AGENDA
REGULAR MEETING OF THE LAKEPORT CITY COUNCIL
(ALSO MEETS AS THE CITY OF LAKEPORT MUNICIPAL SEWER DISTRICT, THE LAKEPORT INDUSTRIAL DEVELOPMENT AUTHORITY, THE MUNICIPAL FINANCING AGENCY OF LAKEPORT and THE SUCCESOR AGENCY TO THE FORMER LAKEPORT REDEVELOPMENT AGENCY)
Tuesday, July 17, 2018
City Council Chambers, 225 Park Street, Lakeport, California 95453

Any person may speak for three (3) minutes on any agenda item; however, total public input per item is not to exceed 15 minutes, extended at the discretion of the City Council. This rule does not apply to public hearings. Non-timed items may be taken up at any unspecified time.

CLOSED SESSION: 5:15 p.m.

1. CONFERENCE WITH REAL PROPERTY NEGOTIATOR (Gov. Code § 54956.8)
   800 N. Main Street, APN 025-601-07
   Agency Negotiator: City Manager Silveira
   Negotiating Party: Lakeport Unified School District
   Under Negotiation: Price and Terms of Payment

2. CONFERENCE WITH LABOR NEGOTIATOR (Gov. Code § 54957.6)
   Name of City Negotiator to Attend Closed Session: Margaret Long and Administrative Services Director Kelly Buendia
   Employee Organizations: Lakeport Police Officers Association

I. CALL TO ORDER & ROLL CALL:
   Move to accept agenda as posted, or move to add or delete items.

II. PLEDGE OF ALLEGIANCE:

III. ACCEPTANCE OF AGENDA/URGENCY ITEMS:

IV. CONSENT AGENDA:

   The following Consent Agenda items are expected to be routine and noncontroversial. They will be acted upon by the Council at one time without any discussion. Any Council Member may request that any item be removed from the Consent Agenda for discussion under the regular Agenda. Removed items will be considered following the Consent Calendar portion of this agenda.

   A. Ordinances:
      Waive reading except by title, of any ordinances under consideration at this meeting for either introduction or passage per Government Code Section 36934.

   B. Minutes:
      Approve minutes of the City Council regular meeting of June 19, 2018, and the special meeting of June 26, 2018.

   C. Warrants:
      Approve the warrant register of July 10, 2018.

   D. Claim:
      Reject Claim No. 2018-005, filed by Mario and Lyann Williams, as recommended by REMIF.

   E. Polestar Information Technology Agreement:
      Approve and authorize the City Manager to execute a professional services agreement with Polestar Computers for the provision of IT support services.

   F. JJACPA Auditing Services Agreement:
      Approve and authorize the City Manager to execute the Professional Services Agreement with JJACPA for independent auditing services.

   G. Contract Award: Dam Inundation Mapping:
      Authorize the City Manager to sign a contract with West Consultants, Inc. not to exceed $35,541 for the preparation of reservoir inundation maps and an EAP for the dam serving CLMSD’s wastewater reservoir.

   H. Delinquent Utilities Accounts:
      Adopt the proposed resolution electing to have delinquent water and sewer user charges, fees, and penalties for fiscal year 2017–2018 collected on the tax roll, and set a public hearing for August 7, 2018 at 5:15 p.m.

V. PUBLIC PRESENTATIONS/REQUESTS:

   A. Citizen Input:
      Any person may speak for 3 minutes about any subject within the authority of the City Council, provided that the subject is not already on tonight’s agenda. Persons wishing to address the City Council are required to complete a Citizen’s Input form and submit it to the City Clerk prior to the meeting being called to order. While not required, please state your name and address for the record. NOTE: Per Government Code §54954.3(a), the City Council
B. Presentation: Fireworks Donation  
Presentation of donation by the Lake County Chamber of Commerce for the Annual Fireworks Show in Library Park.

VI. PUBLIC HEARINGS:
A. Hazardous Weeds:  
Hold a public hearing and adopt a resolution ordering the community development director to abate said nuisances by having the weeds, rubbish, refuse and dirt referred to be removed from the properties listed and for which objections were not allowed, and order that his assistants or deputies are authorized to enter upon those private properties for that purpose.

B. Zone Change Ordinance:  
Hold a public hearing and:

1. Adopt a Mitigated Negative Declaration for the Pacific West Communities General Plan Amendment (GPA 17-01) and Zone Change (ZC 17-02) project based on the information and findings contained in the Initial Study/Environmental Review (ER 17-01) and dated April 17, 2018.

2. Adopt a Resolution for the proposed General Plan Amendment revising the existing land use classification to match the proposed parcel boundaries associated with tentative Parcel Map (PM 17-01) with Parcels 1 and 2 being designated High Density Residential and Parcel 3 being designated Residential with the findings contained in Resolution for GPA 17-01.

3. Adopt the proposed Zone Change Ordinance revising the base zoning district of the subject property to match the proposed parcel boundaries associated with tentative Parcel Map (PM 17-01) with Parcels 1 and 2 being zoned R-3, High Density Residential and Parcel 3 being zoned R-1, Low Density Residential with the findings contained in the Ordinance for ZC 17-02.

VII. COUNCIL BUSINESS:
A. City Clerk

1. Fireworks Ban:  
Consider a resolution calling for, providing for, and giving notice of the general municipal election to be held in the City of Lakeport on the 6th day of November, 2018, for the purpose of submitting to the voters one question to prohibit the use, discharge and explosion of all fireworks, including the "safe and sane" fireworks, establishing deadlines for direct and rebuttal arguments, providing for the preparation of an impartial analysis, and requesting approval of the Lake County Board of Supervisors for consolidation of this election with the statewide general elections to be held on that date, and requesting election services to be provided by the County Elections Official.

B. Community Development Director

1. Tourist Improvement District (TID):  
Adopt the Resolution granting consent to the County of Lake to establish the Lake County Tourism Improvement District.

C. Finance Director

1. Lake County Broadband Solutions:  
Authorize the City Manager to enter into an agreement with Lake County Broadband Solutions for the Library Park and Downtown Wi-Fi Project.

D. Police Chief
1. National Night Out: Authorize staff to conditionally cancel the regular City Council meeting on August 7, 2018, and approve the participation of the City of Lakeport in the National Night Out event, with street closures and the Gazebo reserved for the event.

VIII. CITY COUNCIL COMMUNICATIONS:
A. Miscellaneous Reports, if any:

IX. ADJOURNMENT:

Materials related to an item on this Agenda submitted to the Council after distribution of the agenda packet are available for public inspection in the City Clerk's Office at 225 Park Street, Lakeport, California, during normal business hours. Such documents are also available on the City of Lakeport's website, www.cityoflakeport.com, subject to staff's ability to post the documents before the meeting.

The City of Lakeport, in complying with the Americans with Disabilities Act (ADA), requests individuals who require special accommodations to access, attend and/or participate in the City meeting due to disability, to please contact the City Clerk’s Office, (707) 263-5615, 72 hours prior to the scheduled meeting to ensure reasonable accommodations are provided.

_______________________________________
Hilary Britton, Deputy City Clerk
MINUTES
REGULAR MEETING OF THE LAKEPORT CITY COUNCIL
(ALSO MEETS AS THE CITY OF LAKEPORT MUNICIPAL SEWER DISTRICT, THE LAKEPORT INDUSTRIAL DEVELOPMENT AUTHORITY, THE MUNICIPAL FINANCING AGENCY OF LAKEPORT and THE SUCCESOR AGENCY TO THE FORMER LAKEPORT REDEVELOPMENT AGENCY)
Tuesday, June 19, 2018
City Council Chambers, 225 Park Street, Lakeport, California 95453

CLOSED SESSION:
Mayor Turner called the meeting to order at 5:46 p.m. Mayor Turner adjourned the meeting to Closed Session at 5:47 p.m. to discuss:

1. Conference with Legal Counsel; Anticipated Litigation (Gov. Code § 54956.9(d)(2) & (d)(3)):
   A point has been reached where, in the opinion of the City Council on the advice of its legal counsel, based on the below-described existing facts and circumstances, there is a significant exposure to litigation against the City: Statement made at an open meeting of City (Gov. Code § 54956.9(e)(4)). Name of Person: Paul B. Albritton. Nature of Specific Matter: Appeal of Verizon Wireless Application UP 14-04, AR 14-12, CE 14-24. Number of potential cases: one (1)

I. CALL TO ORDER & ROLL CALL:
Mayor Turner called the meeting to order at 6:00 p.m. with Council Member Barnes, Council Member Mattina, Council Member Parlet, Council Member Spurr and Mayor Turner present.

REPORT OUT OF CLOSED SESSION:
Mayor Turner advised there was no reportable action from Closed Session.

II. PLEDGE OF ALLEGIANCE:
The Pledge of Allegiance was led by George Spurr.

III. ACCEPTANCE OF AGENDA/URGENCY ITEMS:
A motion was made by Council Member Mattina, seconded by Council Member Barnes, and unanimously carried by voice vote to accept agenda as posted.

IV. CONSENT AGENDA:
The following Consent Agenda items are expected to be routine and noncontroversial. They will be acted upon by the Council at one time without any discussion. Any Council Member may request that any item be removed from the Consent Agenda for discussion under the regular Agenda. Removed items will be considered following the Consent Calendar portion of this agenda.

A. Ordinances:
Waive reading except by title, of any ordinances under consideration at this meeting for either introduction or passage per Government Code Section 36934.

B. Minutes:
Approve minutes of the City Council regular meeting of June 5, 2018.

C. Application 2018-022:
Approve Application 2018-022, with staff recommendations, for the 2018 Lakeside Car & Boat Show event, to be held August 18, 2018.

D. Master Salary Schedule:
Approve a Resolution rescinding Resolution 2659 (2018) and revising the Master Pay Schedule in conformance with California Code of Regulations, Title 2, Section 570.5.

E. PEG TV Agreement Amendment #2:
Approve an amendment to the agreement between the City of Clearlake, City of Lakeport and the County of Lake relative to operation of a local public, educational, governmental cable television channel, referred to as the PEG Channel.

Vote on Consent Agenda:
A motion was made by Council Member Parlet, seconded by Council Member Spurr, and unanimously carried by voice vote to approve the Consent Agenda, items A-E.

V. PUBLIC PRESENTATIONS/REQUESTS:
A. Citizen Input:
Wilda Shock invited the City Council to the Shakespeare at the Lake event taking place on July 28 and 29, 2018 and stated that sponsorships were welcomed. She
VI. **PUBLIC HEARINGS:**
   A. **Solar Financing:**

Finance Director Walker and Bond Counsel Cameron Weist presented the staff report.

Mayor Turner opened the Public Hearing at 6:16 p.m. With no input from the public, Mayor Turner closed the Public Hearing at 6:17 p.m.

A motion was made by Council Member Parlet, seconded by Council Member Barnes, and unanimously carried by voice vote to approve the subject Resolutions to authorize and direct the issuance of the Bonds.

VII. **COUNCIL BUSINESS:**
   A. **Community Development Director**
      1. **General Plan Amendment:**

Community Development Director Ingram presented the staff report.

A motion was made by Council Member Spurr, seconded by Council Member Mattina, and unanimously carried by voice vote to introduce the Zone Change Ordinance for the Pacific West Communities Parcel Map project (ZC 17-02); and schedule a public hearing for a second reading of the Zone Change Ordinance and adoption of a Resolution for a General Plan Amendment (GPA 17-01) and Mitigated Negative Declaration based on the Environmental Review/Initial Study (ER 17-01) on July 17, 2018.

2. **Weed Abatement:**

Community Development Director Ingram presented the staff report.

A motion was made by Council Member Parlet, seconded by Council Member Mattina, and unanimously carried by voice vote to approve the proposed resolution declaring dry weeds, brush and similar vegetation creating a fire hazard upon vacant and large lots throughout the City to constitute a public nuisance and direct staff to utilize the Administrative Citation procedures outlined in Chapter 8.30 of the Lakeport Municipal Code to abate said public nuisance weeds.

3. **Meeting Cancellation:**

Community Development Director Ingram presented the staff report.

A motion was made by Council Member Parlet, seconded by Council Member Barnes, and unanimously carried by voice vote to authorize the cancellation of the regular meeting of July 3, 2018.

VIII. **CITY COUNCIL COMMUNICATIONS:**
   A. **Miscellaneous Reports, if any:**

City Manager Silveira was absent.

Community Development Director Ingram reported that Economic Development Strategic forum will be hosted at City Hall on June 26, 2018.

City Attorney Ruderman had no report.

Public Works Director Grider had no report.

Finance Director Walker had no report.

Police Chief Rasmussen reported that there will be a Coffee with a Cop event on June 29, 2018. He also gave an update on the fireworks operations plan and announced they will also be barbequing for the officers on duty that day.

Administrative Services Director/City Clerk Buendia had no report.

Council Member Spurr had no report.
Council Member Parlet gave kudos to the Water Division on the success of the inaugural Water Plant Treatment Facilities Open House.

Council Member Mattina reported that the Home Wine and Beer Festival was well attended and the Park looked amazing. The VW car show was great. She is looking forward to the Fourth of July celebration at the Park.

Council Member Barnes had no report.

Mayor Turner wished everyone a happy Juneteenth with a reminder to take a moment to recognize how important it is to treat people like people.

IX. ADJOURNMENT:

Mayor Turner adjourned the meeting at 6:41 p.m.

_________________________________________
Mireya G. Turner, Mayor

Attest:

_________________________________________
Kelly Buendia, City Clerk
MINUTES
SPECIAL MEETING
OF THE LAKEPORT CITY COUNCIL
Tuesday, June 26, 2018
5:45 p.m.
City Hall Front Conference Room
225 Park Street, Lakeport, California 95453

CALL TO ORDER: Mayor Turner called the meeting to order at 5:47 p.m., with Council Member Mattina, Council Member Parlet, Council Member Spurr, and Mayor Turner present. Council Member Barnes was absent.

BID AWARD: The staff report was presented by Community Development Director Ingram.

A motion was made by Council Member Parlet, seconded by Council Member Spurr, and unanimously passed by voice vote, with Council Member Barnes absent, to award a construction contract to Chrisp Company for the HSIP Pavement Markings Project.

ADJOURNMENT: Mayor Turner adjourned the meeting at 5:53 p.m.

_________________________________________
Mireya Turner, Mayor

Attest:

_______________________________________
Kelly Buendia, City Clerk
7/10/2018

I hereby certify that the attached list of warrants has been audited, extensions are proper, purchase orders have been issued, and department heads have been given the opportunity to review and sign claim forms.

______________________________
Nicholas Walker
Finance Director
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Report Total: (281) -1,176,302.63
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**Report Total:** 281  -1,176,302.63

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**Report Total:** 281  -1,176,302.63

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**Report Total:** 281  -1,176,302.63
CLAIM FOR MONEY OR DAMAGES AGAINST
THE CITY OF LAKEPORT

A claim must be presented, as prescribed by the Government Code of the State of California, by the claimant or a person acting on his/her behalf and shall show the following:

If additional space is needed to provide your information, please attach sheets, identifying the paragraph(s) being answered.

1. Name and Post Office address of the Claimant:

   Name of Claimant: Mario & Lyann Williams, on behalf of themselves and their children; Curtis Williams
   Post Office Address: P.O. Box 901, Finley, CA 95435

2. Post Office address to which the person presenting the claim desires notices to be sent:

   Name of Addressee: Cooley LLP, Angela Dunning
   Telephone: (650) 843-5855
   Post Office Address: 3175 Hanover Street, Palo Alto, CA 94304

3. The date, place and other circumstances of the occurrence or transaction which gave rise to the claim asserted.

   Date of Occurrence: December 9, 2017
   Time of Occurrence: approx. 10pm
   Location: 1330 Soda Bay, Lakeport, CA 95453
   Circumstances giving rise to this claim: See attached Addendum.

4. General description of the indebtedness, obligation, injury, damage or loss incurred so far as it may be known at the time of the presentation of the claim.

   Our constitutional rights were violated and our property was damaged. As a result of the officers' misconduct we suffered emotional distress from having our home ransacked against our will and being mistreated by the deputies. We continue to have anxiety about the search and the officers' misconduct.

5. The name or names of the public employee or employees causing the injury, damage, or loss, if known.

   To the best of our knowledge, our injuries and losses were caused by Lake County Sheriffs' deputies, including without limitation Antonio J. Castellanos and, upon information and belief, officers of the Lakeport Police Department, including without limitation Joseph Eastman, Mark Steele, and Officer Bertram (first name unknown). We are unaware of the true names and capacities of the other individuals involved in the unlawful entry and search of our home but intend to specify their identities upon receipt of County and City records and other information.
6. If amount claimed totals less than $10,000: The amount claimed if it totals less than ten thousand dollars ($10,000) as of the date of presentation of the claim, including the estimated amount of any prospective injury, damage, or loss, insofar as it may be known at the time of the presentation of the claim, together with the basis of computation of the amount claimed.

Amount Claimed and basis for computation: Claimants seek (1) compensatory damages according to proof, in excess of $25,000, for emotional distress, property damage, and financial loss; (2) punitive damages; and (3) attorneys’ fees and costs.

If amount claimed exceeds $10,000: If the amount claimed exceeds ten thousand dollars ($10,000), no dollar amount shall be included in the claim. However, it shall indicate whether the claim would be a limited civil case. A limited civil case is one where the recovery sought, exclusive of attorney fees, interest and court costs does not exceed $25,000. An unlimited civil case is one in which the recovery sought is more than $25,000. (See CCP § 86.)

☐ Limited Civil Case ☑ Unlimited Civil Case

You are required to provide the information requested above in order to comply with Government Code § 910.

7. Claimant(s) Date(s) of Birth:
   M: 8/10/54, L: 1/15/75, C: 9/26/98

8. Name, address and telephone number of any witnesses to the occurrence or transaction which gave rise to the claim asserted:
   Beverly John, 1330 Soda Bay, Lakeport, CA 95453, (707) 530-4210; Jacqueline John - 1330 Soda Bay, Lakeport, CA 95453, (707) 530-4040; Lake County Sheriffs’ deputies, including without limitation Antonio J. Castiellanos and other deputies whose precise identities are presently not known but will be provided once the County provides all relevant documents regarding the incident; as well as officers of the Lakeport Police Department, including without limitation Joseph Eastman, Mark Steele, and Officer Bertram (first name unknown); Jennifer Chwialkowski, Lakeport Unified School District School Psychologist, 2508 Howard Ave, Lakeport, CA 95453, (707) 262-3025;

9. If the claim involves medical treatment for a claimed injury, please provide the name, address and telephone number of any doctors or hospitals providing treatment:

________________________________________________________________________

If applicable, please attach any medical bills or reports or similar documents supporting your claim.

10. If the claim relates to an automobile accident:

Claimant(s) Auto Ins. Co.: Telephone:
Address: Insurance Policy No.:

Insurance Broker/Agent: Telephone:
Address:

Claimant’s Veh. Lic. No.: Vehicle Make/Year:
Claimant’s Drivers Lic. No.: Expiration:

If applicable, please attach any repair bills, estimates or similar documents supporting your claim.
For all accident claims, place on following diagram name of streets, including North, East, South, and West; indicate place of accident by "X" and by showing house numbers or distances to street corners. If City/Agency Vehicle was involved, designate by letter "A" location of City/Agency Vehicle when you first saw it, and by "B" location of yourself or your vehicle when you first saw City/Agency Vehicle; location of City/Agency vehicle at time of accident by "A-1" and location of yourself or your vehicle at the time of the accident by "B-1" and the point of impact by "X."

NOTE: If diagrams below do not fit the situation, attach hereto a proper diagram signed by claimant.

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**Warning:** Presentation of a false claim is a felony (Penal Code §72). Pursuant to CCP §1038, the City/Agency may seek to recover all costs of defense in the event an action is filed which is later determined not to have been brought in good faith and with reasonable cause.

Signature: __________________________ Date: __________________________
CLAIM FOR MONEY OR DAMAGES AGAINST
THE CITY OF LAKEPORT

Addendum to Claim Form of Mario, Lyann, and Curtis Williams

3. The date, place and other circumstances of the occurrence or transaction which gave rise to the claim asserted.

We reside at 1330 Soda Bay Road with our children, Curtis (19 years), Hunter (15 years), Savannah (15 years), Conor (13 years), and Fiona Williams (12 years). The night of December 9, 2017, Lake County Sheriff deputies, including without limitation Antonio J. Castellanos and other unknown deputies, as well as, upon information and belief, officers from the Lakeport Police Department, including without limitation Joseph Eastman, Mark Steele, and Officer Bertram (first name unknown), failed to properly identify themselves, illegally entered and searched our home, violated our privacy, damaged our property, and caused great emotional distress.

The deputies and officers (collectively, "Officers") claimed they could enter because our other son, Lindsay Williams, is a probationer. However, we repeatedly told the Officers that Lindsay did not live with us and had not lived with us for years. Based on the Sheriff's Department's participation in Lindsay's then-recent probation hearing, among other things, the Officers knew or had reason to know that Lindsay was living with the mother of his newborn son at a different house at a different location. Indeed, this information was once again provided to them after their unlawful search of my mother and sister's home on the morning of November 16, 2017, which we understand to be the subject of a separate Claim submitted on May 15, 2018. We repeatedly objected to any entry or search of our home without a warrant. Nevertheless, the Officers forcibly entered and began indiscriminately searching every room.

When the Officers first started banging on our door around 10pm, they refused to identify themselves despite our repeated requests that they do so. My wife, Lyann Williams, opened the door to see who was there, because the banging was frightening our children. Without requesting or obtaining permission to enter, and despite the fact that Lyann told them that they could not enter without a warrant, which they did not have, the Officers forced their way past Lyann and into our home. At that point, I, Mario, stood up to tell them they had no right to be there, but the Officers raised their guns at us in front of our children and told us not to move. While we had been cooperative with the police in the past, given their recent illegal assault and battery of my 81-year-old-mother, I told them they were not welcome in our home.

We repeatedly told the officers that Lyndsay was not there, had not lived with us for a long time, and could be found at his girlfriend's house, where he lived. After searching most of our home, not finding Lindsay, and being told over a dozen times that Lindsay "is not here," the Officers came to a locked door and demanded that I open it. I refused, repeating yet again that Lindsay was not present and that the Officers had no right to search my home. But the Officers did not relent. Instead, Officer Castellanos kicked in the bottom half of the door and then bashed the rest of the door in with his shoulder, shattering the door and casing and causing grave distress to my entire family.
CLAIM FOR MONEY OR DAMAGES AGAINST
THE CITY OF LAKEPORT

Addendum to Claim Form of Mario, Lyann, and Curtis Williams (continued)

We followed the Officers into the room, in order to witness their illegal search, at which
case one of the Officers, Mark Steele, falsely accused me, Mario Williams, of touching
him. My children immediately began to accurately exclaim that I did not touch anyone,
and panicked, as they knew what such an accusation could cause the Officers to do to
me. My daughter Fiona started to sob and rushed over to hug me and shield me from the
Officers. Seeing that his ruse was unsuccessful, Officer Steele abandoned his false
claims against me.

The Officers completed ransacking our home and, as we had repeatedly told them, did
not find Lindsay, his possessions, or any evidence that he resided in our home. Having
disregarded our refusal to consent to a search, disregarded our request to see a warrant,
disregarded our truthful statement as to Lindsay's whereabouts and legal residence,
found no evidence supporting their false assertion that Lindsay was present or that our
home was Lindsay's legal residence, the Officers' course of action was entirely illegal and
we as innocent third parties had a perfect right to be anywhere in our home. Yet, the
officers then illegally commanded us to leave certain areas of our own home and
threatened to imprison us if we did not do so--screaming at the top of their lungs. We
refused, stating that this was our home, but the Officers continued to shout and upset our
children so we eventually complied. The Officers left our house, leaving behind a path of
destruction and distress, without any apology.

The Officers' conduct was: (1) perpetrated under color of law and within the scope of their
employment; (2) under an officially adopted or promulgated policy; (3) part of a pervasive
pattern and practice by the Lake County Sheriff's Department and Lakeport Police
Departments; (3) caused by those Departments' failure to properly train, supervise, and/or
discipline their personnel; (4) undertaken by a final policymaker for those Departments;
and (5) intentionally, willfully, and maliciously designed to harass and intimidate our family
due to an illegal personal vendetta against our son.

As a direct result of the Officers' conduct, inter alia, our family suffered emotional distress;
our constitutional rights of privacy and to be free from illegal entry and search were
violated; and our home has been damaged. Our family has been scared and anxious
since the search. The sounds of sirens or flashing red lights cause us great emotional
upset. Two of our children, Hunter and Fiona, now see a psychologist to cope with the
trauma caused by the Officers.
June 8, 2018

City Clerk’s Office
City of Lakeport
City Hall
225 Park Street
Lakeport, CA 95453

Re: Claim for Damages Against the City of Lakeport

To Whom It May Concern:

Our Firm represents the Williams family, whose home was illegally searched by members of the Lake County Sheriff’s Department and Lakeport Police Department on December 9, 2017. We hereby make a claim pursuant to California Government Code sections 910 and 911.2 on behalf of Mario and Lyann Williams, individually and on behalf of their minor children, as well as on behalf of their adult son Curtis Williams. This claim is for money damages, as set forth in their enclosed claim forms.

Please direct any communications concerning these claims to our office.

Sincerely,

[Signature]

Angela L. Dunning

178631639
STAFF REPORT

RE: Professional Services Agreement with Polestar Computers, IT Support Services

SUBMITTED BY: Nicholas Walker, Finance Director

PURPOSE OF REPORT: ☒ Information only ☐ Discussion ☐ Action Item

MEETING DATE: 7/17/2018

WHAT IS BEING ASKED OF THE CITY COUNCIL/BOARD:

The City Council is asked to approve and authorize the City Manager to sign a professional services agreement (“PSA”) with Polestar Computers of Kelseyville for the provision of IT support services.

BACKGROUND/DISCUSSION:

The City has utilized Polestar Computers for its IT support services for several years and has come to rely on their expertise and technical ability to appropriately maintain, enhance, and troubleshoot its proprietary network, including the City’s use of Microsoft Exchange.

The City has been utilizing Polestar without a PSA since July 1, effectively continuing the former agreement. Staff requests the City Council renew the City’s arrangement with Polestar, retroactive to July 1, 2018, using the most recent PSA boilerplate from the City Attorney.

The contract provides for six hours weekly of general IT services during normal business hours but gives flexibility to meet unexpected issues requiring additional regular time or time beyond normal hours.

OPTIONS:

1. Approve and authorize the City Manager to sign the attached PSA with Polestar Computers.
2. Do not approve but provide directions to staff.

FISCAL IMPACT:

☐ None ☒ not to exceed $27,000.00 Budgeted Item? ☒ Yes ☐ No

Budget Adjustment Needed? ☐ Yes ☒ No If yes, amount of appropriation increase: $

Affected fund(s): ☒ General Fund ☒ Water OM Fund ☒ Sewer OM Fund ☐ Other:

Comments: The contract is based on hours worked not to exceed eight hours per week at the negotiated rate of $65 per hour for regular services and $85 per hour for irregular hours. Services shall not exceed $27,000.00 in any twelve month period without prior notification by the City and approval of Council.
SUGGESTED MOTIONS:

Move to approve and authorize the City Manager to execute a professional services agreement with Polestar Computers for the provision of IT support services.

Attachments: 1. PSA with Polestar Computers
PROFESSIONAL SERVICES AGREEMENT FOR CONSULTANT SERVICES
(City of Lakeport / Polestar Computers)

1. IDENTIFICATION

This PROFESSIONAL SERVICES AGREEMENT ("Agreement") is entered into as of the last date indicated below by and between the City of Lakeport, a California municipal corporation ("City"), Polestar Computers, a California corporation ("Consultant") (collectively, "parties").

2. RECITALS

2.1 City has determined that it requires the following professional services from a consultant: information technology services.

2.2 Consultant represents that it is fully qualified to perform such professional services by virtue of its experience and the training, education and expertise of its principals and employees. Consultant further represents that it is willing to accept responsibility for performing such services in accordance with the terms and conditions set forth in this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions herein contained, City and Consultant agree as follows:

3. DEFINITIONS

3.1 "Scope of Services" means such professional services as are set forth in "Scope of Services": Such professional services as are set forth in attached Exhibit A and incorporated herein by this reference.

3.2 "Approved Fee Schedule": Such compensation rates as are set forth in attached Exhibit B and incorporated herein by this reference.

3.3 "Commencement Date": July 1, 2018.

3.4 "Expiration Date": June 30, 2019.

3.5 "City Agreement Administrator" means City Manager.

3.6 "Consultant Project Administrator" means City Manager.
4. TERM

The term of this Agreement shall commence at 12:00 a.m. on the Commencement Date and shall terminate at 11:59 p.m. on the Termination Date unless extended in writing by mutual agreement of the parties or terminated earlier in accordance with Section 18 (“Termination”) below.

5. CONSULTANT’S SERVICES

5.1 Time is of the essence in Consultant’s performance of services under this Agreement.

5.2 Consultant shall perform the services identified in the Scope of Services. City shall have the right to request, in writing, changes in the Scope of Services. Any such changes mutually agreed upon by the parties, and any corresponding increase or decrease in compensation, shall be incorporated by written amendment to this Agreement. In no event shall the total compensation and costs payable to Consultant under this Agreement exceed the sum of Twenty-seven thousand dollars ($27,000.00) unless specifically approved in advance and in writing by City. Consultant shall notify the City Agreement Administrator, in writing, when fees and expenses incurred under this Agreement have reached eighty percent (80%) of the maximum amount payable above. Consultant shall concurrently inform the City Agreement Administrator, in writing, of Consultant’s estimate of total expenditures required to complete its current assignments before proceeding, when the remaining work on such assignments would exceed the maximum amount payable above.

5.3 Consultant shall perform all work to the highest standards of Consultant’s profession and in a manner reasonably satisfactory to City. Consultant shall comply with all applicable federal, state and local laws and regulations, including the conflict of interest provisions of Government Code Section 1090 and the Political Reform Act (Government Code Section 81000 et seq.).

5.4 Consultant represents that it has advised City in writing prior to the date of signing this Agreement of any known relationships with third parties, City Council Members, or employees of City which would (1) present a conflict of interest with the rendering of services under this Agreement under Government Code Section 1090, the Political Reform Act (Government Code Section 81000 et seq.), or other applicable law, (2) prevent Consultant from performing the terms of this Agreement, or (3) present a significant opportunity for the disclosure of confidential information.
5.5 During the term of this Agreement, Consultant shall not perform any work for another person or entity for whom Consultant was not working at the Commencement Date if both (i) such work would require Consultant to abstain from a decision under this Agreement pursuant to a conflict of interest statute and (ii) City has not consented in writing to Consultant’s performance of such work.

5.6 Consultant represents that it has, or will secure at its own expense, all personnel required to perform the services identified in the Scope of Services. All such services shall be performed by Consultant or under its supervision, and all personnel engaged in the work shall be qualified to perform such services. Trena Pauly shall be the Consultant Project Administrator and shall have direct responsibility for management of Consultant’s performance under this Agreement. No other person shall serve as Consultant Project Administrator without City’s prior written consent.

5.7 This Agreement covers professional services of a specific and unique nature. Except as otherwise provided herein, Consultant shall not assign or transfer its interest in this Agreement or subcontract any services to be performed without amending this Agreement.

5.8 Consultant shall be responsible to City for all services to be performed under this Agreement. All subconsultants shall be approved by the City Agreement Administrator and their billing rates identified in the Approved Fee Schedule, Exhibit B. City shall pay Consultant for work performed by its subconsultants (including labor) only at Consultant’s actual cost plus an approved mark-up as set forth in the Approved Fee Schedule, Exhibit B. Consultant shall be liable and accountable for any and all payments, compensation, and federal and state taxes to all subconsultants performing services under this Agreement. City shall not be liable for any payment, compensation, or federal and state taxes for any subconsultants.

5.9 Consultant shall notify the City Agreement Administrator, in writing, of any change in name, ownership or control of Consultant’s firm or of any subconsultant. Change of ownership or control of Consultant’s firm may require an amendment to the Agreement.

5.10 This Agreement is subject to prevailing wage law, for all work performed under the Agreement for which the payment of prevailing wages is required under the California Labor Code. In particular, Consultant acknowledges that prevailing wage determinations are available for the performance of inspection and survey work.
6. COMPENSATION

6.1 City agrees to compensate Consultant for the services provided under this Agreement, and Consultant agrees to accept payment in accordance with the Approved Fee Schedule in full satisfaction for such services.

6.2 Consultant shall submit to City an invoice, on a monthly basis or less frequently, for services performed pursuant to this Agreement. Each invoice shall identify the maximum amount payable above, the services rendered during the billing period, the amount due for the invoice, and the total amount previously invoiced. All labor charges shall be itemized by employee name and classification/position with the firm, the corresponding hourly rate, the hours worked, a description of each labor charge, and the total amount due for labor charges. City shall not withhold applicable taxes or other payroll deductions from payments made to Consultant except as otherwise required by law. Consultant shall include a copy of each subconsultant invoice for which reimbursement is sought in the invoice.

6.3 The parties agree to meet and confer at mutually agreeable times to resolve any disputed amounts contained in an invoice submitted by Consultant.

