees or preparing fee exemptions, and de minimus findings;
- (i) developing, coordinating and implementing the District's environmental review procedures consistent with policy direction provided by the Board of Directors;
- (j) establishing informal working thresholds of significance and proposing formal thresholds; **AND**

Section 304. County Clerk/Recorder.

The Napa County Clerk/Recorder is responsible for filing and posting all Notices of Intent, Completion, Exemption, and Determination for projects approved by the District. In addition, the Clerk/Recorder receives all Fish and Game fees collected, distributes them to the State, and processes fee exemptions and de minimus findings.

CHAPTER 4. INITIAL ENVIRONMENTAL REVIEW

Section 400. reserved

Section 401. Project Completeness and Acceptance for Filing. [*State CEQA Guidelines §§15101 and 15111*]

- (a) No application for a permit shall be deemed complete, received for filing, or processed unless and until:
- (1) all information required by the General Manager to complete an Initial Study or make a determination that the underlying project is categorically exempt has been received, **OR**
 - (2) the General Manager has determined pursuant to these and the *State CEQA Guidelines* that the underlying project is not a project under CEQA, is ministerial rather than discretionary in nature, clearly has no potential to have a significant effect on the environment, or is statutorily exempt from environmental review.

The type of information needed to complete an Initial Study or make a determination that a project is categorically exempt will in most circumstances be listed on the Application Completeness Checklist for the type of permit being requested.

- (b) If the General Manager determines that adequate information has not been submitted to complete a preliminary environmental review and, if necessary, an Initial Study, the project sponsor shall be notified in writing within thirty (30) days of application receipt that the application is incomplete. Any such notification shall state what additional information including fees must be submitted before environmental review can be initiated.
- (1) This preliminary determination of incompleteness may be challenged by the project sponsor in writing within ten (10) working days and appealed to the Board if re-confirmed by the General Manager.
 - (2) Failure to provide the required information within one-hundred twenty (120) days of issuance of a Completeness Determination or thirty (30) days of issuance of a Request For Deposit Submission shall cause the application to be deemed “abandoned” without further notice or action unless the General Manager gives a written extension to the deadline involved. Once an application is deemed abandoned, no further work shall be done on the project without submission of a new application and payment of new fees.
- (c) Notwithstanding subsection (a), accepting an application as complete does not limit the District’s authority to require the applicant to submit needed additional information needed for environmental evaluation of the project. Failure to provide this information within one hundred twenty (120) days of issuance of a Request For Additional Environmental Information or a Request For Additional Deposit Submission shall be treated in the same manner as failure to provide the information requested in a Completeness Determination (see Section 401(b)(2) above).

- (d) Notwithstanding subsection (a), where a District Official or body is required by law to take action on an application within a short time period and the requirements of *State CEQA Guidelines* Section 15111 are met, the permit application shall not be deemed received for filing and the time period within which the application must be approved or denied shall not begin to run until either:
- (1) a tentative finding that the project is exempt from further environmental review has been made by the General Manager,
 - (2) the fifteenth (15th) day following the close of the public review period on the proposed Negative/Mitigated Negative Declaration prepared, OR
 - (3) the forty-fifth (45th) day following the close of the public review period on the draft EIR produced.

Section 402. Project Segmenting. [*State CEQA Guidelines §15378*]

A project is defined as the “whole of an action” and may not be segmented nor divided into smaller parts in an attempt to avoid full consideration of its environmental impacts. Thus, all of the separate permits and approvals for a particular project shall be considered together (along with the underlying activity itself) when determining the project’s environmental effects. The environmental review of a project must include an analysis of the environmental effects of future expansion or other action if: (a) such future expansion or other action is a reasonably foreseeable consequence of the initial project; and (b) the future expansion or action will be significant in that it will likely change the scope or nature of the initial project or its environmental effects. When actions are remote or speculative, so that meaningful information regarding their impacts is unavailable, they are not reasonably foreseeable parts of a particular project and therefore need not be considered at the same time. However, under such circumstances, some type of tiered or staged environmental review will be required.

Section 403. Project Revisions. [Local procedure]

Any revised or amended project shall be treated as a new project for purposes of determining the time period within which CEQA processing must be completed and the project approved or denied unless the revision is found by the Planning Director to be minor and/or technical. A revision or amendment implemented via submission of a Project Revision Statement shall not be deemed either a minor or technical change.

Section 404. Early Consultation. [*State CEQA Guidelines §15063(g)*]

Once the General Manager determines that a project is complete, the the General Manager or his/her designee shall distribute a request for comments on the expected environmental effects of the project to all responsible agencies, trustee agencies, and other agencies and organizations that in the opinion of the General Manager have an interest in the project or applicable special expertise. The request may be combined with the request for comments on the project itself but at a minimum shall include a request to identify potential impacts, possible mitigation measures, including needed project revisions, and comments on the type of environmental document that should be prepared.

Section 405. Preliminary Environmental Evaluation. *[State CEQA Guidelines §§15060 and 15061]*

A preliminary evaluation is conducted to decide whether or not an Initial Study is required. This process consists of the General Manager determining:

- (a) whether or not the proposal is a project under CEQA *[State CEQA Guidelines §15378]*;
- (b) if a project, whether or not it is discretionary *[State CEQA Guidelines §15357]*;
- (c) if discretionary, whether or not it is exempt under a General Rule finding *[State CEQA Guidelines §15061(b)(3)]*;
- (d) if not exempt under a General Rule finding, whether or not it is statutorily or categorically exempt *[State CEQA Guidelines Articles 18 and 19]*; **AND**
- (e) if not statutorily or categorically exempt, whether the project is approvable or likely to be approved under current regulations, conditions, and general plan provisions.

A list of non-discretionary (ministerial) projects for the District is contained in Appendix A. The District projects that are typically categorically exempt are identified in Appendix B.

If the proposal is not a project, is not discretionary, meets General Rule findings, is statutorily or categorically exempt, or recommended for denial, no further environmental review is required and the General Manager or his/her designee prepares and files a Notice of Exemption. Otherwise an Initial Study must be prepared.

Section 406. Initial Study Preparation. *[State CEQA Guidelines §§15063 and 15064]*

If a proposed project is not exempt from CEQA, the General Manager or his/her designee shall prepare an Initial Study to determine whether a Negative/Mitigated Negative Declaration or an EIR is required for the proposed project unless it is clear that the project will have an unavoidable significant effect on the environment. In that case, preparation of an Initial Study is optional. A standard Initial Study form maintained by the District shall be used. If after careful consideration an effect is found by the General Manager to be too speculative for evaluation, the Initial Study shall note that fact and terminate discussion of that impact. Speculative effects shall not be considered potentially significant impacts.