6.4 Payments for any services requested by City and not included in the Scope of Services may be made to Consultant by City on a time-and-materials basis pursuant to the Approved Fee Schedule and without amendment of this Agreement, so long as such payment does not cause the maximum amount payable above to be exceeded.

7. OWNERSHIP OF WRITTEN PRODUCTS

All reports, documents or other written material, and all electronic files, including computer-aided design files, developed by Consultant in the performance of this Agreement (such written material and electronic files are collectively known as “written products”) shall be and remain the property of City without restriction or limitation upon its use or dissemination by City except as provided by law. Consultant may take and retain copies of such written products as desired, but no such written products shall be the subject of a copyright application by Consultant.

8. RELATIONSHIP OF PARTIES

Consultant is, and shall at all times remain as to City, a wholly independent contractor. Consultant shall have no power to incur any debt, obligation, or liability on behalf of City or otherwise to act on behalf of City as an agent. Neither City nor any of its agents shall have control over the conduct of Consultant or any of Consultant’s employees, except as set forth in this Agreement. Consultant shall not represent that it is, or that any of its agents or employees are, in any manner employees of City.
Under no circumstances shall Consultant look to the City as its employer. Consultant shall not be entitled to any benefits. City makes no representation as to the effect of this independent contractor relationship on Consultant’s previously earned California Public Employees Retirement System (“CalPERS”) retirement benefits, if any, and Consultant specifically assumes the responsibility for making such a determination. Consultant shall be responsible for all reports and obligations including, but not limited to: social security taxes, income tax withholding, unemployment insurance, disability insurance, workers’ compensation, and other applicable federal and state taxes.

9. AGREEMENT ADMINISTRATOR

In performing services under this Agreement, Consultant shall coordinate all contact with City through its City Agreement Administrator. City reserves the right to change this designation upon written notice to Consultant. All services under this Agreement shall be performed at the request of the City Agreement Administrator, who will establish the timetable for completion of services and any interim milestones.

10. INDEMNIFICATION

10.1 The parties agree that City, its officers, agents, employees and volunteers should, to the fullest extent permitted by law, be protected from any and all loss, injury, damage, claim, lawsuit, cost, expense, attorneys’ fees, litigation costs, taxes, or any other cost arising out of or in any way related to the performance of this Agreement. Accordingly, the parties intend the provisions of this indemnity provision to be interpreted and construed to provide the City with the fullest protection possible under the law. Consultant acknowledges that City would not enter into this Agreement in the absence of Consultant’s commitment to indemnify and protect City as set forth herein.

10.2 To the fullest extent permitted by law, Consultant shall indemnify, hold harmless, and when the City requests with respect to a claim provide a deposit for the defense of, and defend City, its officers, agents, employees and volunteers from and against any and all claims, losses, costs and expenses for any damage due to death or injury to any person, whether physical, emotional, consequential or otherwise, and injury to any property arising out of or in connection with Consultant’s alleged negligence, recklessness or willful misconduct or other wrongful acts, errors or omissions of Consultant or any of its officers, employees, servants, agents, or subcontractors, or anyone directly or indirectly employed by either Consultant or its subcontractors, in the performance of this Agreement or its failure to comply with any of its obligations contained in this Agreement, except such loss or damage which is caused by the sole active negligence or willful misconduct of the City. Such costs and expenses shall include reasonable attorneys’ fees due to counsel of City’s choice, expert fees and all other expenses of litigation. Consultant shall not be
entitled to any refund of attorneys’ fees, defense costs or expenses in the event that it is adjudicated to have been non-negligent.

10.3 City shall have the right to offset against any compensation due Consultant under this Agreement any amount due City from Consultant as a result of Consultant’s failure to pay City promptly any indemnification arising under this Section 10 of this Agreement and any amount due City from Consultant arising from Consultant’s failure either to (i) pay taxes on amounts received pursuant to this Agreement or (ii) comply with applicable workers’ compensation laws.

10.4 The obligations of Consultant under this Section 10 of this Agreement are not limited by the provisions of any workers’ compensation or similar statute. Consultant expressly waives its statutory immunity under such statutes as to City, its officers, agents, employees and volunteers.

10.5 Consultant agrees to obtain executed indemnity agreements with provisions identical to those set forth here in Section 10 of this Agreement from each and every subcontractor or any other person or entity involved by, for, with or on behalf of Consultant in the performance of this Agreement. If Consultant fails to obtain such indemnity obligations from others, Consultant agrees to indemnify, hold harmless and defend City, its officers, agents, employees and volunteers from and against any and all claims, losses, costs and expenses for any damage due to death or injury to any person and injury to any property resulting from any alleged intentional, reckless, negligent, or otherwise wrongful acts, errors or omissions of Consultant’s subcontractors or any other person or entity involved by, for, with or on behalf of Consultant in the performance of this Agreement. Such costs and expenses shall include reasonable attorneys’ fees incurred by counsel of City’s choice.

10.6 City does not, and shall not, waive any rights that it may possess against Consultant because of the acceptance by City, or the deposit with City, of any insurance policy or certificate required pursuant to this Agreement. This hold harmless and indemnification provision shall apply whether or not any insurance policies apply to a claim, demand, damage, liability, loss, cost or expense.

10.7 In the event that Consultant or any employee, agent, or subcontractor of Consultant providing services under this Agreement claims or is determined by a court of competent jurisdiction or CalPERS to be eligible for enrollment in CalPERS as an employee of the City, Consultant shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for CalPERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.
10.8 Notwithstanding any federal, state, or local policy, rule, regulation, law or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors providing service under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in CalPERS as an employee of City and entitlement to any contribution to be paid by City for employer contribution and/or employee contributions for CalPERS benefits.

11. INSURANCE

11.1 During the term of this Agreement, Consultant shall carry, maintain, and keep in full force and effect insurance against claims for death or injuries to persons or damages to property that may arise from or in connection with Consultant’s performance of this Agreement.

11.2 Any available insurance proceeds broader than or in excess of the specified minimum Insurance coverage requirements or limits shall be available to City as an Additional Insured as provided below. Furthermore, the requirements for coverage and limits shall be the greater of (1) the minimum coverage and limits specified in this Agreement, or (2) the broader coverage and maximum limits of coverage of any Insurance policy or proceeds available to the named Insured.

11.3 Insurance required under this Agreement shall be of the types set forth below, with minimum coverage as described:

11.3.1 Comprehensive General Liability Insurance with coverage limits of not less than One Million Dollars ($1,000,000) including products and operations hazard, contractual insurance, broad form property damage, independent consultants, personal injury, underground hazard, and explosion and collapse hazard where applicable.

11.3.2 Automobile Liability Insurance for vehicles used in connection with the performance of this Agreement with minimum limits of One Million Dollars ($1,000,000) per claimant and One Million dollars ($1,000,000) per incident.

11.3.3 Worker’s Compensation insurance if and as required by the laws of the State of California.

11.3.4 Professional Errors and Omissions Insurance with coverage limits of not less than One Million Dollars ($1,000,000).
11.4 Consultant shall require each of its subconsultants to maintain insurance coverage that meets all of the requirements of this Agreement provided however, that the City Agreement Administrator may waive the provision of Errors and Omissions Insurance by subconsultants in his or her sole discretion.

11.5 The policy or policies required by this Agreement shall be issued by an insurer admitted in the State of California and with a rating of at least A:VII in the latest edition of Best’s Insurance Guide.

11.6 Consultant agrees that if it does not keep the insurance coverages required by this Agreement in full force and effect, City may either (i) immediately terminate this Agreement; or (ii) take out the necessary insurance and pay the premium(s) thereon at Consultant’s expense.

11.7 At all times during the term of this Agreement, Consultant shall maintain on file with City’s Risk Manager a certificate or certificates of insurance showing that the required coverages are in effect and naming City and its officers, employees, agents and volunteers as Additional Insureds. Prior to commencement of work under this Agreement, Consultant shall file with City’s Risk Manager such certificate(s) and Forms CG 20 10 07 04 and CG 20 37 07 04 or the substantial equivalent showing City as an Additional Insured.

11.8 Consultant shall provide proof that policies of insurance required by this Agreement expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. Such proof will be furnished at least two weeks prior to the expiration of the coverages.

11.9 The general liability and automobile policies of insurance required by this Agreement shall contain an endorsement naming City and its officers, employees, agents and volunteers as Additional Insureds. All of the policies required under this Agreement shall contain an endorsement providing that the policies cannot be canceled or reduced except on thirty days’ prior written notice to City. Consultant agrees to require its insurer to modify the certificates of insurance to delete any exculpatory wording stating that failure of the insurer to mail written notice of cancellation imposes no obligation, and to delete the word “endeavor” with regard to any notice provisions.

11.10 The insurance provided by Consultant shall be primary to any other coverage available to City. Any insurance or self-insurance maintained by City and/or its officers, employees, agents or volunteers shall be in excess of Consultant’s insurance and shall not contribute with it.
11.11 All insurance coverage provided pursuant to this Agreement shall not prohibit Consultant, and Consultant’s employees, agents or subcontractors, from waiving the right of subrogation prior to a loss. Consultant hereby waives all rights of subrogation against the City.

11.12 Any deductibles or self-insured retentions must be declared to and approved by the City. At the option of City, Consultant shall either reduce or eliminate the deductibles or self-insured retentions with respect to City, or Consultant shall procure a bond in the amount of the deductible or self-insured retention to guarantee payment of losses and expenses.

11.13 Procurement of insurance by Consultant shall not be construed as a limitation of Consultant’s liability or as full performance of Consultant’s duties to indemnify, hold harmless and defend under Section 10 of this Agreement.

11.14 Consultant may be self-insured under the terms of this Agreement only with express written approval from the City.

11.14.1 All self-insured retentions (SIR) must be disclosed to the City for approval and shall not reduce the limits of liability.

11.14.2 Policies containing any SIR provision shall provide or be endorsed to provide that the SIR may be satisfied by either the named Insured or the City.

11.15 City reserves the right to obtain a full certified copy of any Insurance policy and endorsements. Failure to exercise this right shall not constitute a waiver of the right to exercise later.

12. MUTUAL COOPERATION

12.1 City shall provide Consultant with all pertinent data, documents and other requested information as is reasonably available for the proper performance of Consultant’s services under this Agreement.

12.2 If any claim, action, or proceeding is brought against City relating to Consultant’s performance in connection with this Agreement, Consultant shall render any reasonable assistance that City may require in the defense of that claim, action, or proceeding.

13. CONFIDENTIALITY
All data, documents, discussion, or other information developed or received by Consultant or provided for performance of this Agreement are deemed confidential and shall not be disclosed by Consultant without prior written consent by City. City shall grant such consent if disclosure is legally required. Upon request, all City data shall be returned to City upon the termination or expiration of this Agreement.

14. RECORDS AND INSPECTIONS

Consultant shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged to City under this Agreement for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to Consultant under this Agreement. All such documents shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of City. City shall further have the right to make transcripts therefrom and to inspect all program data, documents, proceedings, and activities.

In addition, pursuant to Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds ten thousand dollars, all such documents and this Agreement shall be subject to the examination and audit of the State Auditor, at the request of City or as part of any audit of City, for a period of three (3) years after final payment under the Agreement.

15. PERMITS AND APPROVALS

Consultant shall obtain, at its sole cost and expense, all permits and regulatory approvals necessary for Consultant’s performance of this Agreement. This includes, but shall not be limited to, professional licenses, encroachment permits and building and safety permits and inspections.

16. NOTICES

Any notices, bills, invoices, or reports required by this Agreement shall be deemed received on: (i) the day of delivery if delivered by hand, facsimile or overnight courier service during Consultant’s and City’s regular business hours; or (ii) on the third business day following deposit in the United States mail if delivered by mail, postage prepaid, to the addresses listed below (or to such other addresses as the parties may, from time to time, designate in writing).
If to City:  
City of Lakeport  
225 Park St.  
Lakeport CA  95453  
Telephone: (707) 263-5615 x___  
Facsimile: (707) 263-8584

If to Consultant:  
Trena Pauly  
3930 Main Street  
Kelseyville, CA 95451  
Telephone: (707) 279-1228

With courtesy copy to:  
David J. Ruderman, City Attorney  
Colantuono, Highsmith & Whatley, PC  
420 Sierra College Drive, Suite 140  
Grass Valley, California 95945-5091  
Telephone: (530) 432-7357  
Facsimile: (530) 432-7356

17. SURVIVING COVENANTS

The parties agree that the covenants contained in Section 10, Section 13, Paragraph 12.2 and Section 14 of this Agreement shall survive the expiration or termination of this Agreement.

18. TERMINATION

18.1 City may terminate this Agreement for any reason on five calendar days’ written notice to Consultant. Consultant may terminate this Agreement for any reason on thirty calendar days’ written notice to City. Consultant agrees to cease all work under this Agreement on or before the effective date of any notice of termination. All City data, documents, objects, materials or other tangible things shall be promptly returned to City upon the termination or expiration of this Agreement.

18.2 If City terminates this Agreement due to no fault or failure of performance by Consultant, then Consultant shall be paid based on the work satisfactorily performed at the time of termination. In no event shall Consultant be entitled to receive more than the amount that would be paid to Consultant for the full performance of the services required by this Agreement as provided in Section 5.2 above and as otherwise provided in this Agreement.

19. GENERAL PROVISIONSConsultant shall not delegate, transfer, subcontract or assign its duties or rights hereunder, either in whole or in part, without City’s prior
written consent, and any attempt to do so shall be void and of no effect. City shall not be obligated or liable under this Agreement to any party other than Consultant.

19.2. In the performance of this Agreement, Consultant shall not discriminate against any employee, subcontractor, or applicant for employment because of race, color, creed, religion, sex, marital status, sexual orientation, national origin, ancestry, age, physical or mental disability, medical condition or any other unlawful basis.

19.3. The captions appearing at the commencement of the sections hereof, and in any paragraph thereof, are for convenience in reference to this Agreement. Should there be any conflict between such heading, and the section or paragraph thereof at the head of which it appears, the section or paragraph shall govern construction of this Agreement. Masculine or feminine pronouns shall be substituted for the neuter form and vice versa, and the plural shall be substituted for the singular and vice versa, in any place or places herein in which the context requires such substitution(s).

19.4. The waiver by City or Consultant of any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of any other term, covenant or condition or of any subsequent breach of the same or any other term, covenant or condition herein contained. No term, covenant or condition of this Agreement shall be deemed to have been waived by City or Consultant unless in writing signed by one authorized to bind the party to be charged with the waiver.

19.5. Consultant shall not be liable for any failure to perform if Consultant presents acceptable evidence, in City’s sole judgment, that such failure was due to causes beyond the control and without the fault or negligence of Consultant.

19.6. Each right, power and remedy provided for herein or now or hereafter existing at law, in equity, by statute, or otherwise shall be cumulative and shall be in addition to every other right, power, or remedy provided for herein or now or hereafter existing at law, in equity, by statute, or otherwise. The exercise, the commencement of the exercise, or the forbearance from the exercise by any party of any one or more of such rights, powers or remedies shall not preclude the simultaneous or later exercise by such party of any or all of such other rights, powers or remedies. If legal action shall be necessary to enforce any term, covenant or condition contained in this Agreement, the party prevailing in such action, whether or not reduced to judgment, shall be entitled to its reasonable court costs, including any accountants’ and attorneys’ fees expended in the action. The venue for any litigation shall be Lake County, California and Consultant hereby consents to jurisdiction in Lake County for purposes of resolving any dispute or enforcing any obligation arising under this Agreement.
19.7. If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, then such term or provision shall be amended to, and solely to the extent necessary to, cure such invalidity or unenforceability, and in its amended form shall be enforceable. In such event, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

19.8. This Agreement shall be governed and construed in accordance with the laws of the State of California.

19.9. All documents referenced as exhibits in this Agreement are hereby incorporated into this Agreement. In the event of any material discrepancy between the provisions of this Agreement and those of any document incorporated herein by reference, the provisions of this Agreement shall prevail. This instrument contains the entire Agreement between City and Consultant with respect to the transactions contemplated herein. No other prior oral or written agreements are binding upon the parties. Amendments hereto or deviations herefrom shall be effective and binding only if made in writing and executed on behalf of the City and Consultant.

19.10. Consultant shall not discriminate against any employee or applicant for employment because of race, sex (including pregnancy, childbirth, or related medical condition), creed, national origin, color, disability as defined by law, disabled veteran status, Vietnam veteran status, religion, age (40 and above), medical condition (cancer-related), marital status, ancestry, or sexual orientation. Consultant shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to race, sex (including pregnancy, childbirth, or related medical condition), creed, national origin, color, disability as defined by law, disabled veteran status, Vietnam veteran status, religion, age (40 and above), medical condition (cancer-related), marital status, ancestry, or sexual orientation. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or referral; recruitment advertising; layoff or termination; rates of pay or other forms of compensation; or in terms, conditions or privileges of employment, and selection for training. Consultant agrees to post in conspicuous places, available to employees and applicants for employment, the provisions of this nondiscrimination clause.
TO EFFECTUATE THIS AGREEMENT, the parties have caused their duly authorized representatives to execute this Agreement as of the last date indicated below:

“City”
City of Lakeport

By___________________________   By:_______________________________
Margaret Silveira, City Manager   Trena Pauly, Secretary
Date:_________________________   Date:_________________________

Attest:

By________________________________
Kelly Buendia, City Clerk
Date:_________________________

Approved as to form:

By________________________________
David J. Ruderman, City Attorney
Date: ___________________________
“EXHIBIT A”
SCOPE OF WORK

Scope of Services

1. Consultant shall provide information technology services to the City upon request or during regularly scheduled visits, which shall include, but not limited to, the following:

   - Network Administration: security and maintenance, server administration back up, security, maintenance and upgrades to business applications.
   - Desk Level Support: hardware repair, antiviral support and upgrades.
   - Maintenance of current servers with Windows 2008, Windows 2012, or other operating system using Directory Services, Exchange and additional software.
   - Printer service for all printers of all types, including inkjet and laser.
   - Liaison between City and other third-party software and hardware vendors for the purpose of troubleshooting network and system problems and issues, most notably for the City’s accounting/financial management system, Incode; utility asset management and operations software, Cartegraph; and the data tracking system employed by the City’s Community Development Department.
   - Onsite and remote support.
   - IT project and procurement consultation.
“EXHIBIT B”
APPROVED FEE SCHEDULE

Approved Fee Schedule

For services rendered by Consultant, City agrees to pay a weekly rate of $520.00. This rate shall cover no more than six (8) hours per week, thirty-two (32) hours of service per month, to be provided during normal business hours, Monday through Friday, 9:00 AM to 6:00 PM, commencing on the first day of the month and ending on the last calendar day of the month.

In the event that the City does not use the allotted eight hours weekly or thirty two hours in any given month during the term of this Agreement, Consultant agrees to carry the unused balance forward for use in any successive month until that Excess Hourly Balance is exhausted. The Excess Hourly Balance shall be cumulative of all unused hours from all months in which this Agreement is in effect. If the City requests services in cumulative excess of thirty two hours in any given month, Consultant agrees to apply the proportionate amount of Excess Hourly Balance to satisfy the request.

If the City requests additional time beyond the allotted thirty two hours in any given month, and the Excess Hourly Balance has been exhausted, City agrees to pay Consultant an hourly fee of $65.00.

City agrees to pay Consultant an hourly rate of $85.00 for service requests which require Consultant to perform before or after normal business hours. These hours shall not apply to the thirty-two hour monthly allotment or to the Excess Hourly Balance.

City agrees to pay Consultant monthly in arrears and within thirty (30) days following the City’s receipt and approval of itemized, original invoice(s) identifying period being billed, services rendered, hours required to perform, hours performed before or after normal business hours, and total compensation due for all services.

Total amount of this Agreement shall not exceed $27,000.00 in any twelve-month period in which this Agreement is in effect.

Invoices are to be submitted to:

City of Lakeport
Attn: Finance Department
225 Park Street
Lakeport, CA 95453
Professional Services Agreement
(City of Lakeport / [Company or Individual])
STAFF REPORT

RE: Professional Service Agreement, JJACPA: FY 2016-17 City Audit

MEETING DATE: 7/17/18

SUBMITTED BY: Nicholas Walker, Finance Director

PURPOSE OF REPORT: □ Information only □ Discussion □ Action Item

WHAT IS BEING ASKED OF THE CITY COUNCIL/BOARD:

Authorize the City Manager to sign the attached Professional Services Agreement with JJACPA for independent auditing services.

BACKGROUND/DISCUSSION:

The City has enjoyed a productive working relationship with the independent, professional accounting firm, JJACPA. The firm has been responsive to staff inquiry, timely in their work product, and exceptional in their delivery of auditing services. Staff recommends retaining the firm an additional year.

The auditor shall perform annual financial audits of the City, the Redevelopment Successor Agency, and CLMSD, for the fiscal year ending June 30, 2018, including a single audit of federal monies expended.

The independence of the auditor means that the firm does not work for the City but, rather, is contracted to provide an expert, objective opinion on its financial condition, as presented in the financial statements, and to provide advice to staff regarding generally accepted accounting principles (GAAP), promulgated by the Governmental Accounting Standards Board (GASB). The auditor also is charged with identifying any fraud or malfeasance within the scope of their engagement and reporting that to the next highest level of authority up to, and including, the City Council. Furthermore, the auditor will continue to be available to the City Council for any questions or concerns.

Interim audit work is scheduled to begin in late July of 2018. The final report shall be furnished to the City as part of its CAFR by December 31st, with presentation to the Council in early 2019, if so requested.

OPTIONS:

1. Approve and authorize the City Manager to sign the attached Professional Services Agreement with JJACPA, Inc. for independent auditing services.
2. Do not approve but provide direction to staff.

FISCAL IMPACT:

□ None □ $34,850.00 Budgeted Item? □ Yes □ No

Budget Adjustment Needed? □ Yes □ No

If yes, amount of appropriation increase:

Affected fund(s): □ General Fund □ Water OM Fund □ Sewer OM Fund □ Other: Other funds, including Fund 705: RDA Successor Agency Private Purpose Trust Fund
Comments: This agreement is for auditing services for the 2017-18 fiscal year. Related fees are not to exceed $34,850.00.

SUGGESTED MOTIONS:

Approve and authorize the City Manager to execute the Professional Services Agreement with JJACPA for independent auditing services.

Attachments:

1. PSA with JJACPA
PROFESSIONAL SERVICES AGREEMENT
(City of Lakeport / JJACPA, Inc.)

1. IDENTIFICATION

THIS PROFESSIONAL SERVICES AGREEMENT ("Agreement") is entered into by and between the City of Lakeport a California municipal corporation ("City") and JJACPA, Inc., a professional services corporation, duly qualified to conduct business in California, whose principal place of business is 349 Main Street, Suite 204, Pleasanton, CA, 94566-6663 (hereinafter referred to as "Auditor").

2. RECITALS

2.1 City has determined that it requires the following professional services from a Auditor: independent, professional auditing services.

2.2 Auditor represents that it is fully qualified to perform such professional services by virtue of its experience and the training, education and expertise of its principals and employees. Auditor further represents that it is willing to accept responsibility for performing such services in accordance with the terms and conditions set forth in this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions herein contained, City and Auditor agree as follows:

3. DEFINITIONS

3.1 "Scope of Services": Such professional services as are set forth in Auditor’s June 26, 2018 engagement letter to City attached hereto as Exhibit A and incorporated herein by this reference.

3.2 "Approved Fee Schedule": Such compensation rates as are set forth in Auditor’s June 26, 2018 engagement letter to City attached hereto as Exhibit A and incorporated herein by this reference.

3.3 "Commencement Date": July 1, 2018.

3.4 "Expiration Date": January 31, 2019.

4. TERM

The term of this Agreement shall commence at 12:00 a.m. on the Commencement Date and shall expire at 11:59 p.m. on the Expiration Date unless extended by written agreement of the parties or terminated earlier in accordance with Section 18 ("Termination") below.
5. **AUDITOR’S SERVICES**

5.1 Auditor shall perform the services identified in the Scope of Services. City shall have the right to request, in writing, changes in the Scope of Services. Any such changes mutually agreed upon by the parties, and any corresponding increase or decrease in compensation, shall be incorporated by written amendment to this Agreement. In no event shall the total compensation and costs payable to Auditor under this Agreement exceed the sum of $34,850 unless specifically approved in advance and in writing by City.

5.2 Auditor shall obtain a City business license prior to commencing performance under this Agreement.

5.3 Auditor shall perform all work to the highest professional standards of Auditor’s profession and in a manner reasonably satisfactory to City. Auditor shall keep itself fully informed of and in compliance with all local, state, and federal laws, rules, and regulations in any manner affecting the performance of the Agreement, including all Cal/OSHA requirements, the conflict of interest provisions of Government Code Section 1090, and the Political Reform Act (Government Code Section 81000 et seq.).

5.4 During the term of this Agreement, Auditor shall not perform any work for another person or entity for whom Auditor was not working at the Commencement Date if both (i) such work would require Auditor to abstain from a decision under this Agreement pursuant to a conflict of interest statute and (ii) City has not consented in writing to Auditor’s performance of such work.

5.5 Auditor represents that it has, or will secure at its own expense, all personnel required to perform the services identified in the Scope of Services. All such services shall be performed by Auditor or under its supervision, and all personnel engaged in the work shall be qualified to perform such services. Joseph Arch shall be Auditor’s project administrator and shall have direct responsibility for management of Auditor’s performance under this Agreement. No change shall be made in Auditor’s project administrator without City’s prior written consent.

5.6 Auditor has represented to the City that key personnel will perform and coordinate the services under this Agreement. Should one or more of such personnel become unavailable, Auditor may substitute other personnel of at least equal competence upon written approval of City. If City and Auditor cannot agree as to the substitution of key personnel, City may terminate this Agreement for cause.

5.7 Auditor shall not be reimbursed for any expenses unless provided for in this Agreement or authorized in writing by City in advance.
6. **COMPENSATION**

6.1 City agrees to compensate Auditor for the services provided under this Agreement, and Auditor agrees to accept in full satisfaction for such services, payment in accordance with the Approved Fee Schedule.

6.2 Auditor shall submit to City an invoice, on a monthly basis or less frequently, for the services performed pursuant to this Agreement. Each invoice shall itemize the services rendered during the billing period and the amount due. City shall not withhold applicable taxes or other authorized deductions from payments made to Auditor.

6.3 Payments for any services requested by City and not included in the Scope of Services shall be made to Auditor by City on a time-and-materials basis using Auditor’s standard fee schedule. Auditor shall be entitled to increase the fees in this fee schedule at such time as it increases its fees for its clients generally; provided, however, in no event shall Auditor be entitled to increase fees for services rendered before the thirtieth day after Auditor notifies City in writing of an increase in that fee schedule.

7. **PREVAILING WAGES**

Auditor is aware of the requirements of California Labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 16000, et seq., (“Prevailing Wage Laws”), which require the payment of prevailing wage rates and the performance of other requirements on certain “public works” and “maintenance” projects. Auditor shall defend, indemnify, and hold the City, its elected officials, officers, employees, and agents free and harmless from any claim or liability arising out of any failure or alleged failure of Auditor to comply with the Prevailing Wage Laws.

8. **OWNERSHIP OF WRITTEN PRODUCTS**

All reports, documents or other written material (“written products” herein) developed by Auditor in the performance of this Agreement shall be and remain the property of City without restriction or limitation upon its use or dissemination by City. Auditor may take and retain copies of such written products as desired, but no such written products shall be the subject of a copyright application by Auditor.

9. **RELATIONSHIP OF PARTIES**

Auditor is, and shall at all times remain as to City, a wholly independent contractor. Auditor shall have no power to incur any debt, obligation, or liability on behalf of City or otherwise to act on behalf of City as an agent. Neither City nor any of its agents shall have control over the conduct of Auditor or any of Auditor’s employees, except as set forth in this Agreement. Auditor shall not represent that it is, or that any of its agents or employees are, in any manner employees of City.
Under no circumstances shall Auditor look to the City as his employer. Auditor shall not be entitled to any benefits. City makes no representation as to the effect of this independent contractor relationship on Auditor’s previously earned PERS retirement benefits, and Auditor specifically assumes the responsibility for making such a determination. Auditor shall be responsible for all reports and obligations including, but not limited to: social security taxes, income tax withholding, unemployment insurance, disability insurance, and workers’ compensation.

10. CONFIDENTIALITY

All data, documents, discussion, or other information developed or received by Auditor or provided for performance of this Agreement are deemed confidential and shall not be disclosed by Auditor without prior written consent by City. City shall grant such consent if disclosure is legally required. Upon request, all City data shall be returned to City upon the termination or expiration of this Agreement.

11. INDEMNIFICATION

11.1 The parties agree that City, its officers, agents, employees and volunteers should, to the fullest extent permitted by law, be protected from any and all loss, injury, damage, claim, lawsuit, cost, expense, attorneys’ fees, litigation costs, taxes, or any other cost arising out of or in any way related to the performance of this Agreement. Accordingly, the provisions of this indemnity provision are intended by the parties to be interpreted and construed to provide the City with the fullest protection possible under the law. Auditor acknowledges that City would not enter into this Agreement in the absence of Auditor’s commitment to indemnify and protect City as set forth herein.

11.2 To the fullest extent permitted by law, Auditor shall indemnify, hold harmless, and when the City requests with respect to a claim provide a deposit for the defense of, and defend City, its officers, agents, employees and volunteers from and against any and all claims and losses, costs or expenses for any damage due to death or injury to any person, whether physical, emotional, consequential or otherwise, and injury to any property arising out of or in connection with Auditor’s alleged negligence, recklessness or willful misconduct or other wrongful acts, errors or omissions of Auditor or any of its officers, employees, servants, agents, or subcontractors, or anyone directly or indirectly employed by either Auditor or its subcontractors, in the performance of this Agreement or its failure to comply with any of its obligations contained in this Agreement, except such loss or damage as is caused by the sole active negligence or willful misconduct of the City. Such costs and expenses shall include reasonable attorneys’ fees due to counsel of City’s choice, expert fees and all other costs and fees of litigation.

11.3 City shall have the right to offset against any compensation due Auditor under this Agreement any amount due City from Auditor as a result of Auditor’s failure
to pay City promptly any indemnification arising under this Section 11 and any amount due City from Auditor arising from Auditor’s failure either to (i) pay taxes on amounts received pursuant to this Agreement or (ii) comply with applicable workers’ compensation laws.

11.4 The obligations of Auditor under this Section 11 are not limited by the provisions of any workers’ compensation act or similar act. Auditor expressly waives its statutory immunity under such statutes or laws as to City, its officers, agents, employees and volunteers.

11.5 Auditor agrees to obtain executed indemnity agreements with provisions identical to those set forth here in this Section 11 from each and every subcontractor or any other person or entity involved by, for, with or on behalf of Auditor in the performance of this Agreement. If Auditor fails to obtain such indemnity obligations from others as required herein, Auditor agrees to be fully responsible and indemnify, hold harmless and defend City, its officers, agents, employees and volunteers from and against any and all claims and losses, costs or expenses for any damage due to death or injury to any person and injury to any property resulting from any alleged intentional, reckless, negligent, or otherwise wrongful acts, errors or omissions of Auditor’s subcontractors or any other person or entity involved by, for, with or on behalf of Auditor in the performance of this Agreement. Such costs and expenses shall include reasonable attorneys’ fees incurred by counsel of City’s choice.

11.6 City does not, and shall not, waive any rights that it may possess against Auditor because of the acceptance by City, or the deposit with City, of any insurance policy or certificate required pursuant to this Agreement. This hold harmless and indemnification provision shall apply regardless of whether or not any insurance policies are determined to be applicable to the claim, demand, damage, liability, loss, cost or expense.

12. INSURANCE

12.1 During the term of this Agreement, Auditor shall carry, maintain, and keep in full force and effect insurance against claims for death or injuries to persons or damages to property that may arise from or in connection with Auditor’s performance of this Agreement.

12.2 Any available insurance proceeds broader than or in excess of the specified minimum Insurance coverage requirements or limits shall be available to the Additional Insured. Furthermore, the requirements for coverage and limits shall be the greater of (1) the minimum coverage and limits specified in this Agreement, or (2) the broader coverage and maximum limits of coverage of any Insurance policy or proceeds available to the named Insured.
Insurance required under this Agreement shall be of the types set forth below, with minimum coverage as described:

12.1.1 Comprehensive General Liability Insurance with coverage limits of not less than One Million Dollars ($1,000,000) including products and operations hazard, contractual insurance, broad form property damage, independent Auditors, personal injury, underground hazard, and explosion and collapse hazard where applicable.

12.1.2 Automobile Liability Insurance for vehicles used in connection with the performance of this Agreement with minimum limits of One Million Dollars ($1,000,000) per claimant and One Million dollars ($1,000,000) per incident.

12.1.3 Worker’s Compensation insurance as required by the laws of the State of California.

12.1.4 Professional Errors and Omissions Insurance with coverage limits of not less than One Million Dollars ($1,000,000).

Auditor shall require each of its subcontractors to maintain insurance coverage that meets all of the requirements of this Agreement.

The policy or policies required by this Agreement shall be issued by an insurer admitted in the State of California and with a rating of at least A:VII in the latest edition of Best’s Insurance Guide.

Auditor agrees that if it does not keep the aforesaid insurance in full force and effect, City may either (i) immediately terminate this Agreement; or (ii) take out the necessary insurance and pay the premium thereon at Auditor’s expense.