If the Initial Study determines, based on substantial evidence in light of the whole record, that the project has no potential to have a significant effect on the environment then a negative declaration must be prepared (see Chapter 6). If the project may have one or more significant impacts on the environment, then preparation of an EIR (see Chapter 7) is required. However, if revisions or mitigation measures can be applied to the project that would clearly reduce all impacts to a level of insignificance, **AND** the applicant agrees to these in writing, then a mitigated negative declaration may be prepared (see Chapter 6).

Section 407. Thresholds of Significance and Administrative Practices. [*State CEQA Guidelines §15064.7*]

- (a) As appropriate, the District may develop administrative practices and/or adopt as part of these guidelines thresholds of significance to assist in the determination as to whether a particular environmental effect will be deemed significant. Where a low threshold is established, it is to ensure that all potentially significant effects are addressed with respect to an environmental issue that is particularly sensitive to the District. Administrative practices are based upon well-defined and supported past practices utilized by the District or, in the absence of practices defined by the District, by the County. Thresholds, if adopted, shall be formally adopted by ordinance or resolution and shall be developed through a public review process and be supported by substantial evidence including the opinions of qualified experts, standards established in formally adopted regional plans (such as BAAQMD, TMDLs, waste discharge guidelines, etc.) and information from previously adopted EIRs.
- (b) Thresholds of significance and administrative practices shall be reviewed and modified from time to time as deemed necessary. The adoption and revision of formal thresholds of significance shall include CEQA review and a public hearing before the Board.
- (c) Generally, exceedence of a stated threshold means an effect will be deemed significant. However, in the event the proposed project has an environmental effect that complies with a threshold but the record contains credible evidence that the effect would be significant in the particular case involved, the District shall consider the effect significant.

Section 408. Previous Prepared District Environmental Document. [*State CEQA Guidelines §15162(a)*]

- (a) If a previous EIR or Negative/Mitigated Negative Declaration that covers the subject action has been certified/adopted by the District within five years of project submission and none of the findings specified in the above-cited section requiring the preparation of a subsequent environmental document can be made, the General Manager or his/her designee shall complete an Adequacy of Existing Environmental Document Finding Form. The document shall thereafter be conclusively presumed to be adequate and the decision-making body shall simply read and consider the document and incorporate any mitigation measures contained therein into the project.
- (b) If a previous EIR or Negative/Mitigated Negative Declaration that covers the subject action has been certified/adopted by the District more than five years before project submission, an Initial Study shall be used to determine whether the current project has been adequately reviewed therein. If none of the findings specified in the above-cited section requiring the preparation of a subsequent environmental document can be made, the General Manager or his/her designee shall complete an Adequacy of Existing Environmental Document Finding Form. Otherwise the document shall be recirculated and processed pursuant to the provisions of Section 15073.5 or 15088.5 of the *State CEQA Guidelines*.

CHAPTER 5. EXEMPT PROJECTS

Section 500. General.

Projects that are ministerial in nature, meet General Rule findings, are statutorily exempt, are categorically exempt, or are denied do not require the preparation of an Initial Study, an EIR or a Negative/Mitigated Negative Declaration. However, when a project involves elements, some of which are exempt in nature and some of which are not, the project will be deemed non-exempt and an Initial Study must be prepared.

Section 501. Ministerial Projects. *[State CEQA Guidelines §15268]*

Appendix A contains the list of projects that the Board has found to be ministerial in nature. However, when a project involves elements, some of which are ministerial in nature and some of which are discretionary, the project will be deemed discretionary and subject to CEQA review.

Section 502. General Rule. *[State CEQA Guidelines §15061(b)(3)]*

A project is exempt from the requirements of these regulations if it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment.

Section 503. Statutory Exemptions. *[State CEQA Guidelines §15260]*

Those exemptions granted by the State legislature are listed in *State CEQA Guideline* sections 15260 through 15285, and as may be amended.

Section 504. Categorical Exemptions. *[State CEQA Guidelines §15301-15332]*

In addition to those specific projects listed above, the Board has found several other kinds of projects that typically do not have a significant impact on the environment. Therefore pursuant to Section 15300.4 of the *State CEQA Guidelines*, the District hereby adds the activities and permits listed in Appendix B to the list of Class Numbers 1, 3, 4, and 5 activities that are categorically exempt for the District.

Section 505. Categorical Exemption Use Limitations. *[State CEQA Guidelines §15300.2(a)-(f) and local ordinance (g)]*

A categorical exemption shall not be used if any of the following conditions apply:

(a) **Location**

Classes 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located -- a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. Therefore, these classes are considered to apply in all instances, except where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies.

- (b) **Cumulative Impact**
The project may have a significant effect when the cumulative impact of successive projects of the same type in the same place are considered.
- (c) **Significant Impact**
The project has a reasonable possibility due to unusual circumstance of having a significant impact on the environment.
- (d) **Scenic Highways**
The project may result in damage to scenic resources that are visible to the naked eye from a designated roadway. This does not apply to improvements that are required as mitigation in an adopted Negative/Mitigated Negative Declaration or a certified EIR.
- (e) **Hazardous Waste Sites**
The project is located on or in the immediate vicinity of a hazardous waste site as delineated in the County Environmental Resource Mapping System and has the potential to effect or be affected by the hazard involved.
- (f) **Historical Resources**
The project may cause a substantial adverse change as defined by the State Office of Historic Preservation or a qualified professional in the significance of a historical resource.
- (g) **Groundwater Extraction in Excess of the Phase 1 Groundwater Extraction Standards**
The project proposes to extract groundwater in excess of the Phase 1 groundwater extraction standards as set by the County Department of Public Works.

Section 506. Denial of Projects. [State CEQA Guidelines §15061(b)(4)]

Projects that the District rejects or disapproves are not subject to CEQA. This provision, however, does not relieve a project sponsor from paying the costs for an EIR, Negative/Mitigated Negative Declaration, Initial Study, or preliminary environmental evaluation if prepared.

CHAPTER 6. NEGATIVE/MITIGATED NEGATIVE DECLARATION PROCESS

The following provisions are added as procedural clarifications of *State CEQA Guidelines* Sections 15070 - 15075 with respect to Negative/Mitigated Negative Declarations for the District.

Section 600. Negative Declaration. [State CEQA Guidelines §15070]

If the General Manager finds, based on the Initial Study that there is no substantial evidence, in light of the whole record, that the project may have a significant effect on the environment, the General Manager or his/her designee shall prepare a Negative Declaration for consideration by the decision-making body for the permit(s) involved.