At all times during the term of this Agreement, Auditor shall maintain on file with City’s Risk Manager a certificate or certificates of insurance showing that the aforesaid policies are in effect in the required amounts and naming the City and its officers, employees, agents and volunteers as additional insureds. Auditor shall, prior to commencement of work under this Agreement, file with City’s Risk Manager such certificate(s).

Auditor shall provide proof that policies of insurance required herein expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. Such proof will be furnished at least two weeks prior to the expiration of the coverages.

The general liability and automobile policies of insurance required by this Agreement shall contain an endorsement naming City and its officers, employees, agents and volunteers as additional insureds. All of the policies required under this Agreement shall contain an endorsement providing that the policies cannot be
canceled or reduced except on thirty days’ prior written notice to City. Auditor agrees to require its insurer to modify the certificates of insurance to delete any exculpatory wording stating that failure of the insurer to mail written notice of cancellation imposes no obligation, and to delete the word “endeavor” with regard to any notice provisions.

12.8 The insurance provided by Auditor shall be primary to any coverage available to City. Any insurance or self-insurance maintained by City and/or its officers, employees, agents or volunteers, shall be in excess of Auditor’s insurance and shall not contribute with it.

12.9 All insurance coverage provided pursuant to this Agreement shall not prohibit Auditor, and Auditor’s employees, agents or subcontractors, from waiving the right of subrogation prior to a loss. Auditor hereby waives all rights of subrogation against the City.

12.10 Any deductibles or self-insured retentions must be declared to and approved by the City. At the option of City, Auditor shall either reduce or eliminate the deductibles or self-insured retentions with respect to City, or Auditor shall procure a bond in the amount of the deductible or self-insured retention to guarantee payment of losses and expenses.

12.11 Procurement of insurance by Auditor shall not be construed as a limitation of Auditor’s liability or as full performance of Auditor’s duties to indemnify, hold harmless and defend under Section 11 of this Agreement.

12.12 Auditor shall report to the City, in addition to the Auditor’s insurer, any and all insurance claims submitted to Auditor’s insurer in connection with the services under the Agreement.

12.13 Auditor may be self-insured under the terms of this Agreement only with express written approval from the City.

12.13.1 All self-insured retentions (SIR) must be disclosed to the City for approval and shall not reduce the limits of liability.

12.13.2 Policies containing any SIR provision shall provide or be endorsed to provide that the SIR may be satisfied by either the named Insured or the City.

12.14 City reserves the right to obtain a full certified copy of any Insurance policy and endorsements. Failure to exercise this right shall not constitute a waiver of the right to exercise later.
13. **MUTUAL COOPERATION**

13.1 City shall provide Auditor with all pertinent data, documents and other requested information as is reasonably available for the proper performance of Auditor’s services under this Agreement.

13.2 If any claim or action is brought against City relating to Auditor’s performance in connection with this Agreement, Auditor shall render any reasonable assistance that City may require in the defense of that claim or action.

14. **RECORDS AND INSPECTIONS**

Auditor shall maintain full and accurate records with respect to all matters covered under this Agreement for a period of three years after the expiration or termination of this Agreement. City shall have the right to access and examine such records, without charge, during normal business hours. City shall further have the right to audit such records, to make transcripts therefrom and to inspect all program data, documents, proceedings, and activities.

15. **PERMITS AND APPROVALS**

Auditor shall obtain, at its sole cost and expense, all permits and regulatory approvals necessary for Auditor’s performance of this Agreement. This includes, but shall not be limited to, professional licenses, encroachment permits and building and safety permits and inspections.

16. **NOTICES**

Any notices, bills, invoices, or reports required by this Agreement shall be deemed received on: (i) the day of delivery if delivered by hand, facsimile or overnight courier service during Auditor’s and City’s regular business hours; or (ii) on the third business day following deposit in the United States mail if delivered by mail, postage prepaid, to the addresses listed below (or to such other addresses as the parties may, from time to time, designate in writing).

If to City

City of Lakeport
Attn: Finance Director
225 Park St.
Lakeport CA 95453
Telephone: (707) 263-5615 x16
Facsimile: (707) 263-8584

City Attorney
David J. Ruderman, Esq.
Colantuono, Highsmith & Whatley, P.C.
420 Sierra College Drive, Suite 140

If to Auditor:

Joe Arch, CPA
7080 Donlon Way, Ste 204
Dublin, CA 94568
Telephone: (925) 556-6200

Facsimile:

With courtesy copy to:

David J. Ruderman, Esq.
City Attorney
Colantuono, Highsmith & Whatley, P.C.
420 Sierra College Drive, Suite 140
17. **SURVIVING COVENANTS**

The parties agree that the covenants contained in Section 10, Section 11, Paragraph 13.2 and Section 14 of this Agreement shall survive the expiration or termination of this Agreement.

18. **TERMINATION**

18.1 City may terminate this Agreement for any reason on five calendar days’ written notice to Auditor. Auditor may terminate this Agreement for any reason on thirty calendar days’ written notice to City. Auditor agrees to cease all work under this Agreement on or before the effective date of any notice of termination. All City data, documents, objects, materials or other tangible things shall be returned to City upon the termination or expiration of this Agreement.

18.2 If City terminates this Agreement due to no fault or failure of performance by Auditor, then Auditor shall be paid based on the work satisfactorily performed at the time of termination. In no event shall Auditor be entitled to receive more than the amount that would be paid to Auditor for the full performance of the services required by this Agreement.
19. GENERAL PROVISIONS

19.1 Auditor maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Auditor, to solicit or secure this Agreement. Further, Auditor warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Auditor, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. Auditor further agrees to file, or shall cause its employees or subcontractor to file, a Statement of Economic Interest with the City’s Filing Officer if required under state law in the performance of the services. For breach or violation of this warranty, City shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer, or employee of City, during the term of his or her service with City, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

19.2 Auditor shall not delegate, transfer, subcontract or assign its duties or rights hereunder, either in whole or in part, without City’s prior written consent, and any attempt to do so shall be void and of no effect. City shall not be obligated or liable under this Agreement to any party other than Auditor.

19.3 This Agreement shall be binding on the successors and assigns of the parties.

19.4 Except as expressly stated herein, there is no intended third party beneficiary of any right or obligation assumed by the parties.

19.5 Time is of the essence for each and every provision of this Agreement.

19.6 In the performance of this Agreement, Auditor shall not discriminate against any employee, subcontractor, or applicant for employment because of race, color, creed, religion, sex, marital status, sexual orientation, national origin, ancestry, age, physical or mental disability, medical condition or any other unlawful basis.

19.7 The captions appearing at the commencement of the sections hereof, and in any paragraph thereof, are descriptive only and for convenience in reference to this Agreement. Should there be any conflict between such heading, and the section or paragraph thereof at the head of which it appears, the section or paragraph thereof, as the case may be, and not such heading, shall control and govern in the construction of this Agreement. Masculine or feminine pronouns shall be substituted for the neuter form and vice versa, and the plural shall be substituted for the singular form and vice versa, in any place or places herein in which the context requires such substitution(s).

19.8 The waiver by City or Auditor of any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant or
condition or of any subsequent breach of the same or any other term, covenant or condition herein contained. No term, covenant or condition of this Agreement shall be deemed to have been waived by City or Auditor unless in writing signed by one authorized to bind the party asserted to have consented to the waiver.

19.9 Auditor shall not be liable for any failure to perform if Auditor presents acceptable evidence, in City’s sole judgment, that such failure was due to causes beyond the control and without the fault or negligence of Auditor.

19.10 Each right, power and remedy provided for herein or now or hereafter existing at law, in equity, by statute, or otherwise shall be cumulative and shall be in addition to every other right, power, or remedy provided for herein or now or hereafter existing at law, in equity, by statute, or otherwise. The exercise, the commencement of the exercise, or the forbearance of the exercise by any party of any one or more of such rights, powers or remedies shall not preclude the simultaneous or later exercise by such party of any of all of such other rights, powers or remedies. If legal action shall be necessary to enforce any term, covenant or condition herein contained, the party prevailing in such action, whether reduced to judgment or not, shall be entitled to its reasonable court costs, including accountants’ fees, if any, and attorneys’ fees expended in such action. The venue for any litigation shall be Lake County, California and Auditor hereby consents to jurisdiction in Lake County for purposes of resolving any dispute or enforcing any obligation arising under this Agreement.

19.11 If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, then such term or provision shall be amended to, and solely to, the extent necessary to cure such invalidity or unenforceability, and in its amended form shall be enforceable. In such event, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

19.12 This Agreement shall be governed and construed in accordance with the laws of the State of California.

19.13 All documents referenced as exhibits in this Agreement are hereby incorporated into this Agreement. In the event of any material discrepancy between the express provisions of this Agreement and the provisions of any document incorporated herein by reference, the provisions of this Agreement shall prevail. This instrument contains the entire Agreement between City and Auditor with respect to the transactions contemplated herein. No other prior oral or written agreements are binding upon the parties. Amendments hereto or deviations herefrom shall be effective and binding only if made in writing and executed by City and Auditor.
19.14 Auditor shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged to City under this Agreement for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to Auditor under this Agreement. All such documents shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of City. In addition, pursuant to Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds ten thousand dollars, all such documents and this Agreement shall be subject to the examination and audit of the State Auditor, at the request of City or as part of any audit of City, for a period of three (3) years after final payment under the Agreement.
TO EFFECTUATE THIS AGREEMENT, the parties have caused their duly authorized representatives to execute this Agreement on the dates set forth below.

“City”
City of Lakeport

By: __________________________
   Margaret Silveira, City Manager
Date: _________________

“Auditor”
JJACPA

By: ______________________________
   Joseph Arch, CPA, President
Date: _________________

By: ______________________________
   Brett Jones, CPA, Secretary
Date: _________________

Attest:

By: ______________________________
   Kelly Buendia, City Clerk
Date: _________________

Approved as to form:

By: ______________________________
   David J. Ruderman, City Attorney
Date: ______
EXHIBIT A

SCOPE OF SERVICES

(ATTACHED HERETO)
June 26, 2018

Nicholas Walker, Finance Director
City of Lakeport
225 Park Street
Lakeport, CA  95453

Dear Nick:

You have requested that we audit the financial statements of the governmental activities, the business-type activities, each major fund, the aggregate remaining fund information and the major funds budgetary comparison information of the City of Lakeport, California (City) as of June 30, 2018, and for the year then ended, and the related notes to the financial statements, which collectively comprise the City’s basic financial statements as listed in the table of contents.

In addition, we will audit the entity’s compliance over major federal award programs for the period ended June 30, 2018. We are pleased to confirm our acceptance and our understanding of this audit engagement by means of this letter. Our audits will be conducted with the objectives of our expressing an opinion on each opinion unit and an opinion on compliance regarding the entity’s major federal award programs.

Accounting principles generally accepted in the United States of America require that supplementary information, be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board, who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. As part of our engagement, we will apply certain limited procedures to the required supplementary information (RSI) in accordance with auditing standards generally accepted in the United States of America. These limited procedures will consist primarily of inquiries of management regarding their methods of measurement and presentation, and comparing the information for consistency with management’s responses to our inquiries. We will not express an opinion or provide any form of assurance on the RSI. The following RSI is required by accounting principles generally accepted in the United States of America. This RSI will be subjected to certain limited procedures but will not be audited:

- Management’s Discussion and Analysis
- Other Post-Employment Benefits Schedule of Funding Progress
- Schedule of Contributions, Pension
- Schedule of the City’s Proportionate Share of the Net Pension Liability

Supplementary information other than RSI will accompany the City’s basic financial statements. We will subject the following supplementary information to the auditing procedures applied in our audit of the basic financial statements and certain additional procedures, including comparing and reconciling the supplementary information to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and additional procedures in accordance with auditing standards generally accepted in the United States of America. We intend to provide an opinion on the following supplementary information in relation to the financial statements as a whole:

- Combining and individual non-major fund financial statements
- Non-major funds budgetary comparison schedules
Schedule of Expenditures of Federal Awards

We will subject the schedule of expenditures of federal awards to the auditing procedures applied in our audit of the basic financial statements and certain additional procedures, including comparing and reconciling the schedule to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and additional procedures in accordance with auditing standards generally accepted in the United States of America. We intend to provide an opinion on whether the schedule of expenditures of federal awards is presented fairly in all material respects in relation to the financial statements as a whole.

Also, the document we submit to you will include the following other additional information that will not be subjected to the auditing procedures applied in our audit of the financial statements:

- Introductory Section
- Statistical Section

Data Collection Form

Prior to the completion of our engagement, we will complete the sections of the Data Collection Form that are our responsibility. The form will summarize our audit findings, amounts and conclusions. It is management’s responsibility to submit a reporting package including financial statements, schedule of expenditure of federal awards, summary schedule of prior audit findings and corrective action plan along with the Data Collection Form to the federal audit clearinghouse. The financial reporting package must be text searchable, unencrypted, and unlocked. Otherwise, the reporting package will not be accepted by the federal audit clearinghouse. We will assist you in the electronic submission and certification. You may request from us copies of our report for you to include with the reporting package submitted to pass-through entities.

The Data Collection Form is required to be submitted within the earlier of 30 days after receipt of our auditors’ reports or nine months after the end of the audit period, unless specifically waived by a federal cognizant or oversight agency for audits. Data Collection Forms submitted untimely are one of the factors in assessing programs at a higher risk.

Audit of the Financial Statements

We will conduct our audit in accordance with auditing standards generally accepted in the United States of America (U.S. GAAS), the standards applicable to financial audits contained in Government Auditing Standards, issued by the Comptroller General of the United States of America; the audit requirements of Title 2 U.S. Code of Federal Regulations (CFR) Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance) [and, if applicable, in accordance with any state or regulatory audit requirements]. Those standards and the Uniform Guidance require that we plan and perform the audit to obtain reasonable assurance about whether the basic financial statements are free from material misstatement. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor’s judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to error, fraudulent financial reporting, misappropriation of assets, or violations of laws, governmental regulations, grant agreements, or contractual agreements. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

Because of the inherent limitations of an audit, together with the inherent limitations of internal control, an unavoidable risk that some material misstatements or noncompliance may not be detected exists, even
though the audit is properly planned and performed in accordance with U.S. GAAS and Government Auditing Standards of the Comptroller General of the United States of America.

In making our risk assessments, we consider internal control relevant to the entity’s preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity’s internal control. However, we will communicate to you in writing concerning any significant deficiencies or material weaknesses in internal control relevant to the audit of the financial statements that we have identified during the audit.

We will issue a written report upon completion of our audit of the City’s basic financial statements. Our report will be addressed to the governing body of the City. We cannot provide assurance that unmodified opinions will be expressed. Circumstances may arise in which it is necessary for us to modify our opinions, add an emphasis-of-matter or other-matter paragraph(s), or withdraw from the engagement.

In accordance with the requirements of Government Auditing Standards, we will also issue a written report describing the scope of our testing over internal control over financial reporting and over compliance with laws, regulations, and provisions of grants and contracts, including the results of that testing. However, providing an opinion on internal control and compliance over financial reporting will not be an objective of the audit and, therefore, no such opinion will be expressed.

Audit of Major Program Compliance

Our audit of the City’s major federal award program(s) compliance will be conducted in accordance with the requirements of the Single Audit Act, as amended; and the Uniform Guidance, and will include tests of accounting records, a determination of major programs in accordance with the Uniform Guidance and other procedures we consider necessary to enable us to express such an opinion on major federal award program compliance and to render the required reports. We cannot provide assurance that an unmodified opinion on compliance will be expressed. Circumstances may arise in which it is necessary for us to modify our opinion or withdraw from the engagement.

The Uniform Guidance requires that we also plan and perform the audit to obtain reasonable assurance about whether the entity has complied with applicable laws and regulations and the provisions of contracts and grant agreements applicable to major federal award programs. Our procedures will consist of determining major federal programs and performing the applicable procedures described in the U.S. Office of Management and Budget OMB Compliance Supplement for the types of compliance requirements that could have a direct and material effect on each of the entity’s major programs. The purpose of those procedures will be to express an opinion on the entity’s compliance with requirements applicable to each of its major programs in our report on compliance issued pursuant to the Uniform Guidance.

Also, as required by the Uniform Guidance, we will perform tests of controls to evaluate the effectiveness of the design and operation of controls that we consider relevant to preventing or detecting material noncompliance with compliance requirements applicable to each of the entity’s major federal award programs. However, our tests will be less in scope than would be necessary to render an opinion on these controls and, accordingly, no opinion will be expressed in our report.

We will issue a report on compliance that will include an opinion or disclaimer of opinion regarding the entity’s major federal award programs, and a report on internal controls over compliance that will report any significant deficiencies and material weaknesses identified; however, such report will not express an opinion on internal control.
Management’s Responsibilities

Our audit will be conducted on the basis that management acknowledge and understand that they have responsibility:

1. For the preparation and fair presentation of the financial statements in accordance with accounting principles generally accepted in the United States of America;
2. For the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to error fraudulent financial reporting, misappropriation of assets, or violations of laws, governmental regulations, grant agreements, or contractual agreements;
3. For safeguarding assets;
4. For identifying all federal awards expended during the period including federal awards and funding increments received prior to December 26, 2014, and those received in accordance with the Uniform Guidance generally received after December 26, 2014;
5. For preparing the schedule of expenses of federal awards (including notes and noncash assistance received) in accordance with the Uniform Guidance requirements;
6. For the design, implementation, and maintenance of internal control over compliance;
7. For identifying and ensuring that the entity complies with laws, regulations, grants, and contracts applicable to its activities and its federal award programs;
8. For following up and taking corrective action on reported audit findings from prior periods and preparing a summary schedule of prior audit findings;
9. For following up and taking corrective action on current year audit findings and preparing a corrective action plan for such findings;
10. For submitting the reporting package and data collection form to the appropriate parties;
11. For making the auditor aware of any significant vendor relationships where the vendor is responsible for program compliance;
12. To provide us with:
   a. Access to all information of which management is aware that is relevant to the preparation and fair presentation of the financial statements, and relevant to federal award programs, such as records, documentation, and other matters;
   b. Additional information that we may request from management for the purpose of the audit; and
   c. Unrestricted access to persons within the entity from whom we determine it necessary to obtain audit evidence.
13. For adjusting the financial statements to correct material misstatements and confirming to us in the management representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the current year period(s) under audit are immaterial, both individually and in the aggregate, to the financial statements as a whole; and
14. For confirming your understanding of your responsibilities as defined in this letter to us in your management representation letter.

With regard to the supplementary information referred to above, you acknowledge and understand your responsibility (a) for the preparation of the supplementary information in accordance with the applicable criteria, (b) to provide us with the appropriate written representations regarding supplementary information, (c) to include our report on the supplementary information in any document that contains the supplementary information and that indicates that we have reported on such supplementary information, and (d) to present the supplementary information with the audited financial statements, or if the supplementary information will not be presented with the audited financial statements, to make the audited financial statements readily available to the intended users of the supplementary information no later than the date of issuance by you of the supplementary information and our report thereon.
As part of our audit process, we will request from management, written confirmation concerning representations made to us in connection with the audit.

We understand that your employees will prepare all confirmations we request and will locate any documents or invoices selected by us for testing.

If you intend to publish or otherwise reproduce the financial statements and make reference to our firm, you agree to provide us with printers’ proofs or masters for our review and approval before printing. You also agree to provide us with a copy of the final reproduced material for our approval before it is distributed.

**Fees and Timing**

The timing of our audit will be scheduled for performance and completion as follows:

<table>
<thead>
<tr>
<th>Activity</th>
<th>Begin</th>
<th>Complete</th>
</tr>
</thead>
<tbody>
<tr>
<td>Document internal control and preliminary tests</td>
<td>7/23/18</td>
<td>7/27/18</td>
</tr>
<tr>
<td>Mail confirmations</td>
<td>7/23/18</td>
<td>7/23/18</td>
</tr>
<tr>
<td>Delivery of Trial Balance</td>
<td>11/26/18</td>
<td>11/26/18</td>
</tr>
<tr>
<td>Perform year-end audit procedures</td>
<td>12/3/18</td>
<td>12/7/18</td>
</tr>
<tr>
<td>Issue audit reports</td>
<td>12/31/18</td>
<td>12/31/18</td>
</tr>
</tbody>
</table>

Joseph J. Arch, CPA, is the engagement partner for the audit services specified in this letter. His responsibilities include supervising JJACPA’s services performed as part of this engagement and signing or authorizing another qualified firm representative to sign the audit report.

Our fees are based on the amount of time required at various levels of responsibility, plus actual out-of-pocket expenses. Invoices will be rendered every two weeks and are payable upon presentation. We estimate that our fee for the audit will be $27,350, if a Single Audit is not required. Should a Single Audit be required, the fees will be $34,850. We will notify you immediately of any circumstances we encounter that could significantly affect this initial fee estimate. Whenever possible, we will attempt to use the City’s personnel to assist in the preparation of schedules and analyses of accounts. This effort could substantially reduce our time requirements and facilitate the timely conclusion of the audit.

**Other Matters**

During the course of the engagement, we may communicate with you or your personnel via fax or e-mail, and you should be aware that communication in those mediums contains a risk of misdirected or intercepted communications.

The audit documentation for this engagement is the property of JJACPA and constitutes confidential information. However, we may be requested to make certain audit documentation available to state and federal agencies and the U.S. Government Accountability Office pursuant to authority given to it by law or regulation, or to peer reviewers. If requested, access to such audit documentation will be provided under the supervision of JJACPA’s personnel. Furthermore, upon request, we may provide copies of selected audit documentation to these agencies and regulators. The regulators and agencies may intend, or decide, to distribute the copies of information contained therein to others, including other governmental...
agencies. We agree to retain our audit documentation or work papers for a period of at least seven years from the date of our report.

Further, we will be available during the year to consult with you on financial management and accounting matters of a routine nature.

This agreement shall be governed by the laws of the State of California. If a dispute arises out of the audit engagement described herein and if the dispute cannot be settled through negotiations, the parties agree first to try in good faith to settle the dispute by mediation using an agreed upon mediator. If the parties are unable to agree on a mediator, the parties shall petition the state court that would have jurisdiction over this matter and request the appointment of a mediator, and such appointment shall be binding on the parties. Each party shall be responsible for its own mediation expenses and shall share equally in the mediator’s fees and expenses.

During the course of the audit, we may observe opportunities for economy in, or improved controls over, your operations. We will bring such matters to the attention of the appropriate level of management, either orally or in writing.

We agree to retain our audit documentation or work papers for a period of at least seven years from the date of our report.

At the conclusion of our audit engagement, we will communicate to the City Council the following significant findings from the audit:

- Our view about the qualitative aspects of the entity’s significant accounting practices;
- Significant difficulties, if any, encountered during the audit;
- Uncorrected misstatements, other than those we believe are trivial, if any;
- Disagreements with management, if any;
- Other findings or issues, if any, arising from the audit that are, in our professional judgment, significant and relevant to those charged with governance regarding their oversight of the financial reporting process;
- Material, corrected misstatements that were brought to the attention of management as a result of our audit procedures;
- Representations we requested from management;
- Management’s consultations with other accountants, if any; and
- Significant issues, if any, arising from the audit that were discussed, or the subject of correspondence, with management.

In accordance with the requirements of Government Auditing Standards, we have attached a copy of our latest external peer review report of our firm for your consideration and files.

Please sign and return the attached copy of this letter to indicate your acknowledgment of, and agreement with, the arrangements for our audit of the financial statements compliance over major federal award programs including our respective responsibilities.

We appreciate the opportunity to be your financial statement auditors and look forward to working with you and your staff.

Respectfully,

JJACPA, Inc.
7080 Donlon Way, Suite #204
Dublin, CA 94566
RESPONSE:

This letter correctly sets forth our understanding.

City of Lakeport

Acknowledged and agreed on behalf of City of Lakeport by:

Name: ______________________________________________________________

Title: _____________________________________________________________________

Date: _____________________________________________________________________
STAFF REPORT

RE: Contract for Preparation of Reservoir Inundation Mapping and Dam Emergency Action Plan Development

MEETING DATE: 7/17/18

SUBMITTED BY: Paul Harris, Utilities Superintendent

PURPOSE OF REPORT: ☐ Information only ☐ Discussion ☒ Action Item

WHAT IS BEING ASKED OF THE CITY COUNCIL/BOARD:

The City Council is being asked to authorize the City Manager to sign a contract with West Consultants, Inc. to prepare reservoir inundation maps and an Emergency Action Plan (EAP) for the dam serving CLMSD’s treated wastewater reservoir.

BACKGROUND/DISCUSSION:

Subsequent to the 2017 structural failure of the Oroville Dam spillway, the City received notice of emergency regulatory action by the State of California Department of Water Resources (DWR) requiring dam owners to prepare and submit inundation maps for review in accordance with recently-added sections to the California Code of Regulations. The inundation maps and supporting technical studies must be reviewed and approved by the Division of Safety of Dams (DSOD) prior to inclusion into an EAP, which must then be reviewed and approved by the Office of Emergency Services (Cal OES). The deadline for submittal of the inundation maps and EAP to DSOD is January 1, 2019.

The Lakeport Dam is currently classified by the State as a High Hazard Dam because its failure has a high likelihood of causing the loss of human life and/or significant impacts to infrastructure and property.

The City prepared a detailed Request for Proposals package that was distributed to six qualified consulting firms in May 2018. The City received two bids:

- West Consultants, Inc. $35,541
- Schaaf & Wheeler $48,600

Staff has reviewed the submitted proposals and both adequately address the project’s requirements and timelines. Both proposals are attached to this memorandum.

Staff recommends using West Consultants for this project based on the quality and completeness of their proposal, their extensive experience with this type of project and the proposed cost.

OPTIONS:

- Authorize or deny the request to authorize the City Manager to sign a contract with West Consultants, Inc.
- Provide Direction to staff

FISCAL IMPACT:
☐ None ☒ $35,541 □ Budgeted Item? ☒ Yes ☐ No

Budget Adjustment Needed? ☐ Yes ☒ No  if yes, amount of appropriation increase:

Affected fund(s): ☐ General Fund ☐ Water OM Fund ☒ Sewer OM Fund ☐ Other:

Comments: Account # 601.3070.930.010

**SUGGESTED MOTION:**

Move to authorize the City Manager to sign a contract with West Consultants, Inc. not to exceed $35,541 for the preparation of reservoir inundation maps and an EAP for the dam serving CLMSD’s wastewater reservoir.

**Attachments:**

1. Bid Tabulation Sheet
CLMSD Inundation Map & Emergency Action Plan

BID TABULATION

<table>
<thead>
<tr>
<th>Consultant/Engineer</th>
<th>Unit Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>Schaef &amp; Wheeler</td>
<td>$ 48,600.00</td>
</tr>
<tr>
<td>West Consultants</td>
<td>$ 35,541.00</td>
</tr>
<tr>
<td>Dewberry</td>
<td>No Bid</td>
</tr>
<tr>
<td>Mead &amp; Hunt</td>
<td>No Bid</td>
</tr>
<tr>
<td>GEZ Consultants</td>
<td>No Bid</td>
</tr>
<tr>
<td>Ruzicka</td>
<td>No Bid</td>
</tr>
</tbody>
</table>
STAFF REPORT

RE: Delinquent Utility User Accounts

SUBMITTED BY: Nicholas Walker, Finance Director

PURPOSE OF REPORT: □ Information only □ Discussion ☒ Action Item

WHAT IS BEING ASKED OF THE CITY COUNCIL/BOARD:
The City Council is being asked to cause a written report (“Written Report”) to be prepared and filed with the City Clerk containing a description of each parcel of real property within the City/CLMSD to which delinquent water and sewer user charges, fees, and penalties are applicable and the amount of the delinquent water and sewer user charge, fee, and penalty for each such parcel for fiscal year 2017–2018.

BACKGROUND/DISCUSSION:
California Health and Safety Code, sections 5473a and sections 13.04.060 and 13.20.560 of the Lakeport Municipal Code authorize the City to have the delinquent charges collected by means of inclusion on the property tax roll by Lake County. It is advantageous for the City and CLMSD to have delinquent water and sewer user charges for the fiscal year 2017–2018 collected on the tax roll.

To collect on these accounts, the City is required to notify the delinquent account holders via letter and public notice and give them an opportunity to bring their account current.

Utility bills and delinquency notices are mailed monthly. Final notice to delinquent accounts, as of June 30, 2018, will be sent to account holders on July 18th, 2018.

These accounts will be updated as payments are received prior to Council’s review at a public hearing on August 7, 2018. Currently, the amount of delinquent accounts in approximately $20,000. The remaining accounts will be sent to the Auditor-Controller.

OPTIONS:
1. Cause a Written Report to be prepared and filed with the City Clerk.
2. Do not cause the preparation of a Written Report but provide direction to staff.

FISCAL IMPACT:
□ None ☒ $ Budgeted Item? □ Yes ☒ No
Budget Adjustment Needed? □ Yes ☒ No If yes, amount of appropriation increase: $
Affected fund(s): □ General Fund ☒ Water OM Fund ☒ Sewer OM Fund □ Other:
Comments:
SUGGESTED MOTIONS:

Move to adopt the proposed resolution electing to have delinquent water and sewer user charges, fees, and penalties for fiscal year 2017–2018 collected on the tax roll, and set a public hearing for August 7, 2018 at 5:15 p.m.

Attachments:

1. Proposed Resolution: A resolution of the City Council of the City of Lakeport and the Board of Directors of the City of Lakeport Municipal Sewer District electing to have delinquent utility charges collected on the tax roll for fiscal year 2017-2018, fixing the time and place of a hearing on the written report on such charges, and prescribing notice of such hearing.
RESOLUTION NO. ____ (2018)


WHEREAS, the City of Lakeport (the “City”) and the City of Lakeport Municipal Sewer District (“CLMSD”) provides certain water and sewer services to its residents and occupants;

WHEREAS, pursuant to section 5473 et seq. of the Health and Safety Code, the City Council/Board of Directors may elect to have delinquent water and sewer user charges collected on the tax roll in any fiscal year in the same manner, by the same persons, and at the same time as, together with and not separately from, the general taxes of the City in the manner prescribed by those sections of the Health & Safety Code;

WHEREAS, it is advantageous for the City and CLMSD to have delinquent water and sewer user charges for the fiscal year 2017–2018 collected on the tax roll;

WHEREAS, pursuant to section 5473a, of the Health & Safety Code and sections 13.04.060 and 13.20.560 of the Lakeport Municipal Code, the City Council shall cause a written report (“Written Report”) to be prepared and filed with the City Clerk containing a description of each parcel of real property within the City/CLMSD to which delinquent water and sewer user charges, fees, and penalties are applicable and the amount of the delinquent water and sewer user charge, fee, and penalty for each such parcel for fiscal year 2017–2018; and

WHEREAS, prior to adopting the Written Report and the charges therein contained, the City Council/Board of Directors must give notice and hold a hearing thereon.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lakeport and the Board of Directors of the City of Lakeport Municipal Sewer District as follows:

1. The City Council/Board of Directors does hereby elect to have delinquent water and sewer user charges, fees, and penalties for fiscal year 2017–2018 collected on the tax roll, in the same manner, by the same persons and at the same time as, together with and not separately from, the general taxes of the City.

2. The City Council/Board of Directors directs the preparation of the Written Report containing a description of each parcel of real property within the City/CLMSD to
which delinquent water and sewer user charges are applicable and the amount of the
delinquent water and sewer user charge, fee, and penalty for each such parcel for fiscal
year 2017–2018 and further directs the filing of such Written Report with the City Clerk.

3. On Tuesday, August 7, 2018, at 5:00 p.m., in the City Council Chambers, at
225 Park Avenue, Lakeport, California, the City Council/Board of Directors shall hold a
hearing for the purposes of hearing and considering all objections or protests, if any, to
the Written Report filed with the City Clerk.

4. The City Clerk shall cause a notice of the filing of the Written Report and
of a time and place of hearing thereon to be published in the Lake County Record-Bee, a
newspaper of general circulation printed and published in the City and CLMSD, pursuant
to section 6066 of the Government Code prior to the date of said hearing, and shall
cause a notice in writing of the filing of the Written Report to be mailed to each person
to whom any parcel or parcels of real property described in such report is/are assessed
in the equalized assessment roll available on the date the Written Report was prepared,
at the address shown on the assessment roll or as known to the City Clerk.

THIS RESOLUTION was passed and adopted by the City Council of the City of
Lakeport at a regular meeting held on the 17th day of July, 2018.

AYES:
NOES:
ABSENT:
ABSTAIN:

___________________________
MIREY G. TURNER, MAYOR

ATTEST:

_____________________________
KELLY BUENDIA, City Clerk
City of Lakeport
WHAT IS BEING ASKED OF THE CITY COUNCIL/BOARD:

The City Council is being requested to hold a hearing in accordance with Lakeport Municipal Code Section 8.28.040 allowing recipients of a notice to abate dry vegetation creating fire hazard conditions on private property to express objections and be provided with due consideration as to why their property should not be abated.