Section 601. Mitigated Negative Declaration. *[State CEQA Guidelines §15070]*

If the General Manager finds, based on the Initial Study that the proposed project may have possible adverse significant impacts on the environment, but through revisions to the project or imposition of mitigation measures, such impacts would be mitigated or avoided so that no significant impacts remain, **AND** there is no substantial evidence in the entire record that significant impacts would result from the revised project; then the General Manager or his/her designee shall notify the project sponsor(s) and provide them with a copy of the list of proposed mitigation measures that the project could incorporate to avoid all potentially significant effects. Once the project sponsors agree to these or functionally equivalent revisions/mitigation measures and signs the Project Revision Statement indicating same, the Planning Department will then prepare a Mitigated Negative Declaration for public review and consideration by the decision-making body on the permit(s) involved.

Section 602. Contents. *[State CEQA Guidelines §15071]*

The Negative/Mitigated Negative Declaration must contain all items required by *State CEQA Guidelines* Section 15071. In addition, the following documents must also be included as part of the Negative/Mitigated Negative Declaration:

- (a) a completed one page Negative/Mitigated Negative Declaration form, **AND**
- (b) a completed Mitigation Monitoring and Reporting Program form [Mitigated Negative Declarations only].

Section 603. Public Notice and Review. *[State CEQA Guidelines §15072 and 15073]*

A Notice of Intent to Adopt a Negative/Mitigated Negative Declaration shall be provided in accordance with *State CEQA Guidelines* Section 15072.

- (a) The District shall provide such notice in the following manner:
 - (1) Publication at least one time in a newspaper of general circulation in the area potentially impacted;
 - (2) Mailing of the notice to the owners of all parcels within 300 feet of the boundaries of the parcel(s) on which the project is located plus those parcel owners adjacent to areas to be disturbed by off-site work at their last known address on the latest equalized assessment roll;
 - (3) Mailing of the notice to responsible agencies, trustee agencies, and the County Clerk/Recorder; **AND**
 - (4) Mailing of the notice to organizations and individuals who have requested special notice in writing.
- (b) A copy of the proposed Negative/Mitigated Negative Declaration shall be sent to the following entities:
 - (1) all responsible agencies, trustee agencies, and agencies with jurisdiction by law over the project;
 - (2) all organizations and individuals requesting the document; **AND**
 - (3) the State Clearinghouse if a state agency is a responsible or trustee agency or otherwise has jurisdiction by law over natural resources affected by the project or if the project is of statewide, regional or area-wide significance

as that term is defined in the *State CEQA Guidelines*. In that case, a Notice of Completion shall be filed replacing the Notice of Intent.

- (c) If a comment is not received during the public review period from an agency or person, it shall be assumed, absent a request for a specific extension of time that said agency or person has no comment to make.

Section 604. Notice of Determination. [*State CEQA Guidelines §15075*]

- (a) Whenever the Board or District Official approves a permit or authorizes a project for which a Negative/Mitigated Negative Declaration has been prepared, the General Manager or his/her designee shall file within 5 **working** days of their action a Notice of Determination with the County Clerk/Recorder. In addition, if the project requires discretionary approvals from one or more state agencies, the Notice of Determination shall also be filed with the State Office of Planning and Research within this same 5-day period. In this latter case, the period during which the adequacy of the adopted document may be challenged in court shall start on the day the Notice of Determination is posted by the State Office of Planning and Research.
- (b) (c) In accordance with Section 711.2 of the Fish and Game Code, if a project impacts plants or animals, a fee payable to the State Department of Fish and Game must accompany the Notice of Determination unless the General Manager finds that a “de minimus” effect on plants and animals will result. In that case, a “De Minimus” Fee Exemption form must be filed with the Notice of Determination.
- (d) Payment of any Fish and Game fees (unless a “de minimus” finding is made) is the responsibility of the project proponent. Payment must be received before the decision-making body holds a hearing on or decides on the adequacy of the Negative/Mitigated Negative Declaration prepared.

CHAPTER 7. ENVIRONMENTAL IMPACT REPORT (EIR) PROCESS

The following provisions are added as procedural clarifications of *State CEQA Guidelines* Sections 15080–15097, 15120–15132, and 15140–15154 with respect to the preparation and processing of EIRs for the District.

Section 700. EIR Production. [*State CEQA Guidelines §§15081 and 15081.5*]

If the General Manager finds, based on the Initial Study that there is substantial evidence in the record as a whole that a project may have a significant adverse effect on the environment, or if an EIR is required by statute (see *State CEQA Guidelines* Section 15081.5), the General Manager shall notify the project sponsor in writing within fifteen (15) days that an EIR must be prepared.

Section 701. Contents of an EIR. [*State CEQA Guidelines §15120-15132*]

An EIR produced by/for the District must contain all items required by *State CEQA Guidelines* Sections 15120-15132, be organized in the manner specified in the District’s

Standard EIR Outline (see Appendix C), and meet the District's EIR Formatting Guidelines (see Appendix D). In addition, it must meet the requirements of *State CEQA Guidelines* Sections 15140-15152 and 15154.

Section 702. Processing an EIR. [*State CEQA Guidelines §§15080-15097*]

The following provisions are hereby added to the above-cited sections of the *State CEQA Guidelines* to clarify the preparation and processing of EIRs by the District.

Section 702.1 Notice of Preparation (NOP). [*State CEQA Guidelines §15082*]

A Notice of Preparation notifying responsible and interested agencies about the project and soliciting their comments on the scope and content of the EIR shall be prepared by the General Manager or his/her designee. This notice shall be sent by certified mail to the project sponsor, all responsible and trustee agencies, and all federal agencies involved in approving or funding the project. If State agencies are involved then the NOP shall also be sent to the State Clearinghouse. A copy of the NOP shall also be delivered to the County Clerk/Recorder for posting for thirty (30) days. A list of agencies that are typically sent the NOP shall be maintained by the Planning Department.

Section 702.2 Scoping. [*State CEQA Guidelines §15083*]

The scope of the EIR prepared is determined using the following sources: the Initial Study, if one is produced, previous environmental documents, responses to the NOP, consultation with other agencies, and public scoping meetings, if held. A public scoping meeting may be incorporated into the NOP process and is typically held by the consultant preparing the EIR with assistance from the General Manager or his/her designee.

Section 702.3 Preparation of Administrative Draft EIR. [*Local procedure*]

The pre-circulation draft of an EIR is referred to as the administrative draft. This draft is considered a working document to be circulated among District staff and any responsible agencies, where appropriate, for their comment on its accuracy and adequacy. It is not available for public or project sponsor review though the project description may be distributed to the project sponsor to ensure that the project has been accurately depicted. Copies of the administrative draft EIR shall be destroyed upon release of the DEIR.

Section 702.4 Public Review of Draft EIR. [*State CEQA Guidelines §§15085, 15087, 15105*]

- (a) The General Manager shall provide public notice of the availability of the Draft EIR for review and comment in the same manner as specified in Section 603(a)-(c) for a Negative Declaration. In addition a copy of the Draft EIR shall be sent to the nearest branch of the Napa City/County Library at the same time a Notice of Completion is sent to the State Office of Planning and Research. The contents of the public notice shall be as specified in *State CEQA Guidelines* Section 15087(c).
- (b) The normal public review period for a Draft EIR in the District shall be 45 days unless a shorter period of not less than 30 days is approved by the State Clearinghouse. [*State CEQA Guidelines §15105*]

- (c) A public hearing on a Draft EIR is not required under CEQA and is not typically held by the District when the decision-making body is the General Manager or his/her designee. When the decision-making body is the Board, a public hearing should, when deemed appropriate by the General Manager, be held during the public review period to solicit additional public comments.

Section 702.5 Final EIR. *[State CEQA Guidelines §15132]*

The Final EIR consists of the text of the Draft EIR revised as necessary to reflect those comments received that require text changes, all comments received on the Draft EIR, the District's responses to said comments, and a list of all persons and agencies that were asked to comment or commented on the Draft EIR.

Section 702.6 Notice of Determination (NOD). *[State CEQA Guidelines §15094]*

After certification of the final EIR and approval of the project, the General Manager or his/her designee shall prepare and file a Notice of Determination with the County Clerk/Recorder following the same procedure and with the same restrictions as specified in Section 604.

CHAPTER 8. MITIGATION MONITORING AND REPORTING PROGRAM
(MMRP)

Section 800. General. *[State CEQA Guidelines §15097]*

Pursuant to Public Resources Code Section 21081.6, all jurisdictions must have a method for monitoring compliance and implementation of adopted mitigation measures. The District Mitigation Monitoring and Reporting programs (i.e., MMRPs) shall be in conformance with *State CEQA Guidelines* Section 15097 as augmented by the provisions listed below.

Section 801. Adoption. *[State CEQA Guidelines §15097]*

- (a) At the time the District makes the required CEQA findings regarding the Mitigated Negative Declaration or EIR being used, the decision-making body shall adopt a program for monitoring and reporting on the mitigation measures as part of the project. Conformance with this program shall be a condition of project approval. As such, failure to comply with the provisions of the adopted MMRP will have the same consequences as failure to comply with any other condition of project approval.
- (b) The resultant adopted MMRP shall be distributed to all agencies, departments, and parties with monitoring or review responsibility thereunder.

Section 802. Contents. *[Local procedure]*

MMRPs shall include at a minimum the following information for each mitigation measure:

- (a) identification of the individual, department, agency, or other entity responsible for performing the mitigation measure;

- (b) identification of the timing for implementation of the mitigation measure;
- (c) identification of the specific results or performance standards that the mitigation is intended to accomplish if not clearly stated in the mitigation measure;
- (d) identification of the individual, department, agency, or other entity responsible for ensuring implementation of the mitigation measure;
- (e) identification of the frequency of inspections or other monitoring activities;
- (f) identification of when compliance completed;
- (g) a statement that the project sponsor shall pay all monitoring costs including but not limited to those included by the District; **AND**
- (h) a signature block for the project sponsor and the property owner.

Section 803. Compliance Assurance Responsibilities. *[Local procedure]*

- (a) Overall compliance shall be coordinated by the General Manager or his/her designee unless otherwise indicated in the adopted MMRP.
- (b) The General Manager or his/her designee may hire an outside consultant where mitigation measure compliance cannot be verified through the planning clearance process, where monitoring requires specialized expertise, or District staff is unavailable to do the necessary work. The cost of said consultant shall be paid by the project sponsor.
- (d) Other agencies shall monitor the mitigation measures that they request or that are within their area of expertise. The General Manager or his/her designee shall notify these agencies of the mitigation monitoring required. These agencies shall inform the District in writing when each of their mitigation measures has been complied with completely.
- (e) Upon full compliance with all the mitigation measures listed in the adopted MMRP, the General Manager or his/her designee shall sign and file in the project file the MMRP Form thereby documenting satisfactory completion of the MMRP.

Section 804. Fees. *[State CEQA Guidelines §15045]*

- (a) The District shall charge and collect from the project sponsor a fee in an amount equal to the actual costs to the District of implementing the adopted MMRP. This includes the costs associated with use of an outside consultant where the General Manager finds said use to be either necessary and/or convenient.
- (b) An initial deposit in an amount equal to the District's total estimated costs of implementing the adopted MMRP for the first three (3) years shall be submitted to the General Manager or his/her designee prior to issuance of the first building permit needed to commence work on the project. Any unused portion of this initial deposit that is not needed to pay for permanent or long-term monitoring will be refunded to the project sponsor upon fulfillment of all those MMRP provisions that do not involve such monitoring.
- (c) The project sponsor shall replenish the initial deposit every two (2) years so that the balance is high enough to pay for the estimated costs of monitoring compliance for three (3) years for those measures that require long-term or ongoing monitoring.

**CHAPTER 9. NAPA COUNTY REGIONAL PARK AND OPEN SPACE
DISTRICT AS A RESPONSIBLE AGENCY**

[State CEQA Guidelines §§15096 and 15253]

The following provisions are added as procedural clarifications of *State CEQA Guidelines* Sections 15096 and 15253 with respect to the responsible agency process for the District.

Section 900. Commenting on a Lead Agency’s Environmental Document. *[State CEQA Guidelines §15096]*

- (a) The General Manager or his/her designee shall make every effort to provide written comments on the draft Negative/Mitigated Negative Declaration, Notice of Preparation and/or Draft EIR prepared by the Lead Agency within the time frames specified in the *State CEQA Guidelines*. In addition, the District shall attempt to fully participate in any scoping sessions held.
- (b) The General Manager or his/her designee shall undertake a preliminary environmental review per Section 405 above and may fill out an Initial Study checklist (but not complete a discussion of the reasons for each check mark) for each project for which it is a responsible agency. The results of this process shall be used as a basis for the District’s comments to the Lead Agency.
- (c) The comments provided shall be limited to activities within the District’s area of expertise or jurisdiction. They shall at a minimum identify District standards, permit requirements, potentially significant impacts, alternatives to be analyzed, and any mitigation measures to be considered. In addition, a recommendation as to whether a Negative/Mitigated Negative Declaration, or EIR is the appropriate document for the Lead Agency to prepare shall be provided. The focus of the comments shall be to assist the Lead Agency in producing a defensible environmental document that meets the District’s needs.