BACKGROUND/DISCUSSION:

On June 19, 2018 the City Council adopted Resolution 2675 (2018) declaring the presence of dry vegetation creating fire hazard conditions on nearly 150 properties throughout the City to be a nuisance. Staff informed Council that abatement would be pursued through the use of the Administrative Citation process outlined in Chapter 8.30 of the Lakeport Municipal Code (LMC) because City-initiated abatement procedures under LMC Chapter 8.28, Weeds and Rubbish, would not likely lead to the abatement of hazardous weeds creating fire conditions in a timely manner. Upon the conclusion of the discussion, Council adopted the Resolution and directed staff to utilize the Administrative Citation procedures under LMC 8.30, but also directed staff to take necessary steps to maintain the ability to abate hazardous weeds through LMC Chapter 8.28 if necessary.

Per the City Council direction, staff revised its Notice of Violation Letter to allow for both the use of Administrative Citations (LMC Chapter 8.30) and City-Initiated Abatement (LMC Chapter 8.28). In accordance with LMC Section 8.28.030, the Notice of Violation provides recipients with the right to a protest hearing and ability to address the Council to argue that their property should be removed from the listing of properties found to be in violation.

Over 150 Notice of Violation letters were sent out immediately following the adoption of Resolution 2675 (2018), requiring the abatement of hazardous weed conditions within 10 days (by July 9, 2018). At the writing of this report nearly 30 properties have been brought into compliance and an additional two dozen or so have contacted the Community Development Department to state that they are in the process of achieving compliance but have requested some additional time. At this time Community Development staff has identified approximately 40 high priority properties, mostly large acreage along the City’s western edge that remain out of compliance and have prepared Administrative Citations to be sent out the week of July 9th.
Staff plans to assess citywide compliance at the end of July and sit down with representatives from the Lakeport Fire Protection District and discuss whether or not the City should continue to issue Administrative Citations or if City-initiated Abatement proceedings should be considered.

OPTIONS:

1. Move to allow or overrule any or all objections and then move to adopt the attach resolution ordering the community development director to abate said nuisances by having the weeds, rubbish, refuse and dirt referred to be removed from the properties listed and for which objections were not allowed, and order that his assistants or deputies are authorized to enter upon those private properties for that purpose.

2. Continue the hearing to a future date.

3. Take no action.

FISCAL IMPACT:

☐ None ☐ $ Budgeted Item? ☐ Yes ☒ No

Budget Adjustment Needed? ☐ Yes ☒ No If yes, amount of appropriation increase: $

Affected fund(s): ☒ General Fund ☐ Water OM Fund ☐ Sewer OM Fund ☐ Other: Fund

Comments: None

SUGGESTED MOTION:

Move to allow or overrule any or all objections, (specify which objections are sustained) and then

Move to adopt a resolution ordering the community development director to abate said nuisances by having the weeds, rubbish, refuse and dirt referred to be removed from the properties listed and for which objections were not allowed, and order that his assistants or deputies are authorized to enter upon those private properties for that purpose.

☒ Attachments: 1. Resolution 2. Sample Notice of Violation Letter 3. Sample Administrative Citation
RESOLUTION NO. _____ (2018)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAKEPORT ORDERING THE COMMUNITY DEVELOPMENT DIRECTOR, OR HIS DESIGNEE, TO ABATE PREVIOUSLY DECLARED NUISANCES DUE TO HAZARDOUS WEEDS BY HAVING THE WEEDS, RUBBISH, REFUSE AND DIRT REFERRED TO REMOVED, AND AUTHORIZING THE COMMUNITY DEVELOPMENT DIRECTOR’S ASSISTANTS OR DEPUTIES TO ENTER UPON PRIVATE PROPERTY FOR THAT PURPOSE.

WHEREAS, recent devastating wildland fires in Lake County and the State of California have destroyed more than 2000 homes and structures; and

WHEREAS, wildland fires have destroyed homes and structures within the city limits of Lakeport in the past; and

WHEREAS, the presence of dry weeds, brush and similar vegetation on vacant and large lots contribute to a heighten risk of fire danger within the community of Lakeport threatening public safety; and

WHEREAS, weeds which attain such a large growth as to become a fire menace when dry, or which are otherwise noxious or dangerous may be declared to be a public nuisance by the city council and may be abated as provided in Chapter 8.28 of the Lakeport Municipal Code; and

WHEREAS, the City Council has declared such weeds a nuisance by resolution adopted June 19, 2018 and ordered the Community Development Director to provide notice to property owners on who’s property such nuisances exist that they require abatement; and

WHEREAS, the owners of nuisance properties determined to be nuisance by reason of such growth of weeds, etc., have received Notice of Violation as well as a notice captioned “Notice to Destroy Weeds and to Remove Rubbish, Refuse and Dirt” advising them of the place and time for a Hearing at which objections would be heard and given due consideration by the City Council; and

WHEREAS, the City Council held a hearing on July 17, 2018 at which time objections were considered and subsequently sustained or overruled by motion, whereupon the city council is deemed to have acquired jurisdiction to proceed and perform the work of removal and the decision of the City Council on the matter shall be deemed final and conclusive.
NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LAKEPORT

THAT:

1. All rubbish, refuse, dirt and weeds growing upon the street or sidewalk, and upon private property adjacent thereto, in the City of Lakeport, hereinafter described in Exhibit “A”, have been declared a public nuisance, pursuant to Section 39560, et seq., of the Government Code and Chapter 8.28 of the Lakeport Municipal Code.

2. The community development director, or his designee, shall abate said nuisance by having the weeds, rubbish, refuse and dirt referred to removed, and the community development director’s assistants or deputies are authorized to enter upon private property for that purpose.

3. Any property owner shall have the right to have any such weeds and rubbish, refuse and dirt, removed at his or her own expense, providing the same is done prior to the arrival of the community development director, or such other public officer so designated or his or her representative to do the same.

4. The community development director or his designee shall keep an account of the cost of abating such nuisance in front of or on each separate lot or parcel of land where the work is done by his assistants or deputies, and shall render an itemized report in writing to the city council showing the cost of removing such weeds, rubbish, refuse and dirt on each separate lot, or in front thereof, or both; The city council shall thereupon confirm said costs, if the same is fair and reasonable and take such further actions as authorized or required under Chapter 8.28 of the Lakeport Municipal Code.

THIS RESOLUTION was passed and adopted by the City Council of the City of Lakeport at a regular meeting held on the 19th day of June, 2018.

AYES:
NOES:
ABSENT:
ABSTAIN:

___________________________
MIREYA G. TURNER, MAYOR

ATTEST:

_____________________________
KELLY BUENDIA, City Clerk
City of Lakeport
NOTICE OF VIOLATION

10-DAY NOTICE

NOTICE TO DESTROY WEEDS AND TO REMOVE RUBBISH, REFUSE AND DIRT

June 21, 2018

[Violation Property Owner]
[Violation Mailing Address]
[Violation City, State, Zip Code]

RE: Dry Vegetation Creating Fire Hazard Nuisance Condition at—
[Violation Address], Lakeport, California [Violation APN]

CONDITION CAUSING NUISANCE: A site visit performed on June 5, 2018 by City of Lakeport staff revealed the presence of dry weeds, brush and similar vegetation which endangers the public safety through the creation of a fire hazard (LMC 8.22.020). Said conditions constitute a nuisance and a violation of the Lakeport Municipal Code.

ORDER IS GIVEN TO COMMENCE ABATEMENT OF SAID NUISANCE CONDITIONS WITHIN TEN (10) DAYS, BUT NO LATER THAN JULY 6, 2018, AND CORRECT THE NUISANCE CONDITION DESCRIBED ABOVE BY TAKING THE FOLLOWING ACTIONS:

1) Clear all dry weeds, brush and similar vegetation to a height of six (6) inches or less. Cut weeds shall either be removed or mulched. (Abatement action does not apply to single specimens of trees, ornamental shrubbery or similar plans which are used as ground cover, if they do not form a means of rapidly transmitting fire from the native growth to any building or structure.

2) Weed abatement and brush clearing activities shall be conducted before 10:00 AM to reduce the risk of inadvertently starting a fire. Please consult the enclosed CALFIRE Equipment Use Safety handout for additional tips for the abatement of dry weeds, brush and vegetation safely.
Be advised, on June 19, 2018 the City Council adopted Resolution 2675(2018) declaring dry vegetation creating a fire hazard to be a public nuisance. The City Council directed Staff to abate hazardous weeds through the issuance of administrative citations as outlined in Chapter 8.30 of the Lakeport Municipal Code or through the formal abatement process outlined in Chapter 8.28 of the Lakeport Municipal Code.

Reference is hereby made to the resolution for further particulars. A copy of said resolution is on file in the Office of the City Clerk, 225 Park street, Lakeport, CA. Any property owner having an objection to the proposed removal of the weeds, rubbish, and/or dirt, is hereby notified there will be a meeting of the city council of the City of Lakeport on the 17th day of July, 2018, at the hour of 6:00 p.m., when objections will be heard and given due consideration. The City encourages property owners to have a regular maintenance program which will prevent hazards to the public safety. In particular with regard to weeds, it is required that weed abatement must be performed at least once between May 1 and no later than June 1, 2018, in order to reduce the hazard from regrowth of weeds during the late fire season.

**Failure to comply with this order within the allotted time period will result in the issuance of an administrative fine not to exceed $100.00 (LMC 8.30.020). Additional administrative penalties may be assessed should failure to comply with this notice be ignored in the amount of $200.00 for second violations and $500.00 for each successive violation there after (LMC 8.30.020).**

The nuisance may also then be abated by the municipal authorities, the cost of removal will be assessed upon the parcels from or in front of which the weeds, rubbish, refuse, and/or dirt are removed; and, a lien for such cost will be placed upon the property until paid.

The City of Lakeport greatly appreciates your cooperation and attention to this matter. If you have any questions or concerns regarding this matter please do not hesitate to contact the Lakeport Community Development Department at (707) 263-5615 x205 or the Lakeport Fire Protection District at (707) 263-4396.

Sincerely,

Kevin M. Ingram
Community Development Director

Dated this 21st day of June, 2018.

Enclosures

Cc: Lakeport Fire Protection District
CITY OF LAKEPORT
MUNICIPAL CODE ADMINISTRATIVE CITATION

Responsible Party: 
Violation Address: 
Violation Date: 7/11/2018

Violation/ Nuisance Description: A site visit performed on 6/05/2018 by City of Lakeport staff revealed the continued presence of Hazardous weeds. A Notice of Violation letter was sent to you on June 19, 2018 requesting the removal of the Hazardous Weeds from your property at the above address no later than July 9, 2018. A subsequent site visit on 7/10/2018 shows the continued presence of hazardous weeds. Said conditions constitute a nuisance and a violation of the Lakeport Municipal Code.

You are hereby ordered to pay the Total Due in fines shown below for the listed violation of the Lakeport Municipal Code.

<table>
<thead>
<tr>
<th>Offense #</th>
<th>Code Section</th>
<th>Description of Violation</th>
<th>Fine Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>8.28.010</td>
<td>HAZARDOUS WEEDS CREATING DANGEROUS CONDITIONS</td>
<td>$100.00</td>
</tr>
</tbody>
</table>

Total Due: $100.00
Due Date: 7/25/2018

YOU ARE FURTHER ORDERED TO COMMENCE ABATEMENT OF SAID NUISANCE CONDITIONS WITHIN TEN (10) DAYS, BUT NO LATER THAN JULY 25, 2018, AND CORRECT THE NUISANCE CONDITION DESCRIBED ABOVE BY TAKING THE FOLLOWING ACTIONS:

1) Personally remove all hazardous weeds from property located at .
2) Alternatively, hire a Contractor to remove all hazardous weeds from property located at .

Failure to comply: with this order within the allotted time period will result in the issuance of a second administrative fine not to exceed $200.00 (LMC 8.30.020). Additional administrative penalties may be assessed should failure to comply with this notice be ignored in the amount of $500.00 for third violations and $500.00 for each successive violation thereafter (LMC 8.30.020).

Appeal: You may file an appeal of an administrative citation within (10) ten calendar days from the date you were served with the administrative citation. You may contest this citation if you wish to argue either (1) you are not responsible for committing the violation or (2) there is no violation, or both, by filing a complete and proper appeal of the administrative citation with the Community Development Department at City Hall, 225 Park Street, Lakeport, CA.

Fine Payment: Fines may be paid in person with the Community Development Department, 225 Park Street, Lakeport, CA. Fines may be paid by mail at the address listed below.

On the reverse side of this form is summary information on the appeal process. Complete information on the administrative citation process can be found in Chapter 8.30 of the Lakeport Municipal Code. Copies of this ordinance are available at the Community Development Department office at City Hall, 225 Park Street, Lakeport, CA or online at www.cityoflakeport.com.
If you need further information, call (707) 263-5615 x205.

____________________________________________
Bonne C. Sharp, Permit Technician

______________________________
Detach at line and return the bottom portion with your payment

PLEASE MAKE CHECKS PAYABLE TO: CITY OF LAKEPORT

Mail to:
City of Lakeport
Community Development Department
225 Park Street
Lakeport, CA 95453

Case Number: HW18-01
Citation Number: 18-02
Issue Date: 7/11/2018
Due Date: July 25, 2018

TOTAL DUE: $100.00

Responsible Party:
Administrative Citation Review Process

Appeal of administrative citation. Any recipient of an administrative citation may contest that there was a violation or that he or she is the party responsible for committing the violation by filing a complete and proper appeal of the administrative citation with the citing officer pursuant to this chapter. (LMC 8.30.080)

Form for filing of appeal. All appeals from any administrative citation shall be in writing and shall contain the following information: (A) name(s) of each appellant, (B) a brief statement in ordinary and concise language of the specific items protested, together with any material facts claimed to support the contentions of the appellant, (C) a brief statement in ordinary and concise language of the relief sought and the reasons why the administrative citation should be rescinded, modified or otherwise set aside, and (D) the signatures of all parties named as appellants and their mailing addresses. Any appeal filed that fails to provide all of the information required by this section shall be deemed incomplete. (LMC 8.30.090)

Time in which to file appeal. A complete and proper appeal of an administrative citation shall be filed with the citing officer within ten calendar days from the date that service of the administrative citation. Any appeal not timely filed shall be rejected. (LMC 8.30.100)

Fee for filing of appeal. A filing fee as established by city council resolution or any amendments thereto for an appeal of an administrative citation must be paid to the city at or prior to the time of the filing of such appeal. Any appeal of the administrative citation filed without payment of the filing fee shall be deemed incomplete. (LMC 8.30.110)

Incomplete filing. Not later than ten calendar days from the date the appeal is filed the citing officer or his or her designee shall determine whether the appeal is complete. If the appeal is determined to be incomplete, the citing officer or his or her designee shall immediately mail to the appellant a notice of incomplete filing which shall provide a written explanation of each reason why the appeal has been determined to be incomplete. If service of the notice of incomplete filing is completed within ten calendar days from the date the appeal is filed, the time period within which to file a completed appeal of an administrative citation shall be extended by an additional five calendar days. (LMC 8.30.120)

Failure to file proper appeal. Failure to timely and properly file an appeal from an administrative citation shall constitute a waiver of all rights to an administrative appeal hearing and adjudication of the administrative citation or any portion thereof. The determination that the violation occurred and that the violator was responsible for the violation shall be deemed final on the date that service of the administrative citation is deemed completed pursuant to Section 8.30.070. (LMC 8.30.130)

Processing and conducting of appeal. The appeal of any administrative citation shall be processed in accordance with the provisions of this chapter and conducted in accordance with the provisions of Chapter 8.31. (LMC 8.30.140)

Stay pending appeal. Enforcement of any administrative citation (except for violations requiring immediate abatement due to immediate threats to public health and safety) shall be stayed during the pendency of the appeal. (LMC 8.30.150)

Appeal of administrative fine. Any party contesting the imposition of the administrative fine(s) may seek judicial review of the imposition of the fine(s) by filing an appeal pursuant to California Government Code Section 53069.4, subdivision (b)(1), after said party has exhausted all available administrative remedies. (8.30.210)

Attorneys’ fees. The prevailing party in any proceeding conducted pursuant to this chapter and associated with the abatement of a public nuisance or correction of any code violation or other issues as set forth herein shall be entitled to recover reasonable attorneys’ fees and costs incurred in any such proceeding. (8.30.220)
STAFF REPORT

RE: General Plan Amendment and Zone Change request associated with a Tentative Parcel Map proposal for property located at 1255 Martin Street.

MEETING DATE: 07/17/2018

SUBMITTED BY: Kevin M. Ingram, Community Development Director

PURPOSE OF REPORT: Information only

WHAT IS BEING ASKED OF THE CITY COUNCIL/BOARD:

The City Council is being asked to conduct a public hearing for the consideration of a General Plan Amendment (GPA 17-01) and Zone Change (ZC 17-02) to revise the existing General Plan and Zoning land use classification to match the proposed parcel boundaries associated tentative Parcel Map (PM 17-01) for property located at 1255 Martin Street. Proposed Parcels 1 and 2 would be designated High Density Residential and proposed parcel 3 would be designated Residential. The City Council is also asked to review the associated CEQA Initial Study/Environmental Review (ER 17-01) prepared for the proposed project.

BACKGROUND/DISCUSSION:

On May 9, 2018 the Lakeport Planning Commission held a public hearing for the consideration of the following applications associated with the Pacific West Communities Parcel Map project for property located at 1255 Martin Street: a Tentative Parcel Map to create three (3) new parcels, General Plan Amendment realigning the existing High Density Residential and Residential general plan land use designation boundaries to reflect the proposed new parcel boundaries, a related Zone Change request to realign the existing R-3, High Density Residential and R-1, Low Density Residential base zoning districts to reflect the proposed parcel boundaries and consideration of the adoption of a mitigated negative declaration based upon the CEQA Environmental Review prepared for the project. The Planning Commission unanimously approved the Tentative Parcel Map, subject to the City Council’s approval of the proposed General Plan Amendments and Zone Changes.

The subject property is designated by the City of Lakeport General Plan Land Use Map and Lakeport Zoning Ordinance as shown in the following table. This table also includes the proposed General Plan and Zoning designations:

<table>
<thead>
<tr>
<th>APN/Address/Uses</th>
<th>Existing General Plan Designation</th>
<th>Proposed General Plan Designation</th>
<th>Existing Zoning</th>
<th>Proposed Zoning</th>
</tr>
</thead>
<tbody>
<tr>
<td>Parcel 1 1255 Martin Street</td>
<td>High Density Residential</td>
<td>No Change</td>
<td>R-3</td>
<td>No Change</td>
</tr>
<tr>
<td>Parcel 2 1255 Martin Street</td>
<td>Residential &amp; High Density Residential</td>
<td>High Density Residential</td>
<td>R-1 &amp; R-3</td>
<td>R-3</td>
</tr>
<tr>
<td>Parcel 3 1255 Martin Street</td>
<td>Residential &amp; High Density Residential</td>
<td>Residential</td>
<td>R-1 &amp; R-3</td>
<td>R-1</td>
</tr>
</tbody>
</table>

On June 19, 2018 this General Plan Amendments and Zoning Change request was introduced and an opportunity for public comment was provided. Following discussion, the City Council made a motion to introduce the
proposed Zoning Ordinance revision, as well as set a public hearing for scheduled for July 17, 2018 to consider both the proposed General Plan Amendments and Zoning Change. As part of its consideration of the proposed General Plan and Zone Change Application, the City Council may reconsider, modify and/or amend the decision of the Planning Commission as it pertains to other associated applications related to the Pacific West Communities Parcel Map project.

A complete copy of the May 9, 2018 Planning Commission staff report is provided as Attachment #3 of this report which provides a detailed analysis of each project application and includes the following additional information: CEQA Initial Study and Tentative Parcel Map.

OPTIONS:

1. After conducting the public hearing and consideration of the proposed project, consider the recommendations of the Planning Commission and Community Development Department as set forth in the staff report, adopt the recommended motions, Resolution and Ordinance.

2. After conducting the public hearing and consideration of the proposed project, direct staff to make modifications or revisions to the proposed General Plan Amendment, Zone Change and environmental documents.

3. After conducting the public hearing and consideration of the proposed project, take no action, or deny the project.

FISCAL IMPACT:

☒ None ☐ $ Budgeted Item? ☐ Yes ☒ No

Budget Adjustment Needed? ☐ Yes ☒ No  If yes, amount of appropriation increase: $

Affected fund(s): ☒ General Fund  ☒ Water OM Fund  ☒ Sewer OM Fund  ☒ Other:

Comments: None

SUGGESTED MOTIONS:

1. Move to adopt a Mitigated Negative Declaration for the Pacific West Communities General Plan Amendment (GPA 17-01) and Zone Change (ZC 17-02) project based on the information and findings contained in the Initial Study/Environmental Review (ER 17-01) and dated April 17, 2018.

2. Move to adopt a Resolution for the proposed General Plan Amendment revising the existing land use classification to match the proposed parcel boundaries associated with tentative Parcel Map (PM 17-01) with Parcels 1 and 2 being designated High Density Residential and Parcel 3 being designated Residential with the findings contained in Resolution for GPA 17-01. [see Attachment 1]

3. Move to adopt the proposed Zone Change Ordinance revising the base zoning district of the subject property to match the proposed parcel boundaries associated with tentative Parcel Map (PM 17-01) with Parcels 1 and 2 being zoned R-3, High Density Residential and Parcel 3 being zoned R-1, Low Density Residential with the findings contained in the Ordinance for ZC 17-02. [see Attachment 2]

Attachments: 1. Draft Resolution for General Plan Amendment (GPA 17-01)
2. Draft Ordinance for Zone Change (ZC 17-02)
3. Pacific West Communities Parcel Map project Planning Commission Staff Report (5/9/2018)
4. Planning Commission Approved Project Conditions of Approval
RESOLUTION NO. **** (2018)

A RESOLUTION OF THE LAKEPORT CITY COUNCIL AMENDING THE LAND USE DESIGNATION PLAN (FIGURE 1) OF THE CITY OF LAKEPORT GENERAL PLAN FOR APN 025-431-16 KNOWN AS THE LANDS OF PACIFIC WEST COMMUNITIES REALIGNING THE EXISTING RESIDENTIAL AND HIGH DENSITY RESIDENTIAL GENERAL PLAN LAND USE DESIGNATION BOUNDARIES

WHEREAS, Section 65361 of the Government Code of the State of California limits the amendment of the Lakeport General Plan to not more than four times per year; and

WHEREAS, this Resolution is presented as the first quarter amendment of 2018; and

WHEREAS, the City of Lakeport Planning Commission has conducted a public hearing (May 9, 2018) on the proposal submitted by Pacific West Communities (GPA 17-01) and recommended that the City Council adopt the proposed General Plan Amendment; and

WHEREAS, the Lakeport City Council conducted a public hearing on July 17, 2018 to consider the recommendation made by the Planning Commission and approved said amendments.

NOW, THEREFORE, BE IT RESOLVED THAT:

A. The Land Use Designation Map (Figure 1) of the Lakeport General Plan is hereby amended to change land described as APN 025-431-16 to realign the existing Residential and High Density Residential general plan land use designations to reflect the proposed boundaries provided as part of tentative Parcel Map (PM 17-01) with Parcels 1 and 2 being designated High Density Residential and Parcel 3 being designated Residential as shown by the map marked as “Exhibit A”.

B. The findings in support of the amendment of the General Plan are as follows:

1. The Lakeport General Plan establishes four criteria which must be satisfied to approve a General Plan amendment.
   a. The project proponent must demonstrate in a factual way that the proposed amendment benefits the public’s interest.
   b. The proposed amendment must be consistent and compatible with the remainder of the General Plan and any implementation programs that it may affect.
   c. The potential impacts of the General Plan amendment have been assessed and have been determined not to be detrimental to the public health, safety, and welfare.
   d. The amendment has been processed according to the California Government Code and California Environmental Quality Act.
2. The City Council finds that:

a. The proposed project realigns the existing Residential and High Density Residential general plan land use designations on this 11.48 acre property located at 1255 Martin Street from its ratio of 6.77 acres of Residential and 4.71 acres of High Density Residential to 3.79 acres of Residential and 7.69 acres of High Density Residential. The proposed general plan amendment would increase the maximum permitted density on this property from 186 units to 250 units. The proposal represents a significant increase in available density for future housing on this property and additional availability in land for high density housing to the City as a whole. The higher density housing would add to the opportunities for additional housing consistent with the City’s General Plan Housing Element. The higher density will also benefit the public interest by allowing for more affordable housing in the City. It is also important to note that the location and other physical features of this site may limit the overall development of this property to a number far less than 250. The proposed reconfiguration of the Residential and High Density Residential general plan designations at this site is in the public’s interest and is consistent proposed land use entitlements issued at this location.

b. The current Land Use designation for the existing property south of Martin Street is Low Density Residential and High Density Residential. According to the text of the Lakeport General Plan Land Use Element, the High Density Residential “designates areas suitable for multifamily residential, senior multifamily and potentially convalescent and other hospital uses....Consistent zoning districts include, but are not limited to R-3 and R-5.” While the Residential “designates areas suitable for single family dwellings....Consistent zoning districts include R-1 and R-2.” The proposed change of the General Plan designation increasing the ratio of High Density Residential and reducing the amount of Residential lands at this site is consistent and compatible with the existing City of Lakeport General Plan Land Use Map along with other applicable goals, objectives, policies, and programs of the General Plan, most specifically the Housing Element which encourages the development of greater access to affordable housing. Maintaining the Residential designation along with its associated lower density allowance for the southern portion of this property is appropriate due to the access challenges available to this area associated with the undeveloped portions of Smith Street. Additionally, the proposal is consistent with existing development patterns within this area of western Lakeport.

c. The changes to the General Plan designation associated with this project reflects the historic development in this part of the Martin Street Area west of Bevins. The General Plan Amendment application realigning the current configuration of High Density Residential and Residential designated lands on this property are consistent with the goals and policies of the Lakeport General Plan. The current Housing Element of the General Plan and existing general plan land use designation map have determined that this property is appropriate for the location of higher density housing. This proposed project reconfigures the
existing general plan land use designation map to be more conducive existing land use development entitlements granted for this site. Furthermore, it recognizes that higher density housing for the southern portion of the property is not appropriate at this time due to the existing substandard condition of Smith Street which provides access to this area of the property. As proposed, this General Plan Amendment will not be detrimental to the public health, safety and welfare.

d. Lakeport City staff has prepared an Initial Study (IS) environmental document in accordance with the provisions of the California Environmental Quality Act (CEQA). The CEQA IS addresses the totality of the 1255 Martin Street project including the Tentative Parcel Map, the General Plan designation change, and the proposed Zone Change, and includes proposed mitigation measures reducing areas of identified impacts to a less than significant level. There are no potentially significant environmental impacts identified in the IS that are associated with the General Plan amendment application. All identified mitigation measures have been incorporated into project conditions of approval.

C. Based on the CEQA IS, Mitigated Negative Declaration, and all additional evidence in the record, the City Council hereby adopts the Mitigated Negative Declaration indicating that the project will not have a significant adverse effect on the environment with the implementation of mitigation measures noted in the study.

This Resolution was passed and adopted by the City Council of the City of Lakeport at a regular meeting held on the 17th day of July, 2018.

AYES:  
NOES:  
ABSENT:  
ABSTAIN:  

__________________________________  
MIREYA G. TURNER, Mayor  
City of Lakeport

ATTEST:  

__________________________________  
KELLY BUENDIA, City Clerk
Subject Property
Portion of APN 025-431-16
(Parcels #1 & #2 of PM 17-01)
New General Plan designation: High Density Residential

Subject Property
Portion of APN 025-431-16
(Parcel #3 of PM 17-01)
New General Plan designation: Residential

EXHIBIT A
MAP IDENTIFYING AREA AFFECTED BY
CITY OF LAKEPORT RESOLUTION
NO. XXXXX (2018) AMENDING THE
LAND USE MAP (FIGURE 1) OF THE
CITY OF LAKEPORT GENERAL PLAN
ORDINANCE NO. (2018)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAKEPORT AMENDING THE CITY OF LAKEPORT ZONING MAP(S) FOR APN 025-431-16 KNOWN AS THE LANDS OF PACIFIC WEST COMMUNITIES

WHEREAS, the owners of the subject property (APN 025-431-16) have applied for a Zone Change (ZC 17-02) realigning the existing base zoning district of R-1, Low Density Residential and R-3, High Density Residential from its current configuration to match the boundaries identified as part of tentative Parcel Map (PM 17-01) with Parcels 1 and 2 rezoned to R-3, High Density Residential and Parcel 3 rezoned to R-1, Low Density Residential; and

WHEREAS, the City of Lakeport Planning Commission has conducted a public hearing (May 9, 2018) on the proposal submitted by Pacific West Communities and recommended that the City Council adopt the proposed Zone Change; and

WHEREAS, the Lakeport City Council has conducted a public hearing (July 17, 2018) on the request and considered the pertinent facts; and

WHEREAS, the proposed rezoning is in conformance with Chapter 17.32 of the Lakeport Municipal Code.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKEPORT DOES ORDAIN AS FOLLOWS:

SECTION 1 Pursuant to Sections 17.32.010, 17.04.010 and 17.06.010 of the Lakeport Municipal Code, the Zoning Map of the City of Lakeport is hereby amended to rezone the designated land identified and described on the map entitled Exhibit A, from its current configuration of R-1, Low Density Residential and R-3, High Density Residential to match the boundaries identified as part of tentative Parcel Map (PM 17-01) with Parcels 1 and 2 rezoned to R-3, High Density Residential and Parcel 3 rezoned to R-1, Low Density Residential.

SECTION 2 The City Clerk is hereby directed to cause the Zoning Map of the City of Lakeport to be amended to show the number and date of this Ordinance and to reflect the change effected thereby.

SECTION 3 The City Council finds that the proposed amendment is in the public’s interest, is consistent with the Lakeport General Plan, and is not detrimental to the community’s health, safety, and welfare for the reasons identified in the Resolution of the Lakeport City Council Amending the Land Use Designation Plan (Figure 1) of the City of Lakeport General Plan for APN 025-431-16 Known as the Lands of Pacific West

ORDINANCE # 196088.1
Communities Realigning the Existing Residential and High Density Residential General Plan Land Use Designation Boundaries and record material thereof.

SECTION 4 The City Council further finds that the environmental impacts of this rezoning have been adequately addressed in the Initial Study (ER 17-01), and that a mitigated negative declaration consistent with the provisions of the California Environmental Quality Act (CEQA) has been prepared which imposes appropriate mitigation measures for the identified impacts.

SECTION 5 All code sections or parts of code sections in conflict herewith are hereby repealed to the extent of such conflict and no further.

SECTION 6 Within fifteen (15) days of its passage, this Ordinance shall be published at least once in the Lake County Record-Bee, a newspaper of general circulation printed and published within the City of Lakeport.

SECTION 7 If any section, subsection, sentence, clause, phrase or portion of this Ordinance or its application to any person or circumstance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or its application to other persons and circumstances. The City Council of the City of Lakeport hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional and, to that end, the provisions hereof are hereby declared to be severable.

SECTION 8 This Ordinance shall take effect thirty days after its adoption pursuant to California Government Code section 36937.

This Ordinance was introduced before the City Council of the City of Lakeport at a regular meeting thereof on the 19th day of June, 2018, by the following vote:

AYES: Mayor Turner, Council Members Barnes, Mattina, Parlet and Spurr
NOES: None
ABSTAIN: None
ABSENT: None

This Ordinance was duly enacted by the City Council of the City of Lakeport at a regular meeting thereof on the 17th day of July, 2018, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST:

KELLY BUENDIA, City Clerk
City of Lakeport

MIREYA G. TURNER, MAYOR
EXHIBIT A

MAP OF AREA REZONED BY CITY OF LAKEPORT
ORDINANCE NO. XXX (2018) AMENDING
SECTION 17.02.050 OF THE MUNICIPAL CODE OF
THE CITY OF LAKEPORT, CALIFORNIA
CITY OF LAKEPORT
COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT

DATE: May 9, 2018
FILE NO: GPA 17-01 / ZC 17-02 / PM 17-01 / ER 17-01
OWNER: Cameron Johnson
AMG & Associates, LLC
28296 Constellation Rd.
Valencia, CA. 91355
APPLICANT: Don Slattery
Pacific West Communities
430 E. State Street, suite 100
Eagle, ID 83616
REPRESENTATIVE/AGENT: Russ Erickson
Robertson Erickson Civil Engineers
888 Manzanita Court, Suite 101
Chico, CA 95926
LOCATION: 1255 Martin Street (025-431-16)
GENERAL PLAN: High Density Residential & Residential
ZONING: R-3, High Density Residential & R-1. Low Density Residential
STAFF CONTACT: Daniel D. Chance, Associate Planner

REQUESTED ACTION: The Planning Commission is being asked to review and take the following actions:

- A Tentative Parcel Map to create three new residential parcels from a 11.48 property located at 1255 Martin Street. Proposed Parcel 1 (3.15 ac) will have access to both Martin and Smith Streets. Proposed Parcel 2 (4.54 ac) will have access to Martin Street. Proposed Parcel 3 (3.79 ac) will have access to Smith Street.

- Review and make a recommendation to the City Council for a General Plan Amendment from the property's current split High Density Residential and Residential to the proposed High Density Residential for proposed Parcels 1 and 2 and Low Density Residential for proposed Parcel 3.
• Review and make a recommendation to the City Council for a Zoning Change from the property's current split R-3, High Density Residential and R-1, Low Density Residential configuration to the proposed R-3 for proposed Parcels 1 and 2 and R-1 for proposed Parcel 3.