Section 901. Failure of Lead Agency to Consult With District or Adequately Respond to Comments Provided. *[State CEQA Guidelines §15162]*

- (a) If the Lead Agency fails to consult with the District prior to adopting a Negative/Mitigated Negative Declaration or certifying an EIR for a project over which the District has permit authority, the Planning Department will review the document prepared. If the General Manager finds based on the review done that the document is adequate for District purposes, the District shall follow the procedures specified in Sections 903 and 904 below. However, if the General Manager finds that the document is inadequate for District purposes then the District shall take over the role of Lead Agency. The General Manager or his/her designee shall in that case follow the procedures specified herein in Chapters 4, 5 and 6 to prepare and process the environmental document needed.
- (b) If the Lead Agency fails in the opinion of the General Manager to adequately respond to the comments provided, the General Manager shall either:

- (1) commence preparation of a subsequent EIR or Negative/Mitigated Negative Declaration if permissible under section 15162 of the *State CEQA Guidelines*;
- (2) assume the lead agency role if permissible under section 15162 of the *State CEQA Guidelines*; **OR**
- (3) make a recommendation to the Board within ten (10) working days of the filing of the Notice of Determination for the project as to whether or not to pursue legal remedies.

Section 902. Use of a Lead Agency-Prepared Environmental Document. [*State CEQA Guidelines §15162*]

- (a) If a previous EIR or Negative/Mitigated Negative Declaration that covers the subject action has been certified/adopted by the Lead Agency within 5 years of permit submission and none of the findings specified in section 15162(a) of the *State CEQA Guidelines* requiring the preparation of a subsequent environmental document can be made, the General Manager or his/her designee shall complete an Adequacy of Existing Environmental Document Finding form. The document shall thereafter be conclusively presumed to be adequate.
- (b) If a previous EIR or Negative/Mitigated Negative Declaration that covers the subject action has been certified/adopted by the Lead Agency more than 5 years before permit submission, a full Initial Study shall be prepared and used to determine whether the current project has been adequately reviewed therein. If none of the findings specified in section 15162(a) of the *State CEQA Guidelines* can be made, the General Manager or his/her designee shall complete an Adequacy of Existing Environmental Document Finding form. The document shall then be re-circulated and processed pursuant to the provisions of *State CEQA Guidelines* Section 15073.5 or 15088.5.

Section 903. Approval of Project By District Acting as a Responsible Agency. [*State CEQA Guidelines §15096*]

- (a) In issuing approvals or taking any other discretionary action on a project for which the District is a responsible agency, the District shall certify that it has reviewed and considered the environmental effects of the project as shown in the Negative/Mitigated Negative Declaration or EIR prepared by the Lead Agency.
- (b) If an EIR has been produced, the District decision-making body shall adopt findings as set forth in *State CEQA Guidelines* Sections 15091 and 15093, if necessary.
- (c) Where the District decision-making body requires the implementation of mitigation measures or other project changes to substantially lessen or avoid significant environmental effects of activities under its statutory control, a MMRP consistent with Chapter 8 of these guidelines covering those changes and measures shall be adopted at the time of project approval.

Section 904. Limitations on the Power of District as a Responsible Agency to Require Changes in Project. *[Local Procedure]*

- (a) When the District acts as a responsible agency for a project, it may only require those changes in a project that lessen or avoid the effects, either direct or indirect, of that part of the project that the District will be called upon to carry out or approve.
- (b) When the District acts as a responsible agency, it may refuse to approve a project only in order to avoid direct or indirect adverse environmental effects of that part of the project the District must carry out or approve.

Section 905. Certified Equivalent Program: Use of Environmental Document Prepared In Lieu of a Negative/Mitigated Negative Declaration or EIR. *[State CEQA Guidelines §§15250-15253]*

An environmental analysis document prepared for a project pursuant to a certified equivalent program shall be used by the District as a substitute for an EIR or Negative Declaration/Mitigated Negative Declaration and no additional environmental document shall be required if the conditions in *State CEQA Guideline* Section 15253(b) are met. If a certified agency does not meet the criteria set forth in *State CEQA Guideline* Section 15253(b), the substitute document prepared shall not be used and the District shall act as the lead agency if it is the next agency required to grant an approval of the project. In this case CEQA shall be complied with in the usual manner for a Lead Agency.

CHAPTER 10. APPEALS

Section 1000. Appeals Permitted. *[Local Procedure]*

- (a) Any interested person who has commented during any noticed public review period on the adequacy of the environmental determination may appeal the determination made to the Board, subject to the payment of all District costs associated with processing the appeal.
- (b) Any appeal filed pursuant to Section 1000(a) above will suspend any further consideration of the project until a decision on the appeal is made by the Board. All time elapsed during the course of the appeal filed by the project sponsor and the first 60 days elapsed in the course of an appeal filed by other interested parties shall be considered a suspension of the time periods to complete the environmental document required and act on the project involved.

Section 1001. Content of Appeal.

An appeal filed pursuant to Section 1000(a) above shall not be set for hearing until and the appellant has agree in writing to pay all District costs associated with processing the appeal, and the relevant following statement (to the extent applicable) has been submitted to the Secretary of the Board by the appellant:

- (a) a detailed statement supported by substantial evidence for each insignificant or less than significant impact identified in the initial study that the appellant contends may be significant;

- (b) a detailed legal and factual statement indicating why the appellant contends that the project is not exempt; and
- (c) a detailed statement supported by substantial evidence describing why the Negative Declaration/Mitigated Negative Declaration or EIR is inadequate.

CHAPTER 11. FORMS

Section 1100. General.

The General Manager or his/her designee shall maintain and update from time to time as needed those forms listed below and incorporated by reference herein:

Preliminary Review Forms

- Environmental Assessment Background Information Sheet

Request for Additional Information Forms

- Completeness Determination
- Request For Additional Information
- Guidelines For Preparing
 - a) Geological Hazards Reconnaissance Surveys
 - b) Landslide Hazard Studies
 - c) Seismic Hazard Studies
 - d) Runoff, Stream Flow, and Flooding Studies
 - e) Erosion/Sedimentation Studies
 - f) Groundwater Studies
 - g) Biological Resources Reconnaissance Surveys
 - h) Special Status Plant Studies
 - i) Special Status Animal Studies
 - j) Cultural Resource Surveys

Exemption Preparation Forms

- Notice of Exemption

Initial Study Preparation Forms

- Initial Study

Negative Declaration Preparation Forms

- Proposed Negative/Mitigated Negative Declaration
- Project Revision Statement
- Notice of Intent to Adopt a Negative/Mitigated Negative Declaration
- Shortened State Review Period Request
- Standard Negative/Mitigated Negative Declaration Findings *(for District official)*

EIR Preparation Forms

- Notice of Preparation
- Notice of Completion
- Public Review Period Commencement Notice

- Mitigation Monitoring and Reporting Program
- Standard EIR Findings (*for District official*)
- Standard EIR Certification Letter

Filing Forms

- De minimus Finding for Fish and Game Fees
- Notice of Determination
- **Referral Forms**
- List of Public and Private Referral Agencies
- Request for Comments on the Environmental Effects of a Project
- Standard Response to Request for Comments

APPENDICES

- A. Ministerially Exempt Projects for the District**
- B. Additional Categorically Exempt Projects for the District**
- C. Standard EIR Outline**
- D. Standard EIR Formatting Guidelines**

APPENDIX A

MINISTERIALLY EXEMPT PROJECTS FOR THE DISTRICT

Pursuant to Sections 15022 and 15268 of the *State CEQA Guidelines* issuance/approval of the following permits by the District shall be conclusively presumed to be ministerially exempt from the requirements of CEQA and thus preparation of an environmental document is not required. However, where a project involves an approval that contains elements of both a ministerial action and a discretionary action, the project will be deemed discretionary and will be subject to the requirements of CEQA.

No permits meeting this criteria have been identified at this time.

APPENDIX B

ADDITIONAL CATEGORICALLY EXEMPT PROJECTS FOR THE DISTRICT

In addition to the exemptions contained in the *State CEQA Guidelines*, pursuant to Sections 15022(a)(1)(C) and 15300.4 of the *State CEQA Guidelines* the Board has found that the following types of projects typically do not have a significant effect on the environment and therefore qualify for a categorical exemption under the class of categorical exemptions listed below:

Class 1: Existing Facilities [*State CEQA Guidelines §15301*]

1. Existing roads, streets, highways, bicycle and pedestrian paths and trails, and appurtenant facilities. Repair, maintenance, reconstruction, replacement and minor expansion including, but not limited to:
 - (a) reconstructing, resurfacing and/or seal coating of the pavement;
 - (b) paving existing unpaved shoulders;
 - (c) widening the paved roadway by less than 8 feet or adding up to 4-foot wide unpaved shoulders;
 - (d) adding short auxiliary lanes when required for localized purposes such as weaving, turning, climbing, lane changing or accelerating or decelerating;
 - (e) adding non-motorized trails and walkways parallel to the existing roadway to separate such non-motorized uses from motorized traffic;
 - (f) installing landscaping within road right-of-ways that involves minimal earth disturbing activities;
 - (g) working on clear-span bridge structures, reconstructing existing stream crossings and making minor operational improvements to drainage facilities, provided that the construction of temporary stream bypasses is not involved;
 - (h) modifying to improve existing roadside or trailside safety features such as curbs, pikes, headwalls, slopes and ditches within the right of way, adding or replacing devices such as fencing, guardrails, safety barriers, guideposts, and markers, or installing, removing, or modifying regulatory, warning, or informational signs;
 - (i) adding, removing and/or replacing distinctive roadway markings such as painted stripes, raised pavement markers thermoplastic, tape or raised bars; **OR**
 - (j) abandoning dead-end roads when provisions for ongoing, long-term maintenance have been made or the road right-of-way has been returned to a natural state from a hydrologic standpoint.
 - (k) paving of existing unpaved roads where a grading permit is not required.
2. Existing telecommunication facilities: Modification and renewal of the permits thereof.
3. Minor modifications of existing industrial and commercial facilities: Modifications that have been found by the General Manager to be similar in intensity to those described in Sections 18.124.130 of the County Code.

4. Existing erosion control plans: Modification thereof when:
 - (a) the footprint of the area disturbed is not expanded;
 - (b) the amount of sediment delivered from the site as calculated by a qualified professional is not increased; **AND**
 - (c) groundwater use is not increased.5. reserved
6. Tentative map revisions: Revisions to approved maps that do not involve the relocation of either building sites or access roads.
7. Approved oil, gas, and geothermal wells: Revisions that do not involve disturbance of previously undisturbed areas.
8. Existing mining operations: Temporary cessation thereof.

Class 3: New Construction or Conversion of Small Structures [State CEQA Guidelines §15303]

9. reserved
10. reserved
11. Wells: Installation and/or operation thereof pursuant to a groundwater permit when the amount of groundwater proposed to be used in total on the parcel is less than or equal to the amount of groundwater historically used (i.e., during the last 3 years).

Class 4: Minor Alterations to Land [State CEQA Guidelines §15304]

12. reserved
13. New access roads and driveways (longer than 300 feet) that would:
 - (a) not disturb more than 2 acres of land;
 - (b) not traverse slopes that are steeper than 29.9%; **AND**
 - (c) not discharge concentrated runoff within a stream setback area.

Class 5: Minor Alterations in Land Use Limitations [State CEQA Guidelines §15305]

14. reserved
15. reserved
16. reserved

APPENDIX C

DISTRICT ENVIRONMENTAL IMPACT REPORT (EIR) OUTLINE

An Environmental Impact Report (EIR) produced by or for the District shall be in the following format and include the following elements unless otherwise agreed to in advance by the General Manager.

COVER

TITLE PAGE

TABLE OF CONTENTS

LIST OF FIGURES

LIST OF TABLES

I. EXECUTIVE SUMMARY

- A. Introduction and Purpose
- B. Project Location
- C. Project Description
- D. Summary of Significant Effects and Mitigation Measures (*outline format-see sample layout below*)

Geology and Soils

- **IMPACT 1.1: Public Safety Risk Exposure.** Exposure of new site users to significant hazards from landsliding
 - **MITIGATION MEASURE 1.1: Project Relocation.** Relocate structure off landslide.
- **IMPACT 1.2:**
- E. Areas of Controversy and Issues to be Resolved
- F. Project Alternatives Considered

II. PROJECT DESCRIPTION

- A. Introduction
 - 1. Intended Uses of the EIR
 - 2. Documents Incorporated by Reference
- B. Project Location (*specifically and in context with surrounding area*) and General Description
- C. Detailed Project Description
 - 1. Implementation Schedule (both for development and operation, including phasing)
 - 2. Development

- 3. Operation
- 4. Required Permits
- D. Project Objectives
- E. Project Context
 - 1. Applicable Regional Plans
 - 2. General Plan Consistency Analysis
 - 3. Zoning and Other Applicable Local Regulations
 - 4. Applicable Regional, State and Federal Regulations
 - 5. Cumulative Considerations