• Consideration of a CEQA mitigated negative declaration based upon Environmental Review/Initial Study ER 17-01.

The 11.48 acre property at 1255 Martin has a previously approved 24 unit multi-family development approved on the property (AR17-03). The multi-family development is currently in plan check for the issuance of development permits, with construction proposed soon. This approved development would be located entirely on proposed Parcel 1. The General Plan Designation and Zoning for proposed Parcel 3 is recommended to remain Low Density Residential due to vehicular access limitations associated with Smith Street.

**GENERAL PLAN AND ZONING DISTRICT:** The subject property is designated by the City of Lakeport General Plan Land Use Map and Lakeport Zoning Ordinance as shown in the following table. This table also includes the proposed General Plan and Zoning designations:

<table>
<thead>
<tr>
<th>APN/Address/ Uses</th>
<th>Existing General Plan Designation</th>
<th>Proposed General Plan Designation</th>
<th>Existing Zoning</th>
<th>Proposed Zoning</th>
</tr>
</thead>
<tbody>
<tr>
<td>025-431-16</td>
<td>High Density Residential</td>
<td>High Density Residential</td>
<td>R-3</td>
<td>R-3</td>
</tr>
<tr>
<td>1255 Martin St. Parcel 1 (approved Multi-family develop.)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>025-431-16</td>
<td>Residential with a small portion High Density Residential</td>
<td>High Density Residential</td>
<td>R-1 With a small portion R-3</td>
<td>R-3</td>
</tr>
<tr>
<td>1255 Martin St. Parcel 2 (vacant)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>025-431-16</td>
<td>Residential With a small portion High Density Residential</td>
<td>Residential</td>
<td>R-1 With a small portion R-3</td>
<td>R-1</td>
</tr>
<tr>
<td>1255 Martin St. Parcel 3 (vacant)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

The property had a General Plan and Zoning change in 2003, which established the northeast portion of the property with a General Plan Designation of High Density Residential and a Zoning of R-3, High Density Residential. When the project proponent submitted the application for the Tentative Parcel Map, staff recommended the General Plan Amendment and Zoning Change to reflect the new parcel configuration,
as well as the potential for future high density residential development. A location map showing the subject property and its immediate surroundings is included as Attachment 1 of this report.

**PROJECT DESCRIPTION:** The proposed project consists of a Tentative Parcel Map to divide the 11.48 acre parcel at 1255 Martin Street into three lots. A General Plan Amendment from Low Density Residential to High Density Residential reflecting the configuration of the three newly created parcels. A Rezoning from R-1, Low Density Residential to R-3, High Density Residential reflecting the configuration of the three newly created parcels; with the third parcel in the rear of the property to remain Low Density Residential land use designation and zoning.

The subject site is located along the western edge of Lakeport about ¾ of a mile from downtown Lakeport.

The proposed Tentative Parcel Map, General Plan Amendment and Rezoning of the parcel provide future opportunities for the development of affordable housing.

The approximately 11.5 acre parcel is situated directly west of Smith Street and south of Martin Street, and is bordered by Highway 29 on the west and a privately owned parcel on the south. The terrain of the 11.5 acre site generally slopes from west to east. Three prominent knolls with serpentine rock outcrops dominate the landscape on the project site. Wetlands occur in the on-site shallow swale at the northeast corner of the property.

**GENERAL PLAN AMENDMENT AND ZONE CHANGE:** According to the Lakeport General Plan, the City’s land use planning document is not to remain static. California law permits up to four General Plan Amendments per year. Most of these amendments will involve a change in land use designation for a particular piece of property as is the case in this application. State law requires that any decision to amend the General Plan be based on factual information with findings of fact. These findings are the rationale for making a decision to either approve or deny a proposed amendment. The Proposed General Plan Amendment would represent the first such amendment this calendar year.

The current General Plan designation of the property is High Density Residential and Low Density Residential which allows residential and high density residential throughout the property. The current zoning of the property is R-3 (High Density Residential) and R-1 (Low Density Residential) which allows a variety of residential uses. The General Plan and zoning was changed in 2003 to reflect future high density residential uses proposed for the property. The proposed General Plan Amendment and Zoning Change would be modified to reflect the proposed Tentative Parcel Map configuration to allow future high density residential and low density residential development on the property. In order to develop the property as the applicant proposes, and be consistent with the Lakeport Zoning Ordinance, this application is proposing changes to zoned R-1 (Low Density Residential) and R-3 (High Density Residential) designations respectively, with a corresponding general plan land use designation.
Lakeport Municipal Code Section 17.32.010 (Zoning Amendments) & Section 17.32.020 (General Plan Amendments).

Sections 17.32.010 and 17.32.010 spell out specific criteria and findings necessary for the approval of Zone Changes and General Plan Amendments, respectively. Although worded slightly different, the required findings for both General Plan Amendments and Zone Changes are substantively the same. The required four (4) findings for both General Plan Amendments and Zone Changes are outlined in the table below:

<table>
<thead>
<tr>
<th>General Plan Amendment Criteria (17.32.020 (B))</th>
<th>Zoning Amendment Criteria (17.32.010 (B))</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. The proposed general plan amendment is in the public's interest.</td>
<td>The proposed zoning amendment is in the public's interest.</td>
</tr>
<tr>
<td>2. The proposed general plan amendment is consist and compatible with the entire general plan and any implementation programs that may be affected.</td>
<td>The proposed zoning amendment is consistent with the Lakeport General Plan.</td>
</tr>
<tr>
<td>3. The potential impacts of the proposed general plan amendment have been assessed and have been determined not to be detrimental to the public health, safety, and welfare.</td>
<td>The proposed zoning amendment will not be detrimental to the community's health, safety, and welfare.</td>
</tr>
<tr>
<td>4. The proposed general plan amendment has been processed in accordance with the applicable provisions of the California Government Code and the California Environmental Quality Act.</td>
<td>The proposed zoning amendment complies with the California Environmental Quality Act.</td>
</tr>
</tbody>
</table>

As the required findings for both General Plan amendments and Zone Change are nearly identical; and the proposed applications both seek a change in the designation on portions of the site from R-1, Low Density Residential to R-3, High Density Residential the staff analysis of these findings have been combined for simplicity and to allow for greater understanding of the entire project as a whole. Staff analysis of each individual finding criteria is as follows:

1. The proposed General Plan Amendment & Zone Change is in the public's interest.

Staff Analysis: The proposed changes include a change from Low Density Residential (R-1) to High Density Residential (R-3) for proposed Parcel 2 which front Martin Street and Parcels 3 with a small portion of High Density Residential (R-3) to be changed to Low Density Residential (R-1) located in the rear of the property and accessed via Smith Street. The applicant has indicated a desire to construct additional affordable housing units at this site similar to the 24-unit apartment complex proposed for proposed Parcel 1.

The proposed general plan and associated zone change would increase the maximum permitted density on this 4.54 acre property from 33 units to 86 to 131 units for the residential use. The proposal represents a significant increase in available density for future housing on this property and additional availability in land for high density
housing to the City as a whole. Currently there is 312 acres of vacant and under
developed sites with residential and high density residential designations situated
throughout the City. This would add to total vacant acres in the city, which is currently
14 acres of high density residential. The higher density housing would add to the
opportunities for additional housing consistent with the City’s General Plan Housing
Element. It is also important to note that the location and other physical features of this
site may limit the overall development of this property to a number less the 131
additional housing units. A portion of the property is located on steeper slopes.

The proposed General Plan Amendment and Zone Change to High Density Residential
and Low Density Residential as proposed is in the public’s interest and is consistent with
previous uses at this location.

2. The proposed General Plan Amendment & Zone Change is consistent and
compatible with the entire General Plan and any implementation programs that may
be affected.

Staff Analysis: The Lakeport General Plan has been adopted in accordance with the
provisions of California law and includes several mandatory elements such as Land Use,
Transportation/Circulation, Noise, Conservation, Safety, and Housing. In addition there
are several other General Plan Elements that the City has chosen to include such as the
Urban Boundary, Community Design and the Economic Development Elements. Within
each of these General Plan Elements there are stated purposes, discussion about
existing conditions, goals, objectives, policies, programs and responsible parties. Taken
together the General Plan language is intended to be internally consistent and
compatible and to provide the community with a clear understanding as to what the
intended land use and growth picture of the City is.

The Lakeport General Plan also includes a Land Use Designation Map – Figure 1. This
map illustrates land use designations for all land within the City of Lakeport and
surrounding areas. The current Land Use designation for the existing property south of
Martin Street is Low Density Residential and High Density Residential.

According to the text of the Lakeport General Plan Land Use Element, the High Density
Residential “designates areas suitable for multifamily residential, senior multifamily and
potentially convalescent and other hospital uses ….Consistent zoning districts include,
but are not limited to R-3 and R-5.” While the Residential “designates areas suitable for
single family dwellings….Consistent zoning districts include R-1 and R-2.”

The proposed change of the General Plan designation from Low Density Residential to
High Density Residential, as well as, the proposed changing of the zoning designation
from Low Density Residential (R-1) to High Density Residential (R-3) Zoning Districts is
consistent and compatible with the existing City of Lakeport General Plan Land Use
Map along with other applicable goals, objectives, policies, and programs of the
General Plan, most specifically the Housing Element which encourages the
development of greater access to affordable housing. Additionally, the proposal is
consistent with existing development patterns within this area of western Lakeport.
3. The potential impacts of the proposed General Plan Amendment & Zone Change have been assessed and have been determined not to be detrimental to the public health, safety, and welfare.

Staff Analysis: The changes to the General Plan designation associated with this project reflect recent development in this part of the Martin Street Area. The General Plan Amendment and Zoning Change applications for the proposed residential uses on the property described above are consistent with the goals and policies of the Lakeport General Plan. The City in its preparation and adoption of the Lakeport General Plan intended for the area along Martin Street to be zoned R-3 High Density Residential and the proposed parcel located in the rear, along Smith Street zoned R-1 Low Density Residential. Through this action the City made a comprehensive determination that residential zoning of the subject lots would in fact not be detrimental to the community’s health, safety and welfare, because it’s consistent with the Land Use Designation Map. This perspective, which relates directly to the community’s health, safety, and welfare, is acknowledged in the introduction section of the Lakeport General Plan which indicates that the General Plan “represents an agreement among the residents of Lakeport on basic values, ideals, and aspirations to govern a shared environment.”

4. The proposed General Plan Amendment & Zone Change has been processed in accordance with the applicable provisions of the California Government Code and the California Environmental Quality Act.

Staff Analysis: Lakeport City staff has prepared an Initial Study (IS) environmental document in accordance with the provisions of the California Environmental Quality Act (CEQA). The CEQA IS addresses the totality of the 1255 Martin Street project including the Tentative Parcel Map, the General Plan designation change, and the proposed Zone Change, and can be found as Attachment 5 to this staff report along with proposed mitigation measures. In addition, the mitigation measures have been incorporated into the Project Conditions of Approval (Attachment #3).

The IS has identified potentially significant environmental impacts associated with the proposed Tentative Parcel Map for the proposed site improvements and has recommended mitigation measures which when implemented will reduce and eliminate the identified impacts to a less than significant level. There are no potentially significant environmental impacts identified in the IS that are associated with the General Plan and Zoning Change for the 1255 Martin Street project.

TENTATIVE PARCEL MAP APPLICATION

TPM PROJECT DESCRIPTION: In accordance with the provisions of the City of Lakeport Subdivision Ordinance, the land owner/project proponent has submitted a tentative parcel map (TPM) application for the purpose of subdividing an 11.48 acre parcel of land into three (3) parcels. The proposed parcels include parcel 1 and 2 fronting Martin Street, while parcel 3 would be located in the rear of the property fronting Smith Street. Smith Street represents a 25-foot wide public street/right of way. The 25-foot wide street right of way does not meet city standards and would be required to be widened with
the various property owners. The public street right-of-way would limit future development on proposed Parcel 3.

Proposed Parcel 1 is a high density residential parcel located northeasterly corner of the property fronting on Martin Street and Smith Street. This parcel would contain the previously approved 24-unit multi-family residential development (AR 17-03) approved by the Planning Commission in June 2017 and proposed to be constructed later this year. Parcel 1 will provide the primary access along the frontage of Martin Street, with a secondary access along the frontage of Smith Street. Parcel 1 is a rectangle shape dimension of 420’ x 265’. Parcel 1 will contain 3.15 acres of land area.

Proposed Parcel 2 is a high density residential parcel located directly west of Parcel 1, with the State Highway 29 along the western boundary of the property and will also have a rectangular/angular shape and a rough dimension of 420’ x 283’. Parcel 2 will be fronting on Martin Street. No access to Parcel 2 is proposed at this time. This parcel will contain 4.54 acres of land area. The applicant has indicated a desire to develop additional affordable housing at this site in the near future. Any future development proposal will be subject to additional environmental review and approval from the Planning Commission.

Proposed Parcel 3 is a low density residential parcel situated south of Parcel 1 and 2 extending to the south of the property and will also have an angular shape and a rough dimension of 388’ x 448’. Parcel 2 will be fronting on Smith Street along the eastern property line. This parcel will contain 3.79 acres of land area. The applicant hopes to develop additional affordable housing at this site but there are no plans at this time due to the limitations and improvements necessary to Smith Street.

The TPM (Attachment 4) identifies the subject site and the proposed subdivision. The TPM includes a legal description, general notes, a list of utility providers, and general information about the project.

The TPM generally complies with the City’s Subdivision Ordinance in terms of the details that must appear on the map. The TPM identifies the previously approved right-of-way improvements along Martin Street and Smith Street associated with the previously approved 24-unit multi-family apartment project (AR 17-03). Those improvements would require to be installed with either the construction associated with AR 17-03 or the recordation of the parcel map, whichever comes first. All other improvements on each of the proposed parcels 2 and 3, along with ground surface elevations, adequate areas for building locations, vegetation, existing and proposed public easements, adjacent land ownership and development, adjacent, existing water and sewer utilities, drainage channels and easements, and other information would be required as part of a specific development project for each parcel.

The subject property has a sloping topography with a high-point elevation of 1,410 above sea level and a low-point elevation of 1,365’. The land slopes from west to east. The 1,410’ elevation is located adjacent to the State Highway 29 frontage, and the 1,365 elevation located at the corner of Martin Street and Smith Street. There is a large number of walnut trees scattered around the property, former walnut orchard, with native trees located adjacent to the State Highway 29 frontage. No native trees are proposed to be removed as the result of improvements associated with this TPM. Tree removal associated with future development will be required to adhere to the City’s Tree Preservation Ordinance found in Section 17.21 of the Lakeport Zoning Ordinance.
An environmental sensitive habitat/wetlands area is located at the northeastern corner of Parcel 1 of the property. A biological/botanical and wetlands delineation has been completed for this project and provides a boundary for existing wetlands and biologically sensitive areas. Staff is recommending that the final map include a separate sheet entitled "Local Agency Requirements" indicating the boundaries of existing wetlands and biologically sensitive areas. Additionally, a note should be placed on the final map prohibiting development within this area unless a biological survey and environmental review under CEQA is completed.

Fire protection is provided by the Lakeport County Fire Protection District. The previously approved development on proposed Parcel 1 includes several specific project conditions for the provision of additional fire protection measures associated with that specific project. No additional fire protection mitigations are requested for the TPM. Future development applications will be required to address access and other associated fire protection measures for future development projects.

The City's Public Works Department commented on no utilities identified on TPM. All utilities as well as right-of-way improvements were identified as part of the multi-family apartment development on the overall property. The construction of all utilities and right-of-way improvements would be required as part of the development of the previously approved multifamily residential development or the recordation of the parcel map, whichever comes first.

CONFORMANCE WITH THE SUBDIVISION MAP ACT AND TITLE 16 OF THE LAKEPORT MUNICIPAL CODE / SUBDIVISION ORDINANCE:

The project as submitted is consistent with the requirements as set forth in the California Subdivision Map Act and the Lakeport Subdivision Ordinance, for a subdivision of four or less parcels. The plans have been prepared in accordance with the provisions of the Lakeport Subdivision Ordinance and suitable for recordation with the Lake County Recorder.

Section 16.12.030 of the Subdivision Ordinance requires all relevant data shall be provided for the review of the project and preparation of all required environmental documents. A Preliminary Geotechnical was prepared for the property by ACE Quality Control in 2016, for the original multi-family development, but addressed the entire property. The report did not identify any geotechnical or geologic constraints on subdividing this property. Mitigation Measures and Conditions have been added that would be required for the recordation of the parcel Map and development of the property. In addition, a Phase 1, Environmental Assessment was prepared for the property in 2015. Both reports were determined adequate for the purpose of the subdivision.

An Archaeological Report was prepared by Peak and Associates for the property in 2016 that did not identify cultural artifacts on the property. The City would require a monitoring program be added as a mitigation measure for the cultural resource section of the Initial Study, under CEQA.

City staff has prepared a CEQA Initial Study which includes the TPM project. Notice of the TPM and CEQA public hearing concerning the project has been made in accordance with the Municipal Code. The Planning Commission must find that the TPM, together with the provisions for the design and improvement thereof, is consistent with the Lakeport General Plan and applicable provisions of the Subdivision Ordinance.
If the TPM is approved or conditionally approved, the Community Development Department will forward a written report to the City Council who shall review the map, as part of the General Plan amendment and Zoning change. The Council review shall take place at a public hearing after notice is given.

The proposed lots appear to be proper for their proposed use as a residential and high density residential subdivision. The area in which the subdivision is proposed is also residential in nature and the proposed subdivision is consistent with the other lots in this locality. The size and shape of the proposed lots is proper as the topography of the subject site is essentially flat. The proposed lot sizes are not less than the applicable Zoning Ordinance standards as each parcel exceeds the minimum lot size in the R-3 District and the R-1 District. The proposed lots are suitable for the purpose for which they are intended which is to provide for two high density parcels and one residential parcel proposed with the General Plan and Zoning changes. The proposed high density residential lots provide land area for the parking, landscaping, utilities, and other existing and proposed site improvements.

Per section 16.18.030 of the Subdivision Ordinance “Right-of-way street improvement along peripheral streets may be deferred until development of the individual lots,” As part of the previously approved 24-unit multi-family development project [AR 17-03] previously approved by the Planning Commission for proposed Parcel 1 included improvement plans for the entire right-of-way for both Martin and Smith Streets associated with this entire property. Proposed project conditions associated with this TPM require full right-of-way improvements to City-standard along the Martin and Smith Street frontage. Said improvements shall be completed prior to the recordation of the final parcel map or with the construction of the project proposed for proposed Parcel 1, whichever comes first. Alternatively, the applicant may request the deferral of right-of-way improvements from the City Council in accordance with the provisions set forth in the Subdivision Ordinance, LMC Section 16.

**INITIAL STUDY AND ENVIRONMENTAL REVIEW**

The requested General Plan Amendment and Zone Change proposes to reconfigure the current Low Density Residential (R-1) and High Density Residential (R-3) land use classifications to match the proposed parcel boundaries with proposed Parcels 1 and 2 to be designated High Density Residential (R-3) and proposed Parcel 3 to be designated Low Density Residential (R-1). The 3 lot TPM and required improvements, and related site improvements is defined as the project per the California Environmental Quality Act (CEQA).

Notice of the project has been provided to City departments and affected agencies and the submitted comments are addressed in the Initial Study/Environmental review, ER 17-01 (Attachment 2). A 20-day public review period for the proposed mitigated negative declaration in accordance with CEQA has also been conducted beginning on April 19, 2018. At the time of writing the staff report, no comments from the public regarding the proposed Initial Study/Environmental Review have been received.

Comments from the public are still permitted to be received through the May 9, 2018 public hearing scheduled before the Planning Commission.

The potentially significant effects identified in the Initial Study/Environmental Review include: air quality; biological resources; cultural resources; geology/soils; hazard and
hazardous material; hydrology and water quality; transportation; utilities and service systems.

Staff has developed mitigation measures which have been agreed to by the applicant, and when implemented will mitigate the identified environmental impacts to a less than significant level. In addition, standard City conditions will address other issues that were not identified as significant.

Proposed mitigation measures in the Initial Study/Environmental Review document (Attachment 2) and are further included in the proposed Project Conditions of Approval (Attachment 3).

RECOMMENDATION

Staff recommends that the Planning Commission:

A. Recommend that the City Council adopt a negative declaration for the GPA 17-01 and ZC 17-02 with the following findings:

1. This general plan amendment and rezoning are consistent with the Lakeport General Plan, Zoning Ordinance and City of Lakeport Municipal Code.

2. The Residential and High Density Residential designations, as well as the R-1 (Low Density Residential) and R-3 (High Density Residential) zoning districts are consistent with the existing land use patterns in the vicinity, and the project will not result in adverse land use impacts.

3. This project will not result in any significant adverse environmental impact, and a negative declaration has been recommended.

B. Recommend that the City Council approve GPA 17-01 for the following reasons:

1. The Residential and High Density Residential designations on these properties are consistent with the Lakeport General Plan.

2. The uses allowed in the Residential and High Density Residential designations are compatible with the existing land uses in the vicinity.

3. The proposed General Plan Amendment is in the public’s interest.

4. The proposed General Plan Amendment & Zone Change is consistent and compatible with the entire General Plan and any implementation programs that may be affected.

5. The potential impacts of the proposed General Plan Amendment have been assessed and have been determined not to be detrimental to the public health, safety, and welfare.

6. The proposed General Plan Amendment has been processed in accordance with the applicable provisions of the California Government Code and the California Environmental Quality Act.

7. The change of general plan and zoning would provide additional high density residential vacant land available in the city.
8. This project will not result in any significant adverse environmental impact, and a negative declaration has been recommended.

C. Recommend that the City Council approve ZC 17-02 for the following reasons:
   1. The R-3 (High Density Residential) and R-1 (Low Density Residential) zoning districts are consistent with the Lakeport General Plan.
   2. The uses in the R-3 (High Density Residential) and R-1 (Low Density Residential) zoning districts are compatible with the existing land uses in the vicinity.
   3. The proposed Zone Change is in the public's interest.
   4. The proposed Zone Change is consistent and compatible with the entire General Plan and any implementation programs that may be affected.
   5. The potential impacts of the proposed Zone Change have been assessed and have been determined not to be detrimental to the public health, safety, and welfare.
   6. This project will not result in any significant adverse environmental impact, and a negative declaration has been recommended.

D. Adopt a mitigated negative declaration for Parcel Map, PM 17-01 with the following findings:
   1. Potential environmental impacts related to Air Quality, Biological Resources, Cultural Resource, Geologic/geotechnical, hazard/hazardous material, hydrology/water quality, transportation, utilities/service systems have been mitigated to insignificant levels by Parcel Map conditions that include mitigation measures.
   2. This proposal as mitigated is consistent with the Lakeport General Plan, Zoning Ordinance and Subdivision Ordinance.
   3. This project is consistent with the California Subdivision Map Act.
   4. The project will result in effects to fish and wildlife habitat and is subject to the California Department of Fish and Wildlife filing fee.
   5. As mitigated this project will not result in any significant adverse environmental impacts.

E. Approve Parcel Map, PM 17-01 subject to the conditions, and with the following findings:
   1. The land owner/project proponent has submitted a tentative parcel map (TPM) application for the purpose of subdividing a 11.48 acre parcel of land into three parcels (Parcels 1, 2 and 3).
   2. The form and content requirements, accompanying data, and report requirements of the TPM generally complies with the Lakeport Subdivision Ordinance.
3. The proposed TPM parcels are proper for their proposed use as a residential and high density residential subdivision. The size and shape of the proposed parcels are proper for the topography of the subject site as the area is essentially flat.

4. The proposed parcels are suitable for the purposes for which they are intended within the Residential and high density residential zoning districts.

5. The proposed parcels are large in terms of land area (3.15–4.54 acres) and are of sufficient dimension to facilitate future residential and high density residential land development.

6. All of the proposed new parcels will be served by City water and sewer.

7. Storm water runoff will be collected and conveyed to an engineered storm drain system.

8. The final parcel map will not be presented for approval until the subdivider either completes the required improvements or enters into an agreement with the City to do the work.

9. The project's new parcels will be provided with the full range of utilities.

10. The project has adequate road access for residential development, that includes construction of the street improvements, curbs, gutters, driveways, and other facilities within the street right of way will be provided.

11. Grading, street lights, fire hydrants, signs, street lines and markings, street trees and landscaping, survey monuments, and other improvements are required as a condition of the TPM approval.

12. As mitigated, this project will not result in any significant adverse environmental impacts and a negative declaration has been adopted.

Attachments

1. Location Map
2. Initial Study/Environmental Review (ER 17-01)
3. Project Conditions of Approval
4. Tentative Parcel Map, December 11, 2017
5. General Plan and Zone Change Maps

(Note: Referenced Biological Constraints Evaluation 2015 Addendum, Preliminary Wetlands Delineation 2015, Preliminary Geotechnical Investigation, Soils Report, Phase I & II ESA and Preliminary Hydrology Study not included but can be made available upon request.)

(SEE NEXT PAGE FOR SAMPLE MOTIONS)
SAMPLE MOTIONS

Mitigated Negative Declaration Approval
Move that the Planning Commission find that on the basis of the Initial Study ER 17-01 prepared by the Community Development Department that the Parcel Map, General Plan Amendment and Zone Change as applied for by Pacific West Communities will not have a significant effect on the environment and, therefore, recommend to the City Council that it approve a Mitigated Negative Declaration for the project as provided for in the California Environmental Quality Act.

Tentative Parcel Map Approval
Move that the Planning Commission find that the tentative parcel map applied for by Pacific West Communities on property located at 1255 Martin Street, is in conformity with the provisions of the California Subdivision Map Act and Chapter 16 of the Lakeport Municipal Code and, upon that basis, approve said map subject to the project conditions of approval and with the findings listed in the staff report dated May 9, 2018.

General Plan Change Approval
Move that the Planning Commission recommend that the City Council approve the General Plan Amendment as applied for by Pacific West Communities for the property at 1255 Martin Street (GPA 17-01) changing the configuration of the Residential and High Density Residential land use designations on this property to conform with the proposed parcel boundaries of PM 17-01, subject to the findings listed in the staff report dated May 9, 2018.

Zone Change Approval
Move that the Planning Commission recommend that the City Council amend the Lakeport Zoning Ordinance as applied for by Pacific West Communities for the property at 1255 Martin Street (LC 17-02) changing the configuration of the Low Density Residential (R-1) and High Density Residential (R-3) zoning district boundaries to conform with the proposed parcel boundaries of PM 17-01 Parcel Map boundaries, subject to the findings listed in the staff report dated May 9, 2018.
Attachment 1: Location Map
1255 Martin Street PM 17-01, GPA 17-01 & ZC 17-02
Vicinity Map
Attachment 2: Initial Study/Environmental Review (ER 17-01)
INITIAL STUDY AND ENVIRONMENTAL REVIEW

The application for Amendment of the City of Lakeport General Plan and Zone Change is subject to the provisions of the California Environmental Quality Act, Title 17 of the City of Lakeport Municipal Code, and City Council Resolution No. 1160, all of which deal with environmental review procedures.

Project Title: Pacific West Communities / 1255 Martin Street
Tentative Parcel Map, General Plan Amendment and Rezoning

Permit Number: ER 17-01, GPA 17-01, ZC 17-02 & PM 17-01

Lead Agency Name and Address:
City of Lakeport
Community Development Department
City Hall—225 Park Street
Lakeport CA 95453

Contact Person and Phone Number:
Daniel D. Chance, Associate Planner
(707) 263-5615 x203

Project Location(s):
1255 Martin Street, Lakeport
APN: 025-431-16

Project Sponsor’s Name and Address:
Don Slattery
Pacific West Communities
430 East State Street
Eagle, ID 83616

General Plan Designation:
High Density Residential/Low Density Residential

Zoning:
R-3, High Density Residential/R-1, Low Density Residential
Description of Project: (Describe the whole action involved, including but not limited to later phases of the project, and any secondary, support, or off-site features necessary for its implementation. Attach additional sheets if necessary).

The proposed project consists of a Tentative Parcel Map to divide the 10.5 acre parcel at 1255 Martin Street into three lots. A General Plan Amendment from Low Density Residential to High Density Residential reflecting the configuration of the three newly created parcels. A Rezoning from R-1, Low Density Residential to R-3, High Density Residential reflecting the configuration of the three newly created parcels; with the third parcel in the rear of the property to remain Low Density Residential land use designation and zoning.

The Tentative Map would include the following:

- Parcel One is proposed as a 3.15 acre parcel and would include the recently approved Martin Street Lakeport Apartments is a 24 unit multi-family affordable housing project scheduled to be constructed this summer. The current General Plan Designation for this parcel is Low Density Residential, while the current zoning for this parcel is R-3, High Density Residential. The General Plan Designation would be amended from Low Density Residential to High Density Residential, while the zoning for this parcel would remain R-3, High Density Residential.

- Parcel Two is proposed as a 4.15 acre parcel which is currently vacant and located directly west of the parcel one and fronting along Martin Street. The current General Plan Designation for a majority of this parcel is Low Density Residential, while the current zoning for a majority this parcel is R-1, Low Density Residential. The General Plan Designation for this parcel would be changed from Low Density Residential to High Density Residential. The zoning for this Parcel would change from R-1, Low Density Residential to R-3, High Density Residential.

- Parcel Three is proposed as a 3.79 acre parcel which is currently vacant, located directly south of parcel one and two, and fronting Smith Street along the east. The current General Plan Designation for a majority of this parcel is Low Density Residential, while the current zoning for a majority this parcel is R-1, Low Density Residential. Smith Street is the only access to this proposed parcel and is currently a substandard roadway. Due to the substandard access the General Plan and Zoning for this parcel is proposed to remain Low Density Residential, with the zoning of R-1, Low Density Residential.

The subject site is located in western edge of Lakeport about ¾ of a mile from downtown Lakeport.

The proposed Tentative Parcel Map, General Plan Amendment and Rezoning of the parcel provide future opportunities for the development of affordable multiple family apartments and/or senior housing in this immediate area.

Surrounding Land Uses and Setting: Briefly describe the project's surroundings:

The 10.5 acre parcel is situated directly west of Smith Street and south of Martin Street, and is bordered by Highway 29 on the west and a privately owned parcel on the south. The terrain of the 10.5 acre site generally slopes from west to east. Three prominent krolls with serpentine rock outcrops dominate the landscape on the project site. Wetlands occur in the on-site shallow swale at the northeast corner of the property.

The proposed development site area is vacant of structures and improvements (A new 24-unit multi-family apartment complex was recently approved for the northeast portion of the property but has not yet to be constructed). Portions of the project site appear to have been disturbed by prior agricultural activities. Old walnut trees exist on the site and extend from the northwest
corner of the parcel to the southeast corner comprising approximately half of the project site. The old orchard which historically produced walnuts is abandoned and has not been maintained in recent years.

The surrounding land development pattern includes State Highway 29 to the west, Martin Street, the Lake County Sheriff’s Department and a single family house to the north, the New Life Foursquare Church to the northeast, vacant land to the east, the Lakeport Village Senior Apartments to the southeast and a single family house to the south. Smith Street, a narrow, substandard, dirt road borders the development site on the east side.

Other public agencies whose approval is required (e.g., Permits, financing approval, or participation agreement.)

California Department of Housing & Community Development – HOME Grant
California Regional Water Quality Control Board – General Construction Permit
California Department of Fish & Wildlife – CEQA Filing Fee & Biological Assessment Review
U.S. Army Corps of Engineers – Jurisdictional Waters Determination
ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED

The environmental factors checked below would be potentially affected by the project, involving at least one impact that is a “Potentially Significant Impact” or “Less Than Significant with Mitigation Incorporation” as indicated by the checklist on the following pages.

☐ AESTHETICS
☐ AGRICULTURAL AND FORESTRY RESOURCES
☒ BIOLOGICAL RESOURCES
☒ CULTURAL RESOURCES
☐ GREENHOUSE GAS EMISSIONS
☒ HAZARDS & HAZARDOUS MATERIALS
☐ LAND USE / PLANNING
☒ MINERAL RESOURCES
☐ POPULATION / HOUSING
☒ PUBLIC SERVICES
☒ TRANSPORTATION/TRAFFIC
☒ UTILITIES / SERVICE SYSTEMS
☒ AIR QUALITY
☒ GEOLOGY / SOILS
☒ HYDROLOGY / WATER QUALITY
☐ NOISE
☐ RECREATION
☒ MANDATORY FINDINGS OF SIGNIFICANCE

Determination

On the basis of the initial evaluation that follows:

☐ I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.

☒ I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.

☐ I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

☐ I find that the proposed project MAY have a “potentially significant impact” or “potentially significant unless mitigated” impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. A TIERED ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.

☐ I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, no further environmental document is required. FINDINGS consistent with this determination will be prepared.”

Signature: ________________________
Daniel D. Chance
Date: April 17, 2018
I. **AESTHETICS:** The proposed project consists of a request for a General Plan Amendment from Residential to High Density Residential, Zoning Change from Low Density Residential to High Density Residential for a portion of the property and a Tentative Parcel Map to create three parcels, one of the parcels would include the previously approved 24-unit affordable multi-family housing project. No new construction is proposed on the property, other than the multi-family affordable residential apartment project and related site improvements previously approved by the Lakeport Planning Commission.

**Would the project:**

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<thead>
<tr>
<th></th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporation</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
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<tbody>
<tr>
<td>a) Have a substantial adverse effect on a scenic vista?</td>
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<td>X</td>
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<tr>
<td>b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?</td>
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<td>X</td>
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<tr>
<td>c) Substantially degrade the existing visual character or quality of the site and its surroundings?</td>
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<td>X</td>
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<tr>
<td>d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?</td>
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<td>X</td>
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**Response I a):** The project consists of a General Plan Amendment, a Rezoning and a Tentative Parcel map, no new construction is proposed on the property, other than the multi-family affordable residential apartment project and related site improvements previously approved by the Lakeport Planning Commission and associated CEQA document ER 15-03. Construction of any proposed buildings may have an adverse effect on established scenic vistas, and would be addressed as part of that future development. Figure 16 of the City of Lakeport General Plan (Conservation, Open Space, Parks and Recreation Element) details environmentally sensitive areas, including view corridors. No General Plan view corridors exist in the vicinity of the project. However there actually is a nice view of Lakeport and Mt. Konoci to the east from the existing elevated rocky knolls on the site. The nearest General Plan designated view corridor extends east from the County Courthouse in the vicinity of Third and Forbes Streets which is approximately 2,100 feet northeast of the project site. There is **NO IMPACT.**

**Response I b):** The project will not substantially damage scenic resources within a State scenic highway. No development proposed with this project. Future development of this property would be required to address visual impact to the State Highway 29. State Highway 29 is located contiguous to the subject property, approximately 600 feet west of the project but is not a designated scenic highway. There is **NO IMPACT.**

**Response I c):** The proposed project will not substantially degrade the existing visual character or quality of the site and its surroundings. No development proposed with this project. Future development of this property would be required to address impacts to the visual character or
quality site. The existing site currently unimproved with a previously approved 24-unit multifamily housing unit and has no recent development history according to City records.

The terrain generally slopes from west to east. Three prominent knolls/rock outcrops dominate the landscape on the project site. The property slopes to the northeast and generally drains into a shallow swale at the northeast corner of the project site. An existing drainage swale is located along the northeast corner of the property. Storm water flows east through adjacent private land towards Bevins Street. Jurisdictional wetlands are present in this swale. The rock outcrops are serpentine material. This potential impact is considered LESS THAN SIGNIFICANT.

Response (d): With respect to the potential creation of substantial light and glare that would adversely affect day or nighttime views in the area. No development proposed with this project. Future development of this property would be required to address potential impacts of substantial light and glare. The potential impact is LESS THAN SIGNIFICANT.

II. AGRICULTURE AND FOREST RESOURCES:

In determining whether impact to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impact to forest resources, including timberland are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state’s inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board.

Would the project:

| a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use? |
|---|---|---|---|
| Potentially Significant Impact | Less Than Significant with Mitigation Incorporation | Less Than Significant Impact | No Impact |
| X |

| b) Conflict with existing zoning for agricultural use, or a Williamson Act contract? |
|---|---|---|---|
| Potentially Significant Impact | Less Than Significant with Mitigation Incorporation | Less Than Significant Impact | No Impact |
| X |

<p>| c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland |
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| Potentially Significant Impact | Less Than Significant with Mitigation Incorporation | Less Than Significant Impact | No Impact |
| X |</p>
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<td>Production (as defined by Government Code section 51104(g))?</td>
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<td>d) Result in the loss of forest land or conversion of forest land to non-forest use?</td>
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<td>e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to non-agricultural use or conversion of forest land to non-forest use?</td>
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Response II a): Staff reviewed the State of California Important Farmland Map for Lake County and visited the web site for the State of California Department of Conservation, Division of Land Resource Protection (ftp://ftp.consrv.ca.gov/pub/dlrp/FMMP/puff/2006/lak06.pdf), and found that the subject property is not considered to be prime farmland, unique farmland or farmland of statewide importance. The project site is located in an urban/built-up area according to the Important Farmland Map. There are no records indicating that the site has been used for agricultural uses in the past. The proposal will not result in the conversion of prime farmland to non-agricultural use. There is **NO IMPACT**.

Response II b): The site is not zoned for agricultural uses and City and County records indicate that it is not subject to a Williamson Act contract. There is **NO IMPACT**.

Response II c), d): The site is not zoned for forest uses or timberland and the project will not result in the loss or conversion of existing forest land. **NO IMPACT** is anticipated.

Response II e): There are no aspects of the project that would result in the conversion of farmland to a non-agricultural use or the conversion of forest land to non-forest use. There is **NO IMPACT**.

**III. AIR QUALITY:**

Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations.

**Would the project:**

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<tr>
<td>a) Conflict with or obstruct implementation of the applicable air quality plan?</td>
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<td>b) Violate any air quality standard</td>
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<td>or contribute substantially to an existing or projected air quality violation?</td>
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<tr>
<td>c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?</td>
<td></td>
<td>X</td>
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<tr>
<td>d) Expose sensitive receptors to substantial pollutant concentrations?</td>
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<td>X</td>
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<tr>
<td>e) Create objectionable odors affecting a substantial number of people?</td>
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<td>X</td>
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**Response III a):** Notice of the proposal was provided to the Lake County Air Quality Management District (LCAQMD) and there was no indication that the proposed project will conflict with or obstruct the implementation of the County’s air quality program. The LCAQMD indicates the project can be “supported for air quality concerns” provided that certain concerns are adequately addressed. There is NO IMPACT.

**Response III b):** The air quality associated with the construction of the proposed apartment buildings and the related site improvements have been previously addressed, any future development may result in temporary localized increases in particulate air pollution related to earthmoving, hauling, trenching, demolition, and other construction activities, however, that would be addressed as part of any future proposed development. THE POTENTIAL IMPACT IS LESS THAN SIGNIFICANT

**Response III c):** Based on the response from LCAQMD, development of the proposed project will not directly result in a cumulatively considerable net increase of any criteria pollutant not currently in attainment. The construction of the right-of-way improvements would require a dust suppression plan to reduce potential for off-site air quality issues associated with construction of those improvements. In addition, there is the potential for impacts associated with a plan for suppression of serpentine dust during construction of the right-of-way improvements. The Lake County region is currently under attainment levels for all criteria pollutants. There is NO IMPACT.

**Response III d, e):** Approval of the project and the subsequent future residential uses are not expected to expose sensitive receptors to substantial pollutant concentrations or result in the creation of objectionable odors. Sensitive receptors in the City of Lakeport include residences, schools, parks, medical offices and convalescent homes. The nearby residential areas to the south and north of the site may be considered sensitive receptors.
Future project will result in an increase in traffic volumes and related vehicle emissions in the area. However, the potential increase in emissions associated with the project is not expected to detrimentally affect the existing air quality in the area. Martin Street is currently a heavily-traveled arterial street and the projected traffic increase is lower than most other residential projects.

The future residential activities will be subject to the zoning guidelines for the R-3 District and the Performance Standards for all uses which are outlined in Chapter 17.28 of the Municipal Code. The potential AIR QUALITY impacts are LESS THAN SIGNIFICANT.

### IV. BIOLOGICAL RESOURCES:

Would the project:

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<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporation</th>
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<td>a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?</td>
<td>X</td>
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<td>b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?</td>
<td>X</td>
<td></td>
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<tr>
<td>c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?</td>
<td>X</td>
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<tr>
<td>d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or</td>
<td>X</td>
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<td>Question</td>
<td>Potentially Significant Impact</td>
<td>Less Than Significant with Mitigation Incorporation</td>
<td>Less Than Significant Impact</td>
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<tr>
<td>e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?</td>
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<td>f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?</td>
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**Environmental Setting**

The City of Lakeport is located within the Eco region known as the Northern California Interior Coast Ranges. Northern California Interior Coast Ranges vegetation is predominately characterized by the Blue Oak series, Chemise series, Purple needle grass series, and Foothill pine series (General Plan EIR, 2008). The vegetation within these plant communities vary greatly and are generally influenced by several ecological factors, including the amount of water available, soil depth and chemistry, slope and aspect (angle of the terrain with regard to direct sunlight), and climate.

The following habitat types are found within the City of Lakeport: shoreline, riparian, oak woodlands, chaparral, agricultural lands, and urban areas. There are several special-status plants and animal species known to occur in the vicinity of the City, however, the City is not located within an identified migratory corridor.

The majority of the trees on the property is primarily the remnants of a walnut orchard and does not represent native trees. Native trees are located either on or along the State Highway 29 right-of-way. Any future development would be required to preserve those trees to maintain screening and viewed protection along the state highway.

There are numerous policies and measures included in the Conservation Element of the Lakeport General Plan that are intended to help protect and preserve important natural and biological resources. The above-referenced policies include requirements such as requiring setbacks from surface water resources and limiting the amount of ground disturbance during construction activities.

The Lakeport General Plan provides details regarding the setting for biological resources, including detailed descriptions of potential special-status plant, fish, and wildlife species, habitat types, sensitive communities, and wildlife corridors affecting the Lakeport area.

**Response IV a):** The applicant has submitted a Biological Constraints Evaluation that was initially prepared in conjunction with a previously-proposed project on the subject property. The report was prepared in April 9, 2001 by LSA, Inc. and addresses the potential biological resource constraints on the site. An Addendum to the Biological Constraints Evaluation prepared by LSA, Inc.
dated January 16, 2015 has also been submitted to the City in conjunction with the subject project. Both of these LSA, Inc. Biological Evaluation documents are incorporated into this CEQA Initial Study by reference.

The submitted Biological Constraint Evaluations describe the Site Characteristics, Methods, Results and Evaluation, Jurisdictional Waters, and provide a Summary and Recommendations section. The Evaluations include discussion regarding the site topography, drainage, soil composition, plant communities, disturbed soils, past agricultural activities, special status plant species, special species wildlife, wildlife movement, and other habitat features.

The LSA, Inc. Biological Evaluations are reconnaissance level surveys conducted on March 14, 2001 and on December 29, 2014 and focused on identifying sensitive plant communities, special status wildlife or plants species, wildlife movements, and jurisdictional waters.

LSA, Inc. queried the California Natural Diversity Database to develop a list of special status wildlife and plant species that could potentially occur on the property.

The 2001 Evaluation provides a description of the existing biology of the site and also describes site characteristics related to the presence of serpentine soils, including supportive habitat for several plant species considered to be on the special status list according to the California Natural Diversity Database.

Potential habitat exists on the site for special status plants including Colusa layia, serpentine cryptantha, beaked tracyina, and glandular western flax and bent-flowered fiddleneck.

According to the 2015 Addendum Evaluation, site conditions have not noticeably changed since 2001. However it is indicated that the site may contain two additional threatened biological resources not previously described: nesting raptors and bats. It is possible that that these special status wildlife species may occur on the property and that surveys and further site evaluation are necessary for definitive conclusions.

In accordance with the above information, future development activities will require additional biological survey and mitigation measures similar to the of the Martin Street Apartment project at this site. However, impacts associated with this application for a General Plan Amendment, Zoning Change and Parcel Map are less than significant with the incorporation of the mitigation measures.

Based on the findings of the submitted biological assessment and the comments received from Fish and Wildlife, the proposed development of the site may directly result in substantial adverse effects on candidate, sensitive, and/or special status species. The potential impact is **LESS THAN SIGNIFICANT WITH MITIGATION INCORPORATION.**

**Response IV b):** Based on the submitted plans and supplemental materials and the comments received from the Department of Fish and Wildlife, approval of the proposed apartment project and the subsequent development of the site may impact the sites sensitive natural plant and wildlife communities described in the 2001 and 2015 biological evaluation.

A mitigation measure that requires the preparation of an updated biological assessment in order to determine the current status of the identified sensitive/rare plant species and their habitat communities is suggested. Additional mitigation may be required based on the results of the updated study. The potential impact is **LESS THAN SIGNIFICANT WITH MITIGATION INCORPORATION.**

**Response IV c):** This checklist queries potential impacts to federally protected wetlands, which are under the jurisdiction of the U.S. Army Corps of Engineers. The LSA Inc. biological evaluations include a discussion of the sites wetland areas and identified areas which meet the definition of
wetlands. LSA, Inc. also prepared a Preliminary Delineation of Potential Waters of the U.S. report for the subject site dated January 22, 2015 which is incorporated by reference herein. The report indicates that there are areas on the site that meet the criteria for wetlands or other waters of the United States totaling .060 acres.

The U.S. Army Corps of Engineers has jurisdiction over designated wetlands and other waters of the United States and has reviewed the proposed project and indicated by letter dated January 29, 2015 that based on available information that there is approximately .049 acres of wetland and approximately .011 acres of other water bodies (Non-Wetland Waters) present on the property that are within the jurisdiction of the Corps and are regulated under Section 404 of the Clean Water Act. Future development on those vacant parcels created as part of the Tentative Parcel Map would need to address the development associated with those identified wetlands. The previously approved project originally approved project, avoided impacts to and retaining the existing wetlands area identified at the northeastern corner of the property.

The applicant must obtain all necessary local, state and federal permits prior to initiating any construction activities in the wetland habitat areas. The mitigation measure specifies the need for permits from the Army Corps of Engineers, the Central Valley Regional Water Quality Control Board and the California Department of Fish and Wildlife. The potential impact is LESS THAN SIGNIFICANT WITH MITIGATION INCORPORATION.

Response IV d): Development of the proposed project could result in substantial adverse impacts to the movement of native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites. Mitigation measures include a provision recommending avoidance of construction activities during known nesting periods. If construction during nesting periods is unavoidable the developer will be required to submit a raptor study and implement recommended mitigation measures prior to any construction activities taking place. The possible presence of nesting raptors and bats if determined to exist on the site is LESS THAN SIGNIFICANT WITH MITIGATION INCORPORATED.

Response IV e): Approval of the project with potential for future development of residential apartments and related site improvements will not directly result in any conflicts with local policies or ordinances protecting biological resources. No native trees will be impacted as a result of the project and the necessary modifications to the existing wetland areas are subject to approval by State and Federal agencies. If determined to be necessary, appropriate mitigation measures will be required in conjunction the future approvals. This potential impact is considered LESS THAN SIGNIFICANT.

Response IV f): There are no applicable Habitat Conservation Plans, Natural Community Conservation Plans, or any other local, regional, or state conservation plans affecting the subject property. There is NO IMPACT.

V. CULTURAL RESOURCES:

Would the project:

<table>
<thead>
<tr>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporation</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
</table>

13
<table>
<thead>
<tr>
<th>Description</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporation</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) Cause a substantial adverse change in the significance of a historical resource as defined in 15064.5?</td>
<td></td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to 15064.5?</td>
<td></td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?</td>
<td></td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>d) Disturb any human remains, including those interred outside of formal cemeteries?</td>
<td></td>
<td>X</td>
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</tbody>
</table>

Section 15064.5 of the CEQA Guidelines discusses historical resources and indicates that the term "historical resources shall include the following:

- A resource listed in, or determined to be eligible by the State Historical Resources Commission, for listing in the California Register of Historical Resources (Public Resource Code SS 5024.1, Title 14 CCR, Section 4850 et seq.).

- A resource included in a local register of historical resources, as defined in section 5020.1(k) of the Public Resources Code or identified as significant in an historical resource survey meeting the requirements section 5024.1(g) of the Public Resources Code, shall be presumed to be historically or culturally significant. Public agencies must treat any such resource as significant unless the preponderance of evidence demonstrates that it is not historically or culturally significant.

- Any object, building, structure, site, area, place, record, or manuscript which a lead agency determines to be historically significant or significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California may be considered to be an historical resource, provided the lead agency's determination is supported by substantial evidence in light of the whole record. Generally, a resource shall be considered by the lead agency to be "historically significant" if the resource meets the criteria for listing on the California Register of Historical Resources (Pub. Res. Code SS5024.1, Title 14 CCR, Section 4852).

Response V a), b), c), d): A historical and cultural resources study was completed for the subject property and proposed area of off-site improvements along Martin Street by Peak & Associates, Inc. in July 2016. The study found no evidence of pre-historic period cultural resources within the project area or off-site improvement area. The study did find the existence of a complex of structures located at the southwestern corner of the property, located outside the project development area, dating back to the 1930/40s. The study determined but these resources were not determined to be historically significant. As a result of the completion of this study and its
associated findings Mitigation that study should be amended address the newly created three parcels; which may require the completion of an updated historical and cultural resources study.

During construction of the proposed right of way improvements along the frontage would require monitoring for cultural resources by either a qualified archeologist and/or a qualified Tribal Monitor. Future development associated with the newly created parcels, would be required to address potential impacts to cultural resources at the time of submittal of a development permit. Mitigation measures have been added to address potential impacts associated with cultural resources on these newly created parcels.

The related mitigation measure addressing the procedure in the event that human remains are discovered during the course of construction is recommended to remain. Please see the conclusion of this Initial Study for the recommended mitigation measures.

Potential impacts related to these issues will be LESS THAN SIGNIFICANT WITH MITIGATION INCORPORATED.

VI. GEOLOGY AND SOILS:

Would the project:

<table>
<thead>
<tr>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporation</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:</td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.</td>
<td>X</td>
<td></td>
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<tr>
<td>ii) Strong seismic ground shaking?</td>
<td>X</td>
<td></td>
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<tr>
<td>iii) Seismic-related ground failure, including liquefaction?</td>
<td>X</td>
<td></td>
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<tr>
<td>iv) Landslides?</td>
<td></td>
<td>X</td>
<td></td>
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<tr>
<td>b) Result in substantial soil erosion or the loss of topsoil?</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on-site or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?</td>
<td>X</td>
<td></td>
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<tr>
<td>d) Be located on expansive soil, as defined in Table 18-1-8 of the Uniform</td>
<td>X</td>
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</tbody>
</table>
Response VI a.i, ii, iii): The Fault-Rupture Hazard Zones map prepared by the California Geological Survey for the Alquist-Priolo Earthquake Fault Zoning Act identifies Alquist-Priolo zones in the northern and southern sections of Lake County, but none in the City of Lakeport. This map is incorporated into the City's General Plan (Figure 17, Safety Element).

The General Plan describes the seismic hazards in the vicinity of Lakeport and indicates that the City is "located in a highly active earthquake area and the potential exists for a significant seismic event in the future."¹

"Active" earthquake faults are defined as those for which there is evidence of activity during the last 11,000 years, or Holocene time. Active faults in our area include the Mayacama, about seven miles southeast of Lakeport, and the Konocti Bay, nine miles to the east. The Healdsburg and San Andreas faults lay 24 and 35 miles to the southwest. Faults near Lakeport, categorized as "potentially active," include the Collayomi, nine miles southwest; the Bartlett Springs, approximately 20 miles east; and the Big Valley, running along the west shore of Clear Lake.

Immediately east of the City, between the City limits and Clear Lake, there is a potentially active rupture zone. Potentially active rupture zones are faults which have been active in the past 2,000 years. Little is known about this shoreline fault rupture zone; however, it represents a potential significant hazard and must be taken into consideration when development occurs in the vicinity.²

The subject property is not located near the potentially active fault rupture zone along the Clear Lake shoreline.

A preliminary geotechnical engineering study for the project site was completed in December 2016 by Pacific West Communities, Inc. The study found that the property is suitable for the proposed construction provided the conclusions and recommendation of the preliminary geotechnical engineering study are incorporated into the design and construction of the project. Future development of the proposed parcels would be required to provide adequate geotechnical investigation, as well as specific recommendations to be incorporated into the design and construction of those future projects.

For all future development of those parcels a mitigation measure requiring final grading plans be prepared and stamped by an engineer which incorporates the conclusions and recommendations outlined in the preliminary geotechnical investigation performed by Pacific West Communities, Inc. prior to the issuance of any development permits.

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¹ Lakeport General Plan, Safety Element, Pg. X-1
² Ibid.
There is no indication that seismic-related issues will preclude development of the proposed project or result in significant impacts which cannot be mitigated. As such, potential impacts related to the potential rupture of a known earthquake fault, strong seismic ground shaking, or seismic-related ground failure are considered to be LESS THAN SIGNIFICANT WITH MITIGATION INCORPORATION.

Response VI a. iv): No potential adverse effects related to landslides are anticipated as a result of the project. This determination is based on the fact that the proposed right-of-way improvements connected within existing developed areas. There is NO IMPACT.

Response VI b), c) and d): According to the USDA Soil Conservation Service Soil Survey for Lake County, California a large part the south and western portions of the subject property contain soils identified as a Hennenke-Montara-rock outcrop complex with 15% to 50% slopes. This unit is about 40% gravelly loam, 30% clay loam, and 15% rock outcrop. The Soil Survey notes that “the components of this unit are so intricately intermingled that it was not practical to map them separately.” This soil unit also includes small areas of clay soils that are 20” to 40” deep to bedrock.

The soils in the southern portion of the site are identified as a Wappo loam with 2% to 8% slopes. This unit is described as a very deep, moderately well-drained soil on a terrace. It is formed in alluvium derived from mixed rock sources and is typically defined as a surface layer of loam, 10” thick, with 24” of subsoil, a brown clay, the lower 17” is a reddish-yellow clay loam, and sandy clay loam. The permeability of this type of soil is very slow, and surface runoff is medium with the hazard of erosion identified as moderate. There is also a high shrink swell potential in the subsoil.

According to the USDA Soil Conservation Service Survey, the main soil limitations associated with land development projects is a very slow permeability, the high shrink swell potential, and the low load-bearing capacity. The effect of shrinking and swelling can be reduced by maintaining constant soil moisture content around the foundation areas and by backfilling with material that has low shrink swell potential. If this type of soil is used as a base for roads and streets, it can be mixed with sand and gravel to increase its strength and stability. Development and site preparation activities associated with this project should be required to incorporate the conclusions and recommendations outlined in the preliminary geotechnical investigation performed by Pacific West Communities, Inc. prior to the issuance of any development permits.

Erosion control measures will be required during the construction and post-construction periods pursuant to Local, State, and Federal Laws and the CEQA Storm Water mitigation requirements. The project is subject to the requirements of the National Pollutant Discharge Elimination System (NPDES), the City’s erosion control regulations (Municipal Code Chapter 17.20), storm water management ordinance (Municipal Code Ch. 8.40) and the Lake County Clean Water Program Storm Water Management Plan, of which the City is a participating jurisdiction.

Projects involving sites larger than one acre are required to comply with the Phase II NPDES requirements, including the preparation of a Storm Water Pollution Prevention Plan (SWPPP). The requirement for a SWPPP is incorporated as a CEQA mitigation measure at the conclusion of this Initial Study. The SWPPP must be submitted to the City as well as the State Water Resources Control Board. The mitigation measure calls for the applicant to comply with the activities detailed in the SWPPP.

The State of California - Central Valley Regional Water Quality Control Board requires a Construction Activities Storm Water General Permit from the Water Board because the area of site disturbance that exceeds one acre. This requirement is addressed in the aforementioned mitigation measure.
Storm Water control and retention, grading plans, and erosion control - Best Management Practices (BMPs) will be required to limit soil erosion associated with the construction and post-construction activities associated with the right-of-way improvements.

Issues related to site drainage and erosion control are further addressed in the Hydrology and Water Quality section of this CEQA Initial Study.

As described above there are potential soil erosion and loss of topsoil impacts, geologic unit or soils that are unstable, or that could become unstable as a result of the project, and the project is located on expansive soils, as defined in Table 18-1-B of the Uniform Building Code (1994).

The significant geology and soil environmental impacts associated with this project is considered to be LESS THAN SIGNIFICANT WITH INCORPORATION OF THE MITIGATION MEASURES.

Response VI e): Adequacy of the site’s soils to support septic tanks or other alternative waste water disposal systems is not applicable as the City’s sewer system will serve the subject property and the proposed project. No septic tanks are proposed. There is NO IMPACT.

VII. GREENHOUSE GAS EMISSIONS:
Would the project:

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<thead>
<tr>
<th></th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporation</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>a)</td>
<td>Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>b)</td>
<td>Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?</td>
<td>X</td>
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</tbody>
</table>

Response VII a): The Lake County Air Quality Management District has reviewed the proposed project and submitted comments related to greenhouse gas emissions. Impacts pertain to right-of-way improvements associated with this parcel map are less than significant. The District indicated that the residential development of future projects will result in an increase in the amount of vehicle traffic in the area “which may cause some localized air quality degradation if traffic/intersection improvements are not made.” Issues related to traffic will be addressed in the Transportation/Traffic section of this report.

At the time of the construction plans for the high density residential structures, those plans shall include the use of energy-efficient materials and products throughout the project and strongly encourages the use of solar power if deemed feasible. This impact is therefore considered LESS THAN SIGNIFICANT.

Response VII b): There was no indication from LCAQMD that the proposed project will conflict with any plan, policy or regulation related to the reduction of greenhouse gas emissions. There is NO IMPACT associated with this issue.
VIII. HAZARDS AND HAZARDOUS MATERIALS:

Would the project:

<table>
<thead>
<tr>
<th>IRA</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporation</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>a)</td>
<td>Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?</td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>b)</td>
<td>Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?</td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>c)</td>
<td>Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?</td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>d)</td>
<td>Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?</td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>e)</td>
<td>For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?</td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>f)</td>
<td>For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?</td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>g)</td>
<td>Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?</td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>h)</td>
<td>Expose people or structures to a significant risk of loss, injury or death involving wild land fires, including where wild lands are adjacent to urbanized areas or where residences are intermixed with wild lands?</td>
<td></td>
<td>X</td>
<td></td>
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</tbody>
</table>
Response VIII a, b, c): The construction of right-of-way improvements associated with the proposed parcel map will not involve the transporting or use of hazardous materials. Future high density residential projects will require additional review at the time of development permit submittal. This potential impact is considered LESS THAN SIGNIFICANT.

Response VIII d): According to the 2009 Lakeport General Plan EIR there are no sites in the City of Lakeport which are listed on the Comprehensive Environmental Response, Compensation, Liability Information System (CERCLIS); the National Priority List (NPL); or the Department of Toxic Substances Control Cortese List. Additionally, a Phase I Environmental Site Assessment was completed for this site in January 2017 by RNC Environmental, LLC. The assessment revealed no evidence of recognized hazardous environmental conditions in connection with the subject property. There is NO IMPACT.

Response VIII e), f): The site of the proposed apartment project is not located within an airport land use plan or within two miles of an airport or public use airport which would result in a safety hazard for people residing or working in the project area. The project is not in the vicinity of a private airstrip which would result in a safety hazard for people working or residing in the project area. There is NO IMPACT.

Response VIII g): Approval of the project will not directly interfere with an adopted emergency response plan or emergency response system. No comments were received from the Fire District indicating any concerns regarding the ability to respond to an emergency affecting the proposed building. There is NO IMPACT.

Response VIII h): All future residential development shall require a fire sprinkler system, notification alarms and strobe lights.

Future development of the high density residential property associated with this project has some potential to expose people or structures to a significant risk of loss, injury, or death involving wild land fires. There are no large wild land areas adjacent to the subject property. However the remainder subject property to the southwest of the proposed apartments does support vegetation and a number of trees including several conifers which are in close proximity to Hwy 29. There is a history in Lakeport of wild land fire in the rural areas outside of Lakeport and small wild land fires associated with Hwy 29 traffic. Vegetation on the entire site must be inspected, trimmed, maintained and controlled in order to minimize and eliminate the potential impacts of wild land fire. The City, working with the Fire Captain, enforces a yearly weed abatement program that requires property owners to cut the weeds/grass on that property, consistent with Title 8.28 of Lakeport municipal Code. This potential impact is considered LESS THAN SIGNIFICANT WITH MITIGATION INCORPORATION.

IX. HYDROLOGY AND WATER QUALITY:

Would the project:

<table>
<thead>
<tr>
<th>Potential Impact</th>
<th>Less Than Significant with Mitigation Incorporation</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) Violate any water quality standards</td>
<td>X</td>
<td></td>
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</tbody>
</table>

3 Pg. 5-2, Draft EIR, City of Lakeport General Plan Update
<table>
<thead>
<tr>
<th>Description</th>
<th>Potentially Significant Impact</th>
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<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>or waste discharge requirements?</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?</td>
<td></td>
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<td>X</td>
</tr>
<tr>
<td>c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?</td>
<td></td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flood on- or off-site?</td>
<td></td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>e) Create or contribute runoff water which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff?</td>
<td></td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>f) Otherwise substantially degrade water quality?</td>
<td></td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?</td>
<td></td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?</td>
<td></td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?</td>
<td></td>
<td></td>
<td>X</td>
<td></td>
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</tbody>
</table>
Response (X a), c) – f): The project consists of a General Plan Amendment, a Rezoning and a Tentative Parcel map, no new construction is proposed as part of this project beyond right-of-way improvements required as part of the City Subdivision Ordinance; however construction associated with the recently approved Martin Street apartment projected Parcel 1 is expected to begin this summer. The construction of any future proposed buildings that would include proposed buildings, related parking and driveway areas, walkways and other impervious surfaces will result in the changes in absorption rates, drainage patterns, and/or the rate and amount of surface water runoff generated from the subject property and will need to adhere to State and local stormwater regulations. The subject property is located within the 1,667 acre Forbes Creek drainage basin according to City records. Drainage impacts analyzed as part of this Initial Study are limited to required right-of-way improvements only. Which were reviewed as part of the recently approved Martin Street Apartments project (AR 17-03)

The impact of the new impervious surfaces associated with future development will be partially mitigated through the payment of the City’s standard storm drainage mitigation fee ($0.10 per square foot of new impervious surfaces) which would represent a condition of approval associated with that future development.

The subject property is within the Parallel Drive/Bevins Street Storm Drainage Reimbursement Area (City Ordinance No. 692) which requires the payment of a supplemental storm drainage mitigation fee. However, Section 2 of Ordinance No. 692 states that the supplemental storm drainage mitigation fee is waived provided the residential project is “certified” as a “low and moderate income project.

The impact of the new impervious surfaces will be mitigated by the payment of the City’s standard storm drainage mitigation fee ($0.10 per square foot of new impervious surfaces).

Robertson-Erickson Civil Engineers and Surveyors (Chico, California) prepared the Lakeport Senior Apartments II Martin Street and Smith Street Lakeport, CA Preliminary Drainage Study - March 29, 2015 which is incorporated into this CEQA Initial Study by reference. The proposed Tentative Parcel Map would create three parcels which include one lot at low density residential and two lots at high density residential ad would require right-of-way improvements to Martin and Smith Street Frontages of this property. Any future development on those two parcels shall be required to design a storm water system in compliance with the existing Preliminary Drainage Study.

The Robertson-Erickson Preliminary Drainage Study provides a hydrologic summary and describes the existing projects setting and indicates that all storm runoff from the site currently ends up in a drainage ditch that cuts across the northeast corner of the property. This ditch is unnamed but for the purposes of their report it is referred to as the Martin Street drainage ditch. Water flows in this ditch in a west to east direction. A majority of the site runoff drains to this ditch as it is the low spot on the entire property. Storm drainage is conveyed off the site in a 20 inch culvert and continues in an easterly direction.
The of the three proposed parcels are within the North Branch of Forbes Creek drainage as defined in the City of Lakeport Master Storm Drainage Plan 1980. According to the Robertson-Erickson preliminary drainage study the project runoff will be intercepted at the perimeter on the north side of the project site and from there runoff will be routed around the perimeter and then discharged into the Martin Street drainage ditch runoff from tributary area number one which is a 4.1 acre area, which refers to the previously approved development on proposed parcel one. A Drainage Study was approved for the approved project and a new drainage study would be required for future development on the other proposed parcels to insure storm water is routed around the property and then collected at the Martin Street ditch. The runoff will be routed around the project area in an easterly direction, detained at the southeast corner of the site and routed to the east.

According to the Robertson-Erickson Preliminary Drainage Study there will be an increase in storm water runoff within the project areas detention ponds have been proposed and sized consistent with a no net increase of peak water runoff for the 10 and 100 year storm events. Additional calculations and improvements may be required as part of future development. Calculations were performed to size the proposed project detention basins and are included in the preliminary drainage study. The volume required to accommodate the 100 year storm is 341ft.\(^3\). The detention basins shown on the preliminary grading and drainage plan reflect detention basin areas that can handle the calculated volumes with a depth no greater than 2 feet.

A properly designed and sized storm drainage system will ensure that off-site runoff will be transported properly around the project site to downstream facilities. As long as the detention basins and drainage systems are maintained properly, there should not be any negative impacts downstream from this project.

The City typically requires that site storm water runoff be treated in an acceptable fashion prior to leaving the site to comply with the City Storm Drainage Ordinance, adopted BMP requirements and NPDES requirements.

With future development storm water runoff exiting the site must be filtered and treated in an acceptable fashion in order to comply with the City’s Storm Drainage Ordinance, adopted BMP requirements and NPDES requirements.

An engineered storm water collection and drainage plan will be required and must provide specific details regarding the collection, conveyance and detention facilities including on-site line sizes, detention basin and underground detention tank capacities, and drop inlet sizes and locations to ensure adequate drainage for proposed right-of-way improvements associated with the parcel map proposal.

Other proposed mitigation measures related to hydrology and water quality call for the applicant to comply with all applicable local and State regulations regarding storm water management, including the submittal of a Storm Water Pollution Prevention Plan (SWPPP) and a Storm Water Management Plan (SWMP) and approval of a construction permit from the Regional Water Quality Control Board.