III. THE PHYSICAL AND BIOLOGICAL ENVIRONMENT

- A. Geology and Soils (*the following layout shall be used for each section listed below; use of figures, tables, and plates is encouraged*)
 - 1. Setting (*includes regulatory setting*)
 - 2. Impact (*includes identification and where possible quantification of the impact involved, a determination of its significance, and a statement of how significance was determined*)
 - 3. Mitigation (*feasible measures presented in such a manner as to maintain a clear one-to-one correspondence between the impact identified and the measures put forth to mitigate it*)
 - a. Included as Part of the Project:
 - b. Identified By This Report:
- B. Climate
- C. Drainage and Surface Hydrology
- D. Groundwater Hydrology
- E. Surface Water Quality
- F. Groundwater Quality
- G. Air Quality
- H. Noise
- I. Biological Resources
- J. Community Characteristics (*includes land use and population, employment and housing, where relevant*)
- K. Visual and Aesthetic Considerations
- L. Cultural Resources (*includes archaeological, historical, scientific, and recreational resources*)
- M. Traffic and Circulation
- N. Energy Considerations
- O. Community Services (*includes services, utilities, and recreation*)
- P. Public Health and Safety
- Q. Fiscal Considerations
- R. Rock and Mineral Resources

IV. MITIGATION MONITORING AND REPORTING PROGRAM

- A. Introduction (citing State requirements)
- B. Mitigation Monitoring and Reporting Procedures
- C. Mitigation Monitoring and Reporting Plan (list organized by when measure must be implemented; i.e., prior to permit issuance, during construction, prior to commencement of operations, ongoing, etc.)

V. IMPACT OVERVIEW

- A. Unavoidable Significant Adverse Environmental Effects
- B. Significant Adverse Environmental Effects That Can Be Mitigated
- C. Other Adverse Environmental Effects Not Found To Be Significant (*includes a concise one sentence justification of why each effect listed was found not to be significant*)
- D. Significant Beneficial Effects
- E. Significant Irreversible Environmental Changes
- F. Growth Inducing Impacts
- G. Relationship Between Local Short-Term Uses of Man's Environment and the Maintenance and Enhancement of Long-Term Productivity

VI. PROJECT ALTERNATIVES

- A. Introduction (*must include reasoning for selecting the alternatives evaluated and an identification of the environmentally superior alternative*)
- B. No Project Alternative
- C. Reduced Project Alternative
- D. Any other alternative(s) deemed potentially feasible

VII. COMMENTS RECEIVED (Final EIR only)

- A. Introduction (*includes list of entities and individuals from which comments were requested and responses were received*)
- B. Correspondence Received
- C. Testimony Taken

VIII. RESPONSES PROVIDED (Final EIR only)

- A. Introduction
- B. Specific Responses

IX. REPORT PREPARATION

- A. Firms, Agencies, and Individual Involved In Preparing Report (*indicating the subject matter or section that each person/firm cited prepared*)
- B. Other Agencies, Firms, and Individuals Contacted (*includes sections for responsible agencies, trustee agencies, and agencies with jurisdiction by law*)

X. REFERENCES

- A. Bibliography

- B. List of Acronyms

XI. APPENDICES

- A. Initial Study
- B. Notice of Preparation and Responses
- C. Any Technical Studies Prepared

APPENDIX D

DISTRICT ENVIRONMENTAL IMPACT REPORT (EIR) FORMAT

I. Document Layout

- A. District Standard Format For Cover and Title Page.
- B. District Standard Report Layout (see Appendix C).
- C. All major sections start on right-hand page.
- D. Summary section of a Final EIR preceded and followed by a blank page, if needed to be sure it all is printed on yellow paper.

II. Text Layout

- A. Standard, single-column, 8½ by 11 format used unless alternate format approved by the General Manager.
- B. Arial 11 font type used.
- C. ~1-inch top and right margins provided with an approximately 1¼-inch left margin and an approximately ½-inch bottom margin.
- D. All pages throughout report including figures, tables, plates, blank pages and appendices numbered consecutively.
- E. All figures, tables, plates and appendices referred to in the text. Reference used in the form of “(Figure A)”, etc.
- F. Figures, tables, and plates normally placed immediately following the page of text first making reference to them.
- G. Footnotes placed at bottom of page.
- H. Scientific referencing system (e.g., Brown, et al, 1977) used in the text.
- I. Standard bibliographic citations as in the *Style Manual for Biological Journals* or *Geology* used.

III. Printing Specifications

Draft EIR:

- A. Front and back covers printed on card stock. All other pages printed both sides on blue 20 lb paper.

Final EIR:

- A. Front and back covers printed on cover stock.
- B. Summary printed both sides on yellow 20 lb paper.
- C. All other pages printed both sides on white 20 lb paper.



STAFF REPORT

Date: January 8, 2007
Agenda Item: 4.I
Subject: Discussion and possible action on advisory, outreach, and partnership strategies

Recommendation

- (1) Discuss and provide direction on District strategies for obtaining input from other public agencies and the community, disseminating information, and developing formal and informal partnerships.
- (2) Set Wednesday, February 14th at 7:00 pm for a special joint meeting with the City of Napa Parks and Recreation Commission

Background

In recommending formation of the District, the Napa County Parks and Open Space Advisory Committee considered the ability to form a wide range of both formal and informal partnerships to be a key positive feature of an independent District. Through the work of that Advisory Committee and its staff, a range of contacts have been initiated, but considerable work is needed to expand and strengthen relationships.

There are a wide range of audiences to consider, including:

- ❖ City government, including park, recreation, watershed management and other executive staff as well as park and recreation commissions and/or city councils
- ❖ Other public agencies with land stewardship, recreation and environmental education responsibilities in Napa County, including State Parks, State Fish and Game, Bureau of Land Management, Bureau of Reclamation and local school districts
- ❖ General interest non-profit associations and community groups, including the Land Trust of Napa County, Napa County Farm Bureau, service clubs, chambers of commerce, the Convention and Visitors Bureau, Sierra Club, Audubon Society, Friends of the Napa River, Land Stewards and many others
- ❖ General interest user groups, including the Boy Scouts, Girl Scouts, Acorn Soupe, equestrian groups, mountain bicycling organizations, hunting and fishing clubs, hiking clubs, and many others

- ❖ Organizations focused on specific parks or locations, such as the Skyline Park Citizen's Association and Friends of the Oat Hill Mine Trail, or new organizations which may be formed to support specific parks or areas
- ❖ Interested individual members of the community

Different strategies will be most effective depending on the audience. Examples of these strategies include:

- ✓ standing advisory committees
- ✓ ad hoc advisory committees
- ✓ joint meetings between the District Board of Directors and other agency or organization boards and commissions
- ✓ standing or ad hoc Board subcommittees focused on specific topics
- ✓ formal or informal liaison arrangements between individual Board members and different agencies, organizations or interest groups
- ✓ informational mailings
- ✓ web site with passive and interactive elements
- ✓ targeted or broadcast mailings
- ✓ press releases
- ✓ development of formal partnership agreements
- ✓ volunteer recruitment and coordination, both for one-time service events as well as long-term service arrangements

All of these strategies are worthwhile. All also take a considerable investment of time, and in addition some require an investment of funds. To maximize effectiveness, it is essential to prioritize strategies and clearly identify how the work will get done. This is an arena where direct involvement by the District Board of Directors is particularly valuable.