Provided the recommended mitigation measures are imposed and implemented, construction of a right-of-way is not expected to violate any water quality standards or waste discharge requirements; substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river in a manner which would result in substantial erosion or siltation on- or off-site; create or contribute runoff water which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff; or otherwise substantially degrade water quality. These potential
impacts are considered **LESS THAN SIGNIFICANT WITH MITIGATION INCORPORATED.** See conclusion of this report for the related mitigation measures.

**Response IX h):** The previously approved apartment project and any future development will not substantially deplete groundwater supplies or interfere substantially with groundwater recharge. The City's water supply is not dependent on any underground aquifers in the immediate vicinity and as such the proposed improvements are not expected to interfere substantially with groundwater recharge. There is no indication that the project will substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase runoff in a manner that will result on on-site of off-site flooding. **NO IMPACT** is anticipated regarding these issues.

**Response IX g):** Staff reviewed the City's GIS map data which indicates the subject property is not located within a 100-year flood hazard area. Therefore none of the proposed residential units will be located in a flood zone. There is **NO IMPACT.**

**Response IX h- j):** The previously approved apartment project and any future development is not within a 100-year flood hazard area as described above. There are no potential flood-related impacts associated with the proposed project. There is **NO IMPACT.**

**Response IX j):** The subject property is not located in close proximity to Clear Lake or another water body. As such, approval of the proposal will not expose people or structures to a significant risk of loss, injury or death involving inundation by seiche, tsunami or mudflow. There is **NO IMPACT** associated with these issues.

**X. LAND USE AND PLANNING:**

**Would the project:**

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<tr>
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<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporation</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
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<tbody>
<tr>
<td>a) Physically divide an established community?</td>
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<td><strong>X</strong></td>
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<tr>
<td>b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?</td>
<td></td>
<td>X</td>
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<tr>
<td>c) Conflict with any applicable habitat conservation plan or natural community conservation plan?</td>
<td></td>
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<td><strong>X</strong></td>
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</table>

**Response X a):** The proposed project consists of a request for a General Plan Amendment from Residential to High Density Residential, Zoning Change from Low Density Residential to High Density Residential for a portion of the property and a Tentative Parcel Map to create three parcels, one of the parcels would include the previously approved 24-unit affordable multi-family housing project. No new construction is proposed on the property, other than the multi-family
affordable residential apartment project and related site improvements previously approved by the Lakeport Planning Commission. Construction of the proposed apartment project and the related site improvements will not physically divide an established community. The subject property is currently vacant and is bordered by Hwy 29 on the west, the County Sheriff's administrative offices to the north across Martin Street, a Church to the northeast, vacant land to the east, the Lakeview apartments to the southeast and a residential lot to the south.

There is no indication that the proposed project will impact the adjoining land uses in terms of access or any other ingress or egress issues. NO IMPACT has been identified.

Response X b): This CEQA Initial Study checklist question queries if the project will conflict with any applicable land use plan, policy, or regulation (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect. The City's General Plan contains no applicable conflicts related to the proposed project.

The proposed project amends the Lakeport General Plan Land Use designation that adds High Density Residential which allows for multifamily residential development at a density of 19.4 to 29.0 dwelling units per acre for the two parcels fronting Martin Street. The proposed low density residential designation for proposed Parcel 3 is due to the site's inadequate access along Smith Road.

The General Plan Land Use Element also notes that one of the City's goals is to encourage infill development "with additional single and multifamily residential housing on the west side of Lakeport."

The City of Lakeport General Plan Housing Element was updated in 2014 and includes numerous Goals and Policies related to housing development. These Goals encompass new construction, conservation of existing housing stock, affordability, and provision of adequate housing for all persons, with pertinent goals listed below:

**Goal 1** - Conserve and improve Lakeport’s existing neighborhoods and housing supply.

**Goal 2** - Facilitate and encourage development of housing to meet the regional housing needs allocation

**Goal 3** - Expand housing opportunities for the elderly, the handicapped, households with very low to moderate incomes, and for persons with special housing needs.

The Lakeport General Plan Housing Element contains numerous Policies and Programs designed to implement and carry out the above identified Housing Element goals. Some of the applicable General Plan Housing Element Policies and Programs are as follows:

**Program 1-2.** Continue and expand the City's Housing Rehabilitation Program which provides assistance to extremely low, very low, and low income units, including lower income households with special needs, through the following activities: submit application when warranted, to appropriate funding sources (CDBG, capital HOME, and other programs) to increase funding.

Policy – 2A. The City shall encourage additional housing to meet the City's Regional Housing Need Allocation by maintaining and inventory of adequate sites to meet the City's housing needs, by actively encouraging and assisting the construction of multifamily housing, by promoting a range of housing types, and by encouraging utilization of density bonuses in support of affordable housing.

**Policy - 2B.** The City shall pursue County, State and Federal programs and funding sources that provide housing opportunities for extremely low, low, and moderate income households
Policy - 2F. The City shall expedite processing of affordable housing projects.

Policy - 2G. Encourage developers of lower income and special need housing to use available incentives, including the city’s density bonus ordinance.

Program 2-1. Provide density bonus or other incentives to projects that construct BMR units rather than pay in lieu of fees.

Policy - 3A. The City shall encourage and facilitate housing types and programs for senior citizens, the disabled, including developmentally disabled, large families, and other groups identified as having special housing needs.

Policy - 3E. The City shall require developers using public or tax-exempt financing to include language in agreements with the City permitting persons and eligible households for HUD Section 8 rental assistance or similar assistance to apply for below market rate units provided in the development.

Policy - 3F. The City shall continue to identify and provide incentives to encourage development of extremely low income, senior, disabled, large family, and other special needs housing types.

Program 3-4 - Seek sites and funding for affordable housing - Identify several parcels of land suitable for affordable housing projects, considering sites that may be appropriate for affordable family housing, special needs housing, and/or senior housing funded by HUD 202 or a similar program. Contact developers to identify interest in developing an affordable housing project, with emphasis on housing that includes units to accommodate extremely low income and/or special needs households and if there is interest facilitate obtaining funding and construction of the affordable housing.

Program 3-5 - Seek Available Funding - Seek and aggressively pursue available State and Federal assistance for city and nonprofits to develop affordable housing for seniors, large families, households with children, and others with specialized housing needs when there is a request from a developer for an affordable housing project appropriate for the city.

The two parcels fronting Martin Street would be rezoned R-3 High Density Residential zoning district which allows this type of multifamily development. The project will be compatible with the existing residential uses in the vicinity of the subject property. Staff found no applicable conflicts in the Zoning Ordinance related to the proposed project.

**These potential impacts are considered less than significant.**

Response X c): There is no applicable habitat conservation plan or natural community conservation plan in place at the present time which affects the subject property.

There is **NO IMPACT** associated with this issue.

The **Biological Resources** section of the CEQA Initial Study includes discussion regarding the presence of rare/threatened/endangered plant species on the site and includes a related mitigation measure. The proposed site plan identifies habitat and wetland preservation areas in the northeaster portion of the site.

**XI. MINERAL RESOURCES:**
Would the project:

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<tr>
<td>a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?</td>
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<td>X</td>
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<tr>
<td>b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?</td>
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<td>X</td>
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</table>

Response XI a): There are no mining or mineral extraction operations within the Lakeport City limits or the Sphere of Influence. Page VII-4 of the Lakeport General Plan Conservation Element notes that there is no active mineral extraction or mining operations in the City and also indicates that the Plan “prohibits any mining or mineral extraction activities within the City.” There is NO IMPACT.

Response XI b): No mineral recovery sites are located in the City; NO IMPACT has been identified.

XII. NOISE:

Would the project result in:

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<tr>
<td>a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?</td>
<td></td>
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<td>X</td>
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<tr>
<td>b) Exposure of persons to or generation of excessive ground borne vibration or ground borne noise levels?</td>
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<td>X</td>
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<tr>
<td>c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?</td>
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<td>X</td>
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<tr>
<td>d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?</td>
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<td>X</td>
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<tr>
<td>e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public</td>
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<td>X</td>
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<tr>
<td>use airport, would the project expose people residing or working in the project area to excessive noise levels?</td>
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<tr>
<td>f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?</td>
<td>X</td>
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</table>

Response XII a): The proposed project consists of a request for a General Plan Amendment from Residential to High Density Residential, Zoning Change from Low Density Residential to High Density Residential for a portion of the property and a Tentative Parcel Map to create three parcels, one of the parcels would include the previously approved 24-unit affordable multi-family housing project. No new construction is proposed on the property, other than the multi-family affordable residential apartment project and related site improvements previously approved by the Lakeport Planning Commission. The proposed project will likely expose residents to noise sources and may increase the area's existing noise levels due to an increase in the number of residents and related activities including additional vehicle traffic. The typical residential activities are not expected to generate a significant amount of additional noise, particularly given that the project is intended to be occupied by seniors rather than families with children and young adults.

The existing noise levels in the area around the site are moderate given its proximity to Martin Street and State Hwy 29. The property is west of the Lake County Fairgrounds which generates noise during the auto racing season (generally April through October), the County Fair, and during other events. The Noise Element of the City's General Plan states that the Fairgrounds generate noise which is sometimes significant, particularly the auto races.

The Noise Element of the General Plan addresses future noise levels in the community and indicates that the Martin Street and Hwy 29 area is "projected to experience a significant increase in noise over 60 dBA." The General Plan states that "residences adjacent to the above streets will be exposed to excessive noise levels, defined as those over 60 dBA."

The Noise Element suggests that the standard for maximum outdoor noise levels in residential areas is Ldn of 60 db. This standard is applied when outdoor use is a major consideration such as in recreation areas of multifamily developments. The indoor standard for noise in new residential development is typically Ldn of 45.

It is important to note that the standards noted above "are based on measurement systems which average noise over a 24-hour period and do not take into account single-event noise sources," such as the auto races at the nearby Fairgrounds. With the exception of single-event noise sources associated with the established activities at the Fairgrounds, the ambient noise levels in the evenings and during the night are generally low and are believed to be within the established noise thresholds.

---

4 Lakeport General Plan, Noise Element, Pg. IX-4
Development and operation of the housing project may result in the exposure of persons to temporary and periodic noise levels in excess of the Lakeport General Plan standards. Mitigation measures which will require compliance with the noise guidelines and other relevant noise-related policies are recommended.

These potentially significant noise impacts are considered **LESS THAN SIGNIFICANT**. See conclusion of this report for the mitigation measures.

**Response XII b), c):** Construction of the future development on the proposed parcels and the subsequent residential activities would not appear to have the potential to expose persons to, or cause generation of, excessive ground-borne vibration or ground-borne noise levels. Similarly, there is no indication that the development of the project and its subsequent use will result in a substantial permanent increase in ambient noise levels in the project vicinity. As previously noted the existing ambient noise levels are moderate. There is **NO IMPACT** associated with these potential issues.

**Response XII d):** Any construction activities associated with the future development associated with the proposed parcels have the potential to create a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project. At the time of construction of the right-of-way improvements all construction activities shall be subject to the noise guidelines set forth in Chapter 17.28 of the Lakeport Municipal Code, including a prohibition of construction activities on Sundays. The noise regulations prohibit work starting before 7:00 a.m. or extending later than 10:00 p.m.

This potential impact is considered **LESS THAN SIGNIFICANT WITH MITIGATION MEASURES**.

**Response XII e), f):** The subject property is not located within an airport land use plan or in the vicinity of a private airstrip which would generate substantial noise impacts. There is **NO IMPACT**.

**XIII. POPULATION AND HOUSING:**

Would the project:

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<tr>
<th>Potentially Significant Impact</th>
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<tbody>
<tr>
<td>a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?</td>
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<td>X</td>
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<tr>
<td>b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?</td>
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<td>X</td>
</tr>
<tr>
<td>c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?</td>
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<td>X</td>
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</table>

**Response XIII a) - c):** The proposed project that includes a General Plan Amendment, a Rezoning and a Tentative Parcel Map expands the potential for additional development in the High Density
Residential district consistent with the Lakeport General Plan and Zoning designations. The anticipated population growth associated with the development of the previously approved 24 apartment units, as well as additional high density residential with the proposed additional parcel is consistent with the population projections included in the General Plan.

The relatively low density of the previously approved project (approximately seven dwelling units per acre) is lower than was anticipated to be provided on this site. Table 4-3 of the City’s Housing Element indicates that as many as 125 units could be built on this site based on its total acreage. With the additional parcel proposed with this project, as well as the expansion of the High Density zoning, additional housing opportunities are created, consistent with the General Plan.

The proposed project will not displace any existing housing or displace any residents in a manner that would necessitate the construction of replacement housing elsewhere.

Based on the existing site conditions as well as the size, scope and characteristics of the project, the proposal will not induce substantial growth in the Lakeport area, either directly or indirectly; displace any existing housing; or displace any residents in a manner that would necessitate the construction of replacement housing. **NO IMPACT** has been identified for these issues.

**XIV. PUBLIC SERVICES:**

Would the project:

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<tr>
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<tbody>
<tr>
<td>a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:</td>
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<tr>
<td>i) Fire protection?</td>
<td></td>
<td>X</td>
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<tr>
<td>ii) Police protection?</td>
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<td>X</td>
<td></td>
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<tr>
<td>iii) Schools?</td>
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<td>X</td>
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<tr>
<td>iv) Parks?</td>
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<td>X</td>
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<tr>
<td>v) Other public facilities?</td>
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<td>X</td>
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</table>

Response XIV a): The proposed project will result in the alteration of existing governmental services including fire protection, police protection, public facility maintenance, and other governmental services and there is the possibility of substantial adverse physical impacts
associated with the provision of new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, related to acceptable service ratios, response times or other performance objectives related to fire protection, police protection, schools, parks or other public facilities.

The Fire District imposes a fire mitigation fee which will be collected in conjunction with the issuance of a building permit. The fees for all construction, including future projects fire suppression sprinkler system would be collected as part of that future development.

**Police protection:** The City of Lakeport Police Department reviewed the proposal and submitted a response indicating “No Police Concerns.”

**Schools:** The Lakeport Unified School District has adopted a school impact fee resolution in accordance with State law. As of July 2014, the District requires the developer of residential structures to pay a fee for new building area to the School District to mitigate the impacts to the schools. A mitigation measure addressing the payment of this fee has been recommended.

**Parks & Other public facilities:** There is no indication that approval of the proposed project and the expansion of potential residential uses will substantially affect the City’s park system or other public facilities.

Potential impacts to Public Services, specifically Fire Protection and Schools are considered to be **LESS THAN SIGNIFICANT. NO IMPACT** is anticipated regarding Police Protection, Parks, and other public facilities.

**XV. RECREATION:**

Would the project:

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<th>Less Than Significant with Mitigation Incorporation</th>
<th>Less Than Significant Impact</th>
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<tbody>
<tr>
<td>a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?</td>
<td>X</td>
<td></td>
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<tr>
<td>b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?</td>
<td></td>
<td>X</td>
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</table>

**Response XIV a), b):** The City of Lakeport maintains a system of parks, recreation facilities and open space for its citizens. The City has approximately 63.5 acres of parkland not including recreational facilities at the schools. Lakeport's park and recreational facilities include: parks, boat launch facilities, public swimming pool, and partially-developed parks.

In addition to City parks, recreational facilities in the Lakeport vicinity are provided at the Highland Springs Reservoir, Lake County Fairgrounds, the County Park and Clearlake State Park. Community use of school playing fields provides additional recreational facilities. The proposed project will not create a substantial deterioration of recreational facilities. Per Lakeport Municipal Code 16.16.40
the project will be subject to the provisions of the City’s subdivision Ordinance requirements for the payment of in lieu fees, as no public park lands are proposed as part of the project.

The previously approved project includes a covered picnic area with barbecue, a children’s play structure and a basketball half-court. At this time, no plans have been submitted that identifies what recreational features associated with the proposed newly created high density residential parcel. There is no indication that the construction of the proposed on-site facilities will have an adverse physical effect on the environment.

These potential impacts are considered to be **LESS THAN SIGNIFICANT**.

### XVI. TRANSPORTATION/TRAFFIC:

Would the project:

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<tr>
<th>Potential Impact</th>
<th>Less Than Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporation</th>
<th>No Impact</th>
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<tbody>
<tr>
<td>a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?</td>
<td>X</td>
<td></td>
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<tr>
<td>b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?</td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?</td>
<td></td>
<td>X</td>
<td></td>
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<tr>
<td>d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?</td>
<td></td>
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<td>X</td>
</tr>
<tr>
<td>e) Result in inadequate emergency access?</td>
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<td>X</td>
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<td>Potentially Significant Impact</td>
<td>Less Than Significant with Mitigation Incorporation</td>
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<tr>
<td>1) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?</td>
<td></td>
<td>X</td>
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**Response XVI a):** This section of the CEQA Initial Study queries if the proposed project will conflict with any plans, ordinances or policies related to the effective implementation of the City’s circulation plans, including streets and pedestrian facilities.

The proposed project consists of a request for a General Plan Amendment from Residential to High Density Residential, Zoning Change from Low Density Residential to High Density Residential for a portion of the property and a Tentative Parcel Map to create three parcels, one of the parcels would include the previously approved 24-unit affordable multi-family housing project. As part of the Parcel Map, there would be a requirement that all right-of-way improvements shall be provided, however, those right-of-way improvements were approved as part of the multi-family apartments. The project proponent will be required to install the right-of-way improvements with either the construction of the apartments or as part of the recordation of the parcel map. No new construction is proposed on the property, other than the multi-family affordable residential apartment project and related site improvements previously approved by the Lakeport Planning Commission.

The proposed project with the additional high density residential parcel will result in a net increase in traffic in the vicinity of the project site. This increase will primarily affect Martin Street, and to a lesser degree, the collector and arterial streets which lead to Martin Street including Bevins Street, South Main Street and Lakeport Boulevard.

The estimated traffic volume projections for the previously approved project indicates that this type of land use generates 6.65 trips per dwelling unit on weekdays. Using the weekday trip generation figure the 24 unit project will add 160 new trips per day to the existing Martin Street traffic volumes and to other surrounding City streets including Main Street, Armstrong St., Bevins St. and Lakeport Boulevard. That project was determined not constitute a significant increase in the total number of daily trips in the general vicinity. The proposed higher density residential parcel has not been developed, and cannot be analyzed at this time.

The original 24-unit multi-family development was evaluated for potential impacts on public transit, and a number of recommendations were developed to address the potential impacts associated with the increased demand for public service with the local public transit system. That project developed a mitigation measure requiring an additional bus stop on the property to provide adequate bus service for the previously approved project. Future development of the high density residential parcel will increase the demand of public transit, and may require access to that bus stop or an additional bus stop, depending on the scope of that project.

As part of the previously approved project the developer has provided a concept drawing showing a preliminary plan for off-site pedestrian access routes from the project site to the east. Proposed off-site pedestrian improvements will extend from Martin Street and Smith Street, east along the south side of Martin Street to the intersection of Bevins Street. This will greatly enhance pedestrian
access to the east; however there is still a gap in existing connecting sidewalks along the south side of Martin Street to the east due to an open drainage channel. And as indicated in other public agency comments, the existing crosswalk design/striping at Bevins and Martin is not to City standard. The proposed high density residential parcel located west of the 24-unit multi-family dwelling units would be required to expand the pedestrian access westerly along Martin Street, and would be incorporated in the design of that future project.

The transportation-related impacts identified in this section are considered **LESS THAN SIGNIFICANT.** See conclusion of report for the recommended mitigation measures.

*Response XVI b*: This checklist queries if the project will exceed, individually or cumulatively, a level of service standard established by the “county congestion management agency.” A traffic study will not be required because (based on the preliminary estimates obtained from the Trip Generation Manual), the project is not expected to generate significant traffic volumes that would detrimentally impact nearby streets or intersections. Lake County has not established a congestion management agency according to the City Engineer. As such, this question is not applicable to this project. There is **NO IMPACT.**

*Response XVI c*: There are no components of the project that will result in a change in air traffic patterns including either the volume or the location of air traffic in the vicinity of the project. **NO IMPACT** is identified.

*Response XVI d*: As part of the original approved multi-family residential development on the Lakeport City staff developed mitigation measures related to the provision of right-of-way improvements along the frontage of the subject property. As part of the parcel map, right-of-way improvements would be required as part of the recordation of that parcel map. The right-of-way improvements would be required either with construction of the multi-family residential apartment or the recordation of the parcel map, whichever comes first. All new improvements must be designed to meet the City’s standards. Additional off-site improvements are required. Additional right-of-way improvements would be required as part of the design of a future development on that proposed high density residential parcel.

There is no indication that the proposed project will **substantially** increase transportation-related hazards due to a proposed design feature or incompatible uses. These potential impacts are **LESS THAN SIGNIFICANT.**

*Response XVI e*: Adequate emergency access will be provided into the site of the previously approved apartment project and future development of the proposed high density residential parcel based on the responses from the Fire District and the Police Department. There is **NO IMPACT.**

*Response XVI f*: Submitted for the previously approved apartment provided details regarding the proposed right-of-way improvements along the site’s Martin Street frontage. Staff developed mitigation measures requiring all improvements to be designed in accordance with the City’s adopted standards. Future development of the new lots would have to address right-of-way improvements, public transit, pedestrian and bicycle issues. With that development the project and the proposed improvements would be required to be constructed to meet the City’s criteria, the proposed project will not conflict with adopted policies/plans/programs related to public transit, bicycle or pedestrian facilities or otherwise decrease the performance or safety of such facilities. These potential impacts are **LESS THAN SIGNIFICANT.**
### XVII. UTILITIES AND SERVICE SYSTEMS

**Would the project:**

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<th>Potential Impact</th>
<th>Less Than Significant with Mitigation Incorporation</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?</td>
<td></td>
<td>X</td>
<td></td>
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<tr>
<td>c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?</td>
<td></td>
<td>X</td>
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<tr>
<td>d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?</td>
<td></td>
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<td>X</td>
</tr>
<tr>
<td>e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the projects projected demand in addition to the providers existing commitments?</td>
<td></td>
<td>X</td>
<td></td>
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<tr>
<td>f) Be served by a landfill with sufficient permitted capacity to accommodate the projects solid waste disposal needs?</td>
<td></td>
<td>X</td>
<td></td>
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<tr>
<td>g) Comply with federal, state, and local statutes and regulations related to solid waste?</td>
<td></td>
<td></td>
<td>X</td>
</tr>
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</table>

**Response XVII a)- e):** The proposed project consists of a request for a General Plan Amendment from Residential to High Density Residential, Zoning Change from Low Density Residential to High Density Residential for a portion of the property and a Tentative Parcel Map to create three parcels, one of the parcels would include the previously approved 24-unit affordable multi-family housing project. As part of the Parcel Map, there would be a requirement that all right-of-way
improvements, that include water and sewer lines, shall be provided; however, those right-of-way improvements were approved as part of the multi-family apartments. The project proponent will be required to install the right-of-way improvements with either the construction of the apartments or as part of the recordation of the parcel map. No new construction is proposed on the property, other than the multi-family affordable residential apartment project and related site improvements previously approved by the Lakeport Planning Commission. At the time of future development, construction of the proposed high density residential parcel will require that that subsequent occupancy will not exceed the wastewater treatment requirements of the Central Valley Regional Water Quality Control Board. Sewer generated from the project will be treated by the CLMSD plant in south Lakeport.

Adequate treatment capacity exists at this time and the project will not require or result in the construction of new wastewater treatment facilities. Sewer expansion fees will be required to be paid at the time of building permit issuance.

Potential impacts related to the provision of sewer mains to serve the subject project may be significant. The nearest sewer main to the subject site is north of the intersection of Martin and Bevins Street. Due to elevated topography between the subject site and the existing sewer main the construction of a gravity sewer main in Martin Street is not possible without a very deep sewer main. Construction of a pressurized sewer main pipe to convey wastewater from the subject site to the city sewer main may be required. Future development on these proposed parcels will be required to work with the Lakeport City Engineer in the design of a sewer main in accordance with city standards.

The potential impacts related to sewer capacity and provision of sewer main services to the site are considered to be LESS THAN SIGNIFICANT.

Significant impacts to the City’s water system are not expected given the estimated water usage amounts.

The payment of the City’s water expansion fees would be required prior to the issuance of construction permits, once a development plan is adopted.

Potential impacts related to the City’s water supply and distribution facilities have been determined to be LESS THAN SIGNIFICANT.

Potential impacts to the storm water system are considered LESS THAN SIGNIFICANT. Please see the hydrology section of this report for more discussion regarding storm water issues and the conclusion of the report for the related mitigation measures.

Response XVII (f, g): Approval of the proposed Tentative Parcel Map and the potential for future development will result in an increase in the generation of solid waste. The City contracts with Lakeport Disposal for its solid waste disposal and all residents and businesses are subject to mandatory garbage service. Most solid waste from Lakeport is transferred to the East Lake landfill, located on a 32 acre parcel just outside the City of Clearlake. The landfill has a total capacity of 6 million cubic yards and is expected to reach total capacity between 2020 and 2025. Therefore, the project will be served by a landfill with sufficient capacity and is expected to comply with all applicable solid waste regulations.

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5 Draft EIR, City of Lakeport General Plan Update, Pg. 3-158
Future development would be required to identify the location of trash enclosures. That trash enclosure would be required to be adequately maintained and addresses compliance with the City's waste disposal and collection regulations.

Impacts related to the storage, collection and disposal of solid waste are considered to be LESS THAN SIGNIFICANT.

**XVIII. MANDATORY FINDINGS OF SIGNIFICANCE**

<table>
<thead>
<tr>
<th>a) Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of an endangered, rare or threatened species; or eliminate important examples of the major periods of California history or prehistory?</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporation</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
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<tr>
<th>b) Does the project have impacts that are individually limited, but cumulatively considerable? (&quot;Cumulatively considerable&quot; means that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporation</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
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<tbody>
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<tr>
<th>c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporation</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
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<td>X</td>
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</table>

**Response XVIII a) - c):** Based on the findings set forth in the Initial Study, the proposed project does not have the potential to adversely impact the environment. The potentially significant effects identified herein are related to air quality, biological resources, cultural resources, noise, transportation/traffic and utilities and service systems. Staff has developed/recommended conditions that will mitigate the impacts to a less than significant level. The potential environmental impacts identified in the Initial Study are LESS THAN SIGNIFICANT.
CONCLUSION, RECOMMENDATION, AND MANDATORY FINDINGS OF SIGNIFICANCE:

Based on the information and findings of the Initial Study, the proposed project consists of a request for a General Plan Amendment from Residential to High Density Residential, Zoning Change from Low Density Residential to High Density Residential for a portion of the property and a Tentative Parcel Map to create three parcels, one of the parcels would include the previously approved 24-unit affordable multi-family housing project. No new construction is proposed on the property, other than the frontage improvements to Martin Street and a portion of Smith Street as required per the Subdivision Ordinance. The proposed development at 1255 Martin Street does have the potential to significantly impact the environment unless mitigation measures are incorporated into the project approval. Staff has developed mitigation measures which have been agreed to by the applicant, and when implemented will mitigate the potentially significant environmental impacts to a less than significant level.

Conditions of approval not directly related to the environmental impacts are recommended for the Planning Commission’s consideration.

Staff recommends that the Planning Commission adopt a Mitigated Negative Declaration for the project as provided for in the California Environmental Quality Act. Staff further recommends that the Planning Commission approve the Architectural and Design Review and Archaeological Review applications. Approval of the project shall be subject to the environmental mitigation measures and conditions of approval as set forth below. The status of all required mitigation measures, and other conditions of approval stemming from the project, will be monitored/evaluated by staff in the future in accordance with the provisions of Municipal Code Section 17.35.020.

1. A Serpentine Dust Mitigation Plan shall be prepared, submitted to, and approved by Lake County Air Quality Management District (LCAQMD) and the City of Lakeport prior to the issuance of permits for any site grading, excavation activities, or subdivision improvements. The construction activities shall incorporate all recommendations set forth in the Serpentine Dust Mitigation Plan as well as any other requirements recommended by the LCAQMD. (Air Quality)

2. The applicant/owner/developer shall submit an updated biological assessment of the subject property prepared by a qualified biologist in accordance with the California Department of Fish and Wildlife (CDFW) protocol. The updated assessment shall incorporate the current botanical survey protocols established by the California Department of Fish and Wildlife. Those studies shall review and identify the location of all wetlands and environmental sensitive biological areas. The updated assessment shall be provided to the CDFW and the City of Lakeport for review and approval before the issuance of any site development permits. If required by CDFW, the applicant shall prepare a mitigation plan to eliminate/minimize the project-related impacts to any threatened, rare or endangered plant or animal species existing on the site. The applicant/owner/developer shall provide an avadavat of compliance with CDFW’s requirements to the City prior to the issuance of any development permits. (Biological Resources)

3. Prior to the issuance of building permits and commencement of construction activities, the developer shall prepare a CDFW approved mitigation plan to offset impacts to the on-site serpentine herb community and the following special status plant species: 1. colusa layia 2. serpentine cryptantha 3. bent–flowered fiddle neck 4. beaked tracyina 5. Glandular western flax. (Biological Resources)
4. Prior to the issuance of any development permit(s) and commencement of construction activities, the developer shall prepare a mitigation plan to offset impacts to the on-site nesting of raptors and roosting habitat for bats. All vegetation removal and ground disturbing activities including clearing, grubbing, and grading in undisturbed areas shall occur between September 1 and February 1, outside of the typical nesting season, to avoid disturbing nesting birds. If vegetation removal or ground disturbing activities must occur during the nesting season, between February 2 and August 31, a nesting bird survey shall be conducted by a qualified biologist no more than 14 days prior to any grading or vegetation clearing. If an active nest is identified on the property, the city of Lakeport and the California Department of Fish and Wildlife shall be notified, the nest and a 100 foot buffer area or 200 foot buffer area for raptors around the nest shall be provided and protected and maintained until the bale a biologist determines that the young have fledged and or the nests are no longer active. The buffer area shall be delineated with orange construction fencing. Prior to demolition, a qualified biologist shall survey the small utility shed and house for the presence of bats. If bats are detected, measures shall be implemented to humanely evict the bats during one of their two primary active periods, using methods approved by the project biologist, while also avoiding the breeding season when non—full and pups may be present – from March 1 to April 15 or between September 1 and October 15. The northerly swale/ditch and seasonal wetlands under the jurisdiction of the Army Corps of Engineers, Regional Water Quality Control Board, and California Department of Fish and wildlife shall be retained and protected pursuant to the approval from those Agencies. To avoid permit requirements, all project activities shall avoid the swale/ditch and potential seasonal wetland to the maximum extent feasible. (Biological Resources).