One request which staff has already received relates to this topic. The City of Napa Parks and Recreation Commission has requested a joint meeting between the District Board and the Commission in the near future. This would provide a great opportunity to explore projects of mutual interest, and suggests a model for developing ongoing relations with other cities. They have suggested Wednesday, February 14th as a possible date.

Attached is a memo prepared by Director Kelly which lays out some of his thoughts on this topic.

January 2, 2007

To: Napa County Park and Open Space District Directors

Dear fellow Directors,

Since we cannot get together privately to discuss these items, now that we have become Directors, I am putting some of my thoughts down in this memo for your consideration and I hope you will do the same prior to future meetings. At our first meeting on January 8, 2007, we will have several housekeeping items on the agenda. But I would like us to discuss and set several priorities. I am sure you have some priorities you want to discuss.

We Directors need to become known as the facilitators that can achieve the active cooperation of the stakeholders and create visible accomplishments with the participation of the many local, state, federal and private, public landowners who hold title to the land, and have some of the financial resources that can be helpful. We need to set some short-term priorities that are quickly accomplished through our cooperation with the various agencies and recognized as desirable by both our supporters and critics. Our discussions with the many stakeholders will help clarify our thinking and help us set our short-term priorities. Then, we need to develop a long-term strategy for our open space mission with the cooperation of our partners.

How we hold discussions among the stakeholders and potential partners, that are practical, fair and the most efficient over a short period of time, will be the issue that we need to discuss at this first meeting. We could and should hold our regular meetings in the various cities of the county with local stakeholders so they do not have to travel to the meetings in Napa. We do not always need to meet at the Boardroom in Napa or always on Monday in the afternoon. We should meet with other government agencies at their meetings. We should become open to suggestions, idea discussions and prepared statements by stakeholders but not allow a rehashing of the election. I would like us to become as non-governmental in image as possible and operate more like the non-profit agencies that we have all been a part of for many years.

Another possible method for contacting stakeholders would be to appoint a couple of two-director subcommittees to meet with the various stakeholders. A third idea would be to have each of us make our own contacts to at least representatives of groups of stakeholders and report back to all the Directors at our regular meetings. Whatever we decide, we should begin immediately.

Our immediate goal should be to develop a long term comprehensive plan that has been developed after discussion with as many of the open space and park stakeholders of Napa County as possible, both supporters and non-supporters of the District. We all have our own priorities that we would like to see put into effect but we need to find out what are the priorities of our citizens groups that supported the district, and ideas for possible broad cooperation with the citizens groups that did not support the District. The development of a comprehensive long-term plan will eventually need to be supported by our citizens and welcomed by our visitors. With such a plan, Napa County could become the proud home of our citizens because of enhanced recreational opportunities and the

broad use of our beautiful open spaces, which will become the preferred destination of our visitors. It is our role to try to achieve this.

I do not think the funding of the District should be an early discussion agenda item. If the County Board of Supervisors will continue to commit a reasonable amount of the additional tourist income, enough to continue to fund our limited staff, which will be under contract to the county, we will have the time to devote to developing a comprehensive plan, creating partnerships, developing grants and establishing citizen volunteer partnership projects. Some people in the county expect us to immediately seek additional funding from some sort of taxes. I do not even consider that an option. If we develop a comprehensive plan that has the support of most of the stakeholders, they in turn will see that adequate funds are available. We need to prove our efficiency and effectiveness, this will bring the support we need for long-term efforts.

If we start with simple maps and brochures developed for our local citizens, the visitor industry will find ways to encourage overnight destination tourism. If we can help Napa County to become branded as a tourist destination for overnight stays, because we have developed some desired open space amenities, which appeal to our local citizens, the tourist will find them and we should get to share in the additional tourist tax revenue. The agricultural and tourism industries should become our partners in this effort. We could become self-supporting over time with help from our partners.

It is my wish that in 10 years, we can look back and be able to say that the establishment of the Napa County Parks and Open Space District has become another important tool in the protection of agriculture in Napa County and that the local citizens of the cities as well as the tourist who visit us are pleased in what we have accomplished.

Harold Kelly, Director Ward 1



STAFF REPORT

Date: January 8, 2007
Agenda Item: 6
Subject: Agenda Planning

Recommendation

- (1) Approve the attached calendar for regular meetings of the Board.
- (2) Identify matters for consideration at future regular or special Board meetings.

Background

The Brown Act requires the District to set the time of Regular Meetings of the Board, either by formula (eg, the second Monday of each month) or by adopted calendar. A combination of these two methods, as prescribed by the By-Laws considered in Agenda Item 4.B, satisfies this requirement of the Brown Act.

In addition to Regular Meetings, Special Meetings of the Board can be called at any time and in any location, subject to proper notice, by either the President or upon the request of two of the members of the Board.

Board of Directors Regular Meeting Calendar 2007

D R A F T

<u>Day</u>	<u>Date</u>	<u>Major Planned Topics</u>
Monday	January 8 th	Election of Officers By-Laws Adoption CEQA Guidelines Adoption Brown Act Training 2006-7 District/County Support Services Agreement Review
Thursday	February 22 nd	Code of Ethics Adoption Goals and Objectives Adoption Work Program Review 2006-7 District/County Support Services Agreement Approval
Monday	March 12 th	Work Program Review 2006-7 District/County Grant Agreement Approval
Monday	April 9 th	Work Program Adoption
Monday	May 14 th	TBD
Monday	June 11 th	2007-8 Budget Review 2007-8 District/County Support Services Agreement Approval 2007-8 District/County Grant Agreement Approval
Monday	July 9 th	2007-8 Budget Adoption
Monday	August 13 th	TBD
Monday	September 10 th	TBD
Monday	October 8 th	TBD
Monday	November 5 th	TBD
Monday	December 10 th	2008 Calendar of Regular Meetings Adoption

Note

Board meetings are normally the second Monday of each month. **Exceptions are indicated in red.**