5. The project construction and development shall avoid and protect the existing on-site populations of special status plants to the maximum extent feasible. If suitable habitat will be temporarily disturbed but will remain viable in the long term, an effort shall be made to reestablish special status plant populations in these areas upon completion of construction. If the California Department of Fish and Wildlife determines that the available on-site options for plant protection and reestablishment do not fully compensate for the project impacts, off-site mitigation shall be provided. Off-site mitigation shall be accomplished through preservation of enhancement of off-site serpentine habitats special plant populations, restoration of degraded habitats on other local sites capable of supporting the sensitive resources, creation of new habitats capable of supporting the sensitive resources, and or purchase of appropriate credits at a qualifying mitigation bank. (Biological Resources)

6. A note shall be placed on the final map requiring the following: “Replacement or removal of any native trees which are six inches in diameter subject to review and approval by the Community Development Department. Removed trees shall be replaced at a ratio of one to one and be maintained for a minimum of five years, with dead trees replaced. (Biological Resources)

7. The applicant/owner/developer shall obtain all necessary local, state and federal permits prior to initiating any grading or construction activities within the wetland habitat areas of the subject property. The required permits include a nationwide or standard permit from the U.S. Army Corps of Engineers, 401 Water Quality Certification from the Central Valley Regional Water Quality Control Board, and a 1603 Stream Alteration Agreement (SAA) from the California Department of Fish and Wildlife. The applicant/owner/developer shall provide proof of compliance with the various local, state and federal agencies’ requirements to the City of Lakeport prior to the issuance of any site development permits. (Biological Resources)
8. The applicant/owner/developer shall immediately cease all development activities in the event that archaeological, paleontological or cultural resources are uncovered during the development of the site. If such resources are discovered, a detailed study and mitigation plan in accordance with the California Environmental Quality Act shall be prepared by a registered archaeologist and implemented by the developer prior to the recommencement of construction. (Cultural Resources)

9. If cultural resources, as defined in Government Code Section 15064.5, are encountered during construction, all earth disturbing work shall stop within 50 feet of the find until a qualified archaeologist and a local Native American tribe representative can make an assessment of the discovery and recommend/implement mitigation measures as necessary. If the archaeologist and local Native American tribe representative determine that the cultural resources may be significant they shall notify the city of Lakeport. An appropriate mitigation and treatment plan for the cultural resources shall be developed. The archaeologist shall consult with local Native American tribe representatives in determining appropriate treatment for prehistoric or Native American cultural resources. In considering any suggested mitigation proposed by the archaeologist and the local Native American tribe representative, the city shall determine whether avoidance is necessary and feasible in light of factors such as the nature of the fine, project design, costs, and other considerations. If avoidance is infeasible other appropriate measures including data recovery shall be instituted. Work may proceed in other parts of the project site while mitigation for cultural resources is being carried out. (Cultural Resources)

10. In the event that paleontological resources are discovered during ground disturbing activities, grading and construction work within 100 feet of the find shall be suspended until the significance of the features can be determined by a qualified professional paleontologist as appropriate. A qualified professional paleontologist shall then make recommendations for measures to protect the fine, or to undertake data recovery, excavation analysis, and curation of the paleontological materials as appropriate. (Cultural Resources)

11. If human remains are encountered during earth moving or construction periods, construction shall be immediately ceased, and the applicant/owner/developer shall contact the Lake County Coroner. If the remains are determined to be Native American, the Coroner will contact the Native American Heritage Commission who will then identify the person or persons believed to be the most likely descendants from the deceased Native American. The most likely descendant then makes a recommendation regarding the treatment of the remains with appropriate dignity. (Cultural Resources)

12. The applicant/owner/developer shall submit a final grading plan prepared and stamped by an engineer prior to issuance of a development permit. The final grading plan shall be prepared in accordance with the recommendations set forth in the soils and geotechnical investigation. (Geology and Soils)

13. The applicant/owner/developer shall regularly inspect, trim and maintain vegetation at the site in order to minimize and reduce potential impacts associated with the occurrence of a wild land fire at this location. (Hazards and Hazardous Materials)

14. The applicant/owner/developer shall submit a final storm water hydrology analysis prepared by a civil engineer to the City prior to the issuance of a development permit. The hydrology analysis shall quantify the net increase in storm water runoff related to the new impervious surfaces (buildings, parking area, driveways, walkways, etc.) resulting from the project. (Hydrology and Water Quality).
15. The applicant/owner/developer shall comply with Lakeport Municipal Code Chapter 8.40 (Storm Water Management), the Lake County Clean Water Program Storm Water Management Plan and the requirements of the California Water Resources Control Board (NPDES Phase II/Construction Activities Storm Water General Permit requirements) prior to the issuance of development permits. Copies of the Central Valley Regional Water Quality Control Board Notice of Intent (NOI), Storm Water Management Plan (SWMP), and Storm Water Pollution Prevention Plan (SWPPP) shall be provided to the City prior to any construction activities. All erosion control measures and construction activities shall be completed in accordance with the project’s Storm Water Pollution Prevention Plan. **(Hydrology and Water Quality)**

16. The storm water drainage system design shall conform to the requirements outlined in the January 22, 2015 LSA report - “Preliminary Delineation of Potentia Waters of the US – 1255 Martin St., Lakeport, CA.”, and the January 29, 2014 letter from the Department of the Army – US Corps of Engineers which identified areas as potential wetlands. The developer shall provide a status report regarding any appeal and revised design to reflect preservation of the wetlands, prior to the issuance of construction permits. **(Hydrology and Water Quality)**

17. The applicant/owner/developer shall pay the standard City storm water mitigation fee based on the amount of new impervious surface area prior to the issuance of a development permit. **(Hydrology and Water Quality)**

18. Prior to the recordation of the final map all that portion of the property frontage along Martin Street and Smith Street shall be dedicated for public roadway and public utility easement purposes. **(Transportation)**

19. The applicant/owner/developer shall submit an engineered analysis and design plan for the proposed sewer collection system that will serve the previously approved ad future development and shall provide sewer service to the subject property in accordance with City standards and the Lakeport Sewer Master Plan. The sewer system analysis shall be coordinated with and approved by the City Community Director and Public Works Director and shall address design, location, sizing and collection system capacity issues. The analysis/plan shall be provided to and approved by the City prior to the issuance of development permits. The applicant/owner/developer shall agree to implement recommended measures as set forth in the sewer analysis to adequately serve the project’s sewer discharge. Final construction plans detailing the sewer collection system shall be submitted to the City for approval by the Public Works Director. **(Utilities and Service Systems)**
Attachment 3: Project Conditions of Approval
PROJECT CONDITIONS AGREEMENT

This Agreement is entered into by
Pacific West Communities
(hereinafter applicant/owner).

RECITALS

WHEREAS, applicant/owner applied to the City of Lakeport (file number PM 17-01/GPA 17-01/ZC 17-02/ER 17-01) for a Tentative Parcel Map (PM 17-01) to create three (3) new parcels, General Plan Amendment (GPA 17-01) and Zone Change (ZC 17-02) reconfiguring the existing Residential (R-1) and High Density Residential (R-3) designations to match the proposed boundaries of the tentative parcel map on property located at 1255 Martin Street, also known as APNs 025-431-16; and

WHEREAS, on May 9, 2018, the Lakeport Planning Commission reviewed and approved the Pacific West Communities Project subject to the following conditions:

1. Engine warm-up and idling activities associated with the subdivision improvement activities shall be in accordance with the applicable State law governing said activities. Consideration shall be given to nearby residences with respect to heavy equipment use and storage.

2. Any vegetation removed as a result of subdivision improvement activities shall be recycled as firewood, or chipped and spread for groundcover and erosion control, or removed from the site. There shall be no burning of site vegetation, construction debris, or household materials.

3. A Serpentine Dust Mitigation Plan shall be prepared, submitted to, and approved by Lake County Air Quality Management District (LCAQMD) and the City of Lakeport prior to the issuance of permits for any site grading, excavation activities, or subdivision improvements. The construction activities shall incorporate all recommendations set forth in the Serpentine Dust Mitigation Plan as well as any other requirements recommended by the LCAQMD. (Air Quality)
4. The applicant/owner/developer shall submit an updated biological assessment of the subject property prepared by a qualified biologist in accordance with the California Department of Fish and Wildlife (CDFW) protocol prior to the completion of any required right-of-way improvements. The updated assessment shall incorporate the current botanical survey protocols established by the California Department of Fish and Wildlife. Those studies shall review and identify the location of all wetlands and environmental sensitive biological areas. The updated assessment shall be provided to the CDFW and the City of Lakeport for review and approval before the issuance of any site development permits. If required by CDFW, the applicant shall prepare a mitigation plan to eliminate/minimize the project-related impacts to any threatened, rare or endangered plant or animal species existing on the site. The applicant/owner/developer shall provide anavadavat of compliance with CDFW’s requirements to the City prior to the issuance of any development permits. (Biological Resources)

5. Prior to the completion of required right-of-way improvements, the developer shall prepare a CDFW approved mitigation plan to offset impacts to the on-site serpentine herb community and the following special status plant species: 1. colusa layia 2. serpentine cryptantha 3. bent-flowered fiddle neck 4. beaked tracyina 5. Glandular western flax. (Biological Resources)

6. Prior to the completion of required right-of-way improvements, the developer shall prepare a mitigation plan to offset impacts to the on-site nesting of raptors and roosting habitat for bats. All vegetation removal and ground disturbing activities including clearing, grubbing, and grading in undisturbed areas shall occur between September 1 and February 1, outside of the typical nesting season, to avoid disturbing nesting birds. If vegetation removal or ground disturbing activities must occur during the nesting season, between February 2 and August 31, a nesting bird survey shall be conducted by a qualified biologist no more than 14 days prior to any grading or vegetation clearing. If an active nest is identified on the property, the city of Lakeport and the California Department of Fish and Wildlife shall be notified, the nest and a 100 foot buffer area or 200 foot buffer area for raptors around the nest shall be provided and protected and maintained until the bile a biologist determines that the young have fledged and or the nests are no longer active. The buffer area shall be delineated with orange construction fencing. Prior to demolition, a qualified biologist shall survey the small utility shed and house for the presence of bats. If bats are detected, measures shall be implemented to humanely evict the bats during one of their two primary active periods, using methods approved by the project biologist, while also avoiding the breeding season when non—full and pups may be present — from March 1 to April 15 or between September 1 and October 15. The northerly swale/ditch and seasonal wetlands under the jurisdiction of the Army Corps of Engineers,
Regional Water Quality Control Board, and California Department of Fish and wildlife shall be retained and protected pursuant to the approval from those Agencies. To avoid permit requirements, all project activities shall avoid the swale/ditch and potential seasonal wetland to the maximum extent feasible. (Biological Resources).

7. The project construction and development shall avoid and protect the existing on-site populations of special status plants to the maximum extent feasible. If suitable habitat will be temporarily disturbed but will remain viable in the long term, an effort shall be made to re-establish special status plant populations in these areas upon completion of construction. If the California Department of Fish and Wildlife determines that the available on-site options for plant protection and reestablishment do not fully compensate for the project impacts, off-site mitigation shall be provided. Off-site mitigation shall be accomplished through preservation of enhancement of off-site serpentine habitats special plant populations, restoration of degraded habitats on other local sites capable of supporting the sensitive resources, creation of new habitats capable of supporting the sensitive resources, and or purchase of appropriate credits at a qualifying mitigation bank. (Biological Resources)

8. The final parcel map shall include a separate sheet entitled "Local Agency Requirements" indicating the boundaries of existing wetlands and biologically sensitive areas. Additionally, a note should be placed on the final map prohibiting development within this area unless a biological survey and environmental review under CEQA is completed. (Biological Resources)

9. A note shall be placed on the final map requiring the following: "Replacement or removal of any native trees which are six inches in diameter subject to review and approval by the Community Development Department. Removed trees shall be replaced at a ratio of one to one and be maintained for a minimum of five years, with dead trees replaced. (Biological Resources)

10. The applicant/owner/developer shall obtain all necessary local, state and federal permits prior to initiating any grading or construction activities within the wetland habitat areas of the subject property. The required permits include a nationwide or standard permit from the U.S. Army Corps of Engineers, 401 Water Quality Certification from the Central Valley Regional Water Quality Control Board, and a 1603 Stream Alteration Agreement (SAA) from the California Department of Fish and Wildlife. The applicant/owner/developer shall provide proof of compliance with the various local, state and federal agencies’ requirements to the City of Lakeport prior to the issuance of any site development permits. (Biological Resources)
11. The applicant/owner/developer shall immediately cease all development activities in the event that archaeological, paleontological or cultural resources are uncovered during the development of the site. If such resources are discovered, a detailed study and mitigation plan in accordance with the California Environmental Quality Act shall be prepared by a registered archaeologist and implemented by the developer prior to the recommencement of construction. (Cultural Resources)

12. If cultural resources, as defined in Government Code Section 15064.5, are encountered during construction, all earth disturbing work shall stop within 50 feet of the find until a qualified archaeologist and a local Native American tribe representative can make an assessment of the discovery and recommend/implement mitigation measures as necessary. If the archaeologist and local Native American tribe representative determine that the cultural resources may be significant they shall notify the city of Lakeport. An appropriate mitigation and treatment plan for the cultural resources shall be developed. The archaeologist shall consult with local Native American tribe representatives in determining appropriate treatment for prehistoric or Native American cultural resources. In considering any suggested mitigation proposed by the archaeologist and the local Native American tribe representative, the city shall determine whether avoidance is necessary and feasible in light of factors such as the nature of the fine, project design, costs, and other considerations. If avoidance is infeasible other appropriate measures including data recovery shall be instituted. Work may proceed in other parts of the project site while mitigation for cultural resources is being carried out. (Cultural Resources)

13. In the event that paleontological resources are discovered during ground disturbing activities, grading and construction work within 100 feet of the find shall be suspended until the significance of the features can be determined by a qualified professional paleontologist as appropriate. A qualified professional paleontologist shall then make recommendations for measures to protect the fine, or to undertake data recovery, excavation analysis, and curation of the paleontological materials as appropriate. (Cultural Resources)

14. If human remains are encountered during earth moving or construction periods, construction shall be immediately ceased, and the applicant/owner/developer shall contact the Lake County Coroner. If the remains are determined to be Native American, the Coroner will contact the Native American Heritage Commission who will then identify the person or persons believed to be the most likely descendants from the deceased Native American. The most likely descendant then makes a recommendation regarding the treatment of the remains with appropriate dignity. (Cultural Resources)

15. Require that applicant/owner/developer enter into a Cultural Resource Protection Agreement with the Big Valley Rancheria Band of Pomo Indians
Tribal Historic Preservation Office to provide Cultural Resource Monitoring for any ground disturbance activities associated with required right-of-way improvements.

16. As part of the Cultural Resource Protection Agreement with the Big Valley Rancheria Band of Pomo Indians Tribal Historic Preservation Office, during any excavation or other substantial subsurface disturbance activities any individuals conducting the work should be given a cultural awareness training session and advised to watch for cultural resource materials. If any evidence of prehistoric cultural resources be observed (freshwater shells, beads, bone tool remnants or an assortment of bones, soil changes including subsurface ash lens or soil darker in color than surrounding soil, lithic materials such as flakes, tools or grinding rocks, etc.), or historic cultural resources (adobe foundations or walls, structures and remains with square nails, refuse deposits or bottle dumps, often associated with wells or old privies), all work must immediately cease, and a qualified archaeologist must be consulted to assess the significance of the cultural materials.

17. A note shall be placed on the final map indicating: A Native American monitor with the Big Valley Rancheria Band of Pomo Indians Tribal Historic Preservation Office and a qualified archaeologist shall be present during any excavation or other substantial subsurface disturbance activities.

18. The applicant/owner/developer shall submit a final grading plan prepared and stamped by an engineer prior to construction of right-of-way improvements. The final grading plan shall be prepared in accordance with the recommendations set forth in the soils and geotechnical investigation. (Geology and Soils)

19. Prior to the completion of required right-of-way improvements, the applicant/owner/developer shall submit a final storm water hydrology analysis prepared by a civil engineer to the City. The hydrology analysis shall quantify the net increase in storm water runoff related to the new impervious surfaces (buildings, parking area, driveways, walkways, etc.) resulting from the project. (Hydrology and Water Quality).

20. The applicant/owner/developer shall comply with Lakeport Municipal Code Chapter 8.40 (Storm Water Management), the Lake County Clean Water Program Storm Water Management Plan and the requirements of the California Water Resources Control Board (NPDES Phase II/Construction Activities Storm Water General Permit requirements) prior to the issuance of development permits. Copies of the Central Valley Regional Water Quality Control Board Notice of Intent (NOI), Storm Water Management Plan (SWMP), and Storm Water Pollution Prevention Plan (SWPPP) shall be provided to the City prior to any construction activities. All erosion control measures and construction activities shall be completed in accordance
with the project’s Storm Water Pollution Prevention Plan.  (Hydrology and Water Quality)

21. The storm water drainage system design shall conform to the requirements outlined in the January 22, 2015 LSA report - “Preliminary Delineation of Potential Waters of the US – 1255 Martin St., Lakeport, CA.”, and the January 29, 2014 letter from the Department of the Army – US Corps of Engineers which identified areas as potential wetlands. The developer shall provide a status report regarding any appeal and revised design to reflect preservation of the wetlands, prior to the completion of required right-of-way improvements.  (Hydrology and Water Quality)

22. Prior to the completion of required right-of-way improvements, the applicant/owner/developer shall pay the standard City storm water mitigation fee based on the amount of new impervious surface.  (Hydrology and Water Quality)

23. Prior to the recodarion of the final map all that portion of the property frontage along Martin Street and Smith Street shall be dedicated for public roadway and public utility easement purposes.  (Transportation)

24. Prior to the completion of required right-of-way improvements, the applicant/owner/developer shall submit an engineered analysis and design plan for the proposed sewer collection system that will serve the previously approved ad future development and shall provide sewer service to the subject property in accordance with City standards and the Lakeport Sewer Master Plan. The sewer system analysis shall be coordinated with and approved by the City Community Director and Public Works Director and shall address design, location, sizing and collection system capacity issues. The analysis/plan shall be provided to and approved by the City prior to the issuance of development permits. The applicant/owner/developer shall agree to implement recommended measures as set forth in the sewer analysis to adequately serve the project’s sewer discharge. Final construction plans detailing the sewer collection system shall be submitted to the City for approval by the Public Works Director.  (Utilities and Service Systems)

25. The sidewalk adjacent to Martin Street shall contain provisions for a future bus stop to be provided by extending the sidewalk all the way to the curb for a 24 foot long section to be located approximately 24 feet to 48 feet west of the East curb return of Smith Street.

26. Prior to the recodarion of the final parcel map, the developer shall dedicate land for street right-of-way purposes along the entire Martin Street frontage. Said land dedication shall be 30 feet wide measured from the centerline of Martin Street and shall be described as part of a grant deed offered to the City of Lakeport.
27. Prior to the recording of the final parcel map, the developer shall dedicate land for street right-of-way purposes along the entire Smith Street frontage. Said land dedication shall be 20 feet wide measured from the centerline of Smith Street and shall be described as part of a grant deed offered to the City of Lakeport.

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29. Prior to the recording of the final map, the developer shall construct local street right-of-way improvements at a ½ standard measured from the centerline/adjacent transition section to the western half of the Smith Street right-of-way. Complete street right-of-way improvement plans for Smith Street shall be prepared by a registered civil engineer in accordance with City standards and submitted to the City Engineer's office for review and approval prior to the issuance of construction permits. Smith Street shall be reconstructed to a 20 foot width curb to curb. Design criteria shall be TI = 6.0. The same R - value criteria shall apply to this section.

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b. At the beginning and ending of property line curves and points of intersection.

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NOW, THEREFORE, IT IS AGREED:

1. That the applicant/owner has read and agrees to each and every item and condition herein.

2. That the development and use of the real property described herein shall conform to the conditions listed above and all City of Lakeport Ordinances and Resolutions where applicable.

3. That said conditions shall be binding on all owners or persons having or acquiring any right, title, or interest in said real property, or any part thereof, subject to this agreement.
APPLICANT

SIGNATURE - Don Slattery

DATE

APPLICANT/OWNER

SIGNATURE - Cameron Johnson

DATE
Attachment 4:
Tentative Parcel Map,
December 11, 2017 and
Related Material
## LAND USE APPLICATION WITH OR WITHOUT CATEGORICAL EXEMPTION

### APPLICANT'S INFORMATION

- **Name:** Don Slattery
- **Company Name:** Pacific West Communities
- **Mailing Address:** 430 E. State St. Suite 100
- **City, State, Zip:** Eagle, Id 83616
- **Phone:** 208-908-4873
- **Fax:**
- **Email:** dons@lpchousing.com

### LAND OWNER'S INFORMATION

- **Name:** Chenery Johnson
- **Company Name:** AMG & Associates, a California LLC
- **Mailing Address:** 28206 Constellation Rd.
- **City, State, Zip:** Valencia, CA 91355
- **Phone:** 661-251-7401
- **Fax:**
- **Email:** johnc@angoed.com

### AGENT, ENGINEER, OR ARCHITECT'S INFORMATION (if any)

- **Name:** Russ Erickson
- **Company Name:** Robertson Erickson Civil Engineers
- **Mailing Address:** 888 Manzanita Ct. Ste 101
- **City, State, Zip:** Chico, CA 95926
- **Phone:** 530-894-3500
- **Fax:** 530-894-8955
- **Email:** russ@robertsonerickson.com

### PROJECT INFORMATION

- **Project location:** 1255 Martin Street
- **Current land use:** Vacant
- **Current Zoning:** R-1, R-3
- **Subdivision tract name:**
- **Description of proposed project:** To divide one parcel into three parcels
- **Assessor Parcel No.(s):** 025-431-016
- **Size of existing parcel:** 11.48 Acres
- **Current General Plan Designation:** Residential
- **Lot and block numbers:**

### ATTACH SUPPLEMENTAL INFORMATION AS REQUIRED

**Signature of Applicant:** 12-11-17  
**Signature of Land Owner:** 12-11-17

### LAND USE APPLICATIONS REQUIRED FOR PROPOSED PROJECT:

<table>
<thead>
<tr>
<th>Application</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>$ 641.09 Abandonment of Right-of-Way</td>
<td>12-11-17</td>
</tr>
<tr>
<td>$ 1842.49 Annexation</td>
<td>12-11-17</td>
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<tr>
<td>$ 128.50 Archaeological Review</td>
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<td>$ 2,617.88 Architectural &amp; Design Review</td>
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<tr>
<td>$ 83.36 Arch. &amp; Design Review (Small Project)</td>
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<tr>
<td>$ 276.08 Approved Plan Revision</td>
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<tr>
<td>$ 124.37 Categorical Exemption</td>
<td>12-11-17</td>
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<tr>
<td>$ 248.74 Certificate of Compliance</td>
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<td>$ 1,160.37 Development Agreement</td>
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<td>$ 787.25 Environmental Review</td>
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<tr>
<td>$ 219.36 Fence Request</td>
<td>12-11-17</td>
</tr>
<tr>
<td>$ 303.07 Free-Standing Sign</td>
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<tr>
<td>$ 719.44 General Plan Amendment</td>
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</tbody>
</table>

**Total Fees Collected:** $ 3,693.75  
**Receipt #:** 169195  
**Initials:** 18  
**Date:** 1/31/17  
**Revised:** 7/1/2017
Attachment 5:
General Plan Change and Zone Change Maps
1255 Martin Street General Plan Designation Change (GPA 17-01) Proposal

Existing General Plan Land Use Designation

Proposed General Plan Land Use Designation
1255 Martin Street Zoning Change (ZC 17-02) Proposal

Existing Zoning Designation

Proposed Zoning Designation
PROJECT CONDITIONS AGREEMENT

This Agreement is entered into by
Pacific West Communities
(hereinafter applicant/owner).

RECITALS

WHEREAS, applicant/owner applied to the City of Lakeport (file number PM 17-01/GPA 17-01/ZC 17-02/ER 17-01) for a Tentative Parcel Map (PM 17-01) to create three (3) new parcels, General Plan Amendment (GPA 17-01) and Zone Change (ZC 17-02) reconfiguring the existing Residential (R-1) and High Density Residential (R-3) designations to match the proposed boundaries of the tentative parcel map on property located at 1255 Martin Street, also known as APNs 025-431-16; and

WHEREAS, on May 9, 2018, the Lakeport Planning Commission reviewed and approved the Pacific West Communities Project subject to the following conditions:

1. Engine warm-up and idling activities associated with the subdivision improvement activities shall be in accordance with the applicable State law governing said activities. Consideration shall be given to nearby residences with respect to heavy equipment use and storage.

2. Any vegetation removed as a result of subdivision improvement activities shall be recycled as firewood, or chipped and spread for groundcover and erosion control, or removed from the site. There shall be no burning of site vegetation, construction debris, or household materials.

3. A Serpentine Dust Mitigation Plan shall be prepared, submitted to, and approved by Lake County Air Quality Management District (LCAQMD) and the City of Lakeport prior to the issuance of permits for any site grading, excavation activities, or subdivision improvements. The construction activities shall incorporate all recommendations set forth in the Serpentine Dust Mitigation Plan as well as any other requirements recommended by the LCAQMD. (Air Quality)
4. The applicant/owner/developer shall submit an updated biological assessment of the subject property prepared by a qualified biologist in accordance with the California Department of Fish and Wildlife (CDFW) protocol prior to the completion of any required right-of-way improvements. The updated assessment shall incorporate the current botanical survey protocols established by the California Department of Fish and Wildlife. Those studies shall review and identify the location of all wetlands and environmental sensitive biological areas. The updated assessment shall be provided to the CDFW and the City of Lakeport for review and approval before the issuance of any site development permits. If required by CDFW, the applicant shall prepare a mitigation plan to eliminate/minimize the project-related impacts to any threatened, rare or endangered plant or animal species existing on the site. The applicant/owner/developer shall provide an avavatof compliance with CDFW’s requirements to the City prior to the issuance of any development permits. (Biological Resources)

5. Prior to the completion of required right-of-way improvements, the developer shall prepare a CDFW approved mitigation plan to offset impacts to the on-site serpentine herb community and the following special status plant species: 1. colusa layia 2. serpentine cryptantha 3. bent–flowered fiddle neck 4. beaked tracyina 5. Glandular western flax. (Biological Resources)

6. Prior to the completion of required right-of-way improvements, the developer shall prepare a mitigation plan to offset impacts to the on-site nesting of raptors and roosting habitat for bats. All vegetation removal and ground disturbing activities including clearing, grubbing, and grading in undisturbed areas shall occur between September 1 and February 1, outside of the typical nesting season, to avoid disturbing nesting birds. If vegetation removal or ground disturbing activities must occur during the nesting season, between February 2 and August 31, a nesting bird survey shall be conducted by a qualified biologist no more than 14 days prior to any grading or vegetation clearing. If an active nest is identified on the property, the city of Lakeport and the California Department of Fish and Wildlife shall be notified, the nest and a 100 foot buffer area or 200 foot buffer area for raptors around the nest shall be provided and protected and maintained until the bile a biologist determines that the young have fledged and or the nests are no longer active. The buffer area shall be delineated with orange construction fencing. Prior to demolition, a qualified biologist shall survey the small utility shed and house for the presence of bats. If bats are detected, measures shall be implemented to humanely evict the bats during one of their two primary active periods, using methods approved by the project biologist, while also avoiding the breeding season when non—full and pups may be present – from March 1 to April 15 or between September 1 and October 15. The northerly swale/ditch and seasonal wetlands under the jurisdiction of the Army Corps of Engineers,
Regional Water Quality Control Board, and California Department of Fish and wildlife shall be retained and protected pursuant to the approval from those Agencies. To avoid permit requirements, all project activities shall avoid the swale/ditch and potential seasonal wetland to the maximum extent feasible. (Biological Resources).

7. The project construction and development shall avoid and protect the existing on-site populations of special status plants to the maximum extent feasible. If suitable habitat will be temporarily disturbed but will remain viable in the long term, an effort shall be made to re-establish special status plant populations in these areas upon completion of construction. If the California Department of Fish and Wildlife determines that the available on-site options for plant protection and reestablishment do not fully compensate for the project impacts, off-site mitigation shall be provided. Off-site mitigation shall be accomplished through preservation of enhancement of off-site serpentine habitats special plant populations, restoration of degraded habitats on other local sites capable of supporting the sensitive resources, creation of new habitats capable of supporting the sensitive resources, and or purchase of appropriate credits at a qualifying mitigation bank. (Biological Resources)

8. The final parcel map shall include a separate sheet entitled “Local Agency Requirements” indicating the boundaries of existing wetlands and biologically sensitive areas. Additionally, a note should be placed on the final map prohibiting development within this area unless a biological survey and environmental review under CEQA is completed. (Biological Resources)

9. A note shall be placed on the final map requiring the following: “Replacement or removal of any native trees which are six inches in diameter subject to review and approval by the Community Development Department. Removed trees shall be replaced at a ratio of one to one and be maintained for a minimum of five years, with dead trees replaced. (Biological Resources)

10. The applicant/owner/developer shall obtain all necessary local, state and federal permits prior to initiating any grading or construction activities within the wetland habitat areas of the subject property. The required permits include a nationwide or standard permit from the U.S. Army Corps of Engineers, 401 Water Quality Certification from the Central Valley Regional Water Quality Control Board, and a 1603 Stream Alteration Agreement (SAA) from the California Department of Fish and Wildlife. The applicant/owner/developer shall provide proof of compliance with the various local, state and federal agencies’ requirements to the City of Lakeport prior to the issuance of any site development permits. (Biological Resources)
11. The applicant/owner/developer shall immediately cease all development activities in the event that archaeological, paleontological or cultural resources are uncovered during the development of the site. If such resources are discovered, a detailed study and mitigation plan in accordance with the California Environmental Quality Act shall be prepared by a registered archaeologist and implemented by the developer prior to the recommencement of construction. (Cultural Resources)

12. If cultural resources, as defined in Government Code Section 15064.5, are encountered during construction, all earth disturbing work shall stop within 50 feet of the find until a qualified archaeologist and a local Native American tribe representative can make an assessment of the discovery and recommend/implement mitigation measures as necessary. If the archaeologist and local Native American tribe representative determine that the cultural resources may be significant they shall notify the city of Lakeport. An appropriate mitigation and treatment plan for the cultural resources shall be developed. The archaeologist shall consult with local Native American tribe representatives in determining appropriate treatment for prehistoric or Native American cultural resources. In considering any suggested mitigation proposed by the archaeologist and the local Native American tribe representative, the city shall determine whether avoidance is necessary and feasible in light of factors such as the nature of the fine, project design, costs, and other considerations. If avoidance is infeasible other appropriate measures including data recovery shall be instituted. Work may proceed in other parts of the project site while mitigation for cultural resources is being carried out. (Cultural Resources)

13. In the event that paleontological resources are discovered during ground disturbing activities, grading and construction work within 100 feet of the find shall be suspended until the significance of the features can be determined by a qualified professional paleontologist as appropriate. A qualified professional paleontologist shall then make recommendations for measures to protect the fine, or to undertake data recovery, excavation analysis, and curation of the paleontological materials as appropriate. (Cultural Resources)

14. If human remains are encountered during earth moving or construction periods, construction shall be immediately ceased, and the applicant/owner/developer shall contact the Lake County Coroner. If the remains are determined to be Native American, the Coroner will contact the Native American Heritage Commission who will then identify the person or persons believed to be the most likely descendants from the deceased Native American. The most likely descendant then makes a recommendation regarding the treatment of the remains with appropriate dignity. (Cultural Resources)

15. Require that applicant/owner/developer enter into a Cultural Resource Protection Agreement with the Big Valley Rancheria Band of Pomo Indians
Tribal Historic Preservation Office to provide Cultural Resource Monitoring for any ground disturbance activities associated with required right-of-way improvements.

16. As part of the Cultural Resource Protection Agreement with the Big Valley Rancheria Band of Pomo Indians Tribal Historic Preservation Office, during any excavation or other substantial subsurface disturbance activities any individuals conducting the work should be given a cultural awareness training session and advised to watch for cultural resource materials. If any evidence of prehistoric cultural resources be observed (freshwater shells, beads, bone tool remnants or an assortment of bones, soil changes including subsurface ash lens or soil darker in color than surrounding soil, lithic materials such as flakes, tools or grinding rocks, etc.), or historic cultural resources (adobe foundations or walls, structures and remains with square nails, refuse deposits or bottle dumps, often associated with wells or old privies), all work must immediately cease, and a qualified archaeologist must be consulted to assess the significance of the cultural materials.

17. A note shall be placed on the final map indicating: A Native American monitor with the Big Valley Rancheria Band of Pomo Indians Tribal Historic Preservation Office and a qualified archaeologist shall be present during any excavation or other substantial subsurface disturbance activities.

18. The applicant/owner/developer shall submit a final grading plan prepared and stamped by an engineer prior to construction of right-of-way improvements. The final grading plan shall be prepared in accordance with the recommendations set forth in the soils and geotechnical investigation. (Geology and Soils)

19. Prior to the completion of required right-of-way improvements, the applicant/owner/developer shall submit a final storm water hydrology analysis prepared by a civil engineer to the City. The hydrology analysis shall quantify the net increase in storm water runoff related to the new impervious surfaces (buildings, parking area, driveways, walkways, etc.) resulting from the project. (Hydrology and Water Quality)

20. The applicant/owner/developer shall comply with Lakeport Municipal Code Chapter 8.40 (Storm Water Management), the Lake County Clean Water Program Storm Water Management Plan and the requirements of the California Water Resources Control Board (NPDES Phase II/Construction Activities Storm Water General Permit requirements) prior to the issuance of development permits. Copies of the Central Valley Regional Water Quality Control Board Notice of Intent (NOI), Storm Water Management Plan (SWMP), and Storm Water Pollution Prevention Plan (SWPPP) shall be provided to the City prior to any construction activities. All erosion control measures and construction activities shall be completed in accordance
with the project’s Storm Water Pollution Prevention Plan.  *(Hydrology and Water Quality)*

21. The storm water drainage system design shall conform to the requirements outlined in the January 22, 2015 LSA report - “Preliminary Delineation of Potential Waters of the US – 1255 Martin St., Lakeport, CA.”, and the January 29, 2014 letter from the Department of the Army – US Corps of Engineers which identified areas as potential wetlands. The developer shall provide a status report regarding any appeal and revised design to reflect preservation of the wetlands, prior to the completion of required right-of-way improvements. *(Hydrology and Water Quality)*

22. Prior to the completion of required right-of-way improvements, the applicant/owner/developer shall pay the standard City storm water mitigation fee based on the amount of new impervious surface. *(Hydrology and Water Quality)*

23. Prior to the recordation of the final map all that portion of the property frontage along Martin Street and Smith Street shall be dedicated for public roadway and public utility easement purposes. *(Transportation)*

24. Prior to the completion of required right-of-way improvements, the applicant/owner/developer shall submit an engineered analysis and design plan for the proposed sewer collection system that will serve the previously approved ad future development and shall provide sewer service to the subject property in accordance with City standards and the Lakeport Sewer Master Plan. The sewer system analysis shall be coordinated with and approved by the City Community Director and Public Works Director and shall address design, location, sizing and collection system capacity issues. The analysis/plan shall be provided to and approved by the City prior to the issuance of development permits. The applicant/owner/developer shall agree to implement recommended measures as set forth in the sewer analysis to adequately serve the project’s sewer discharge. Final construction plans detailing the sewer collection system shall be submitted to the City for approval by the Public Works Director. *(Utilities and Service Systems)*

25. The sidewalk adjacent to Martin Street shall contain provisions for a future bus stop to be provided by extending the sidewalk all the way to the curb for a 24 foot long section to be located approximately 24 feet to 48 feet west of the East curb return of Smith Street.

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3. That said conditions shall be binding on all owners or persons having or acquiring any right, title, or interest in said real property, or any part thereof, subject to this agreement.
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## STAFF REPORT

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<th>RE:</th>
<th>Consider Placing a Measure Related to the Sale and Use of Fireworks on the November 6, 2018 Ballot</th>
<th>MEETING DATE:</th>
<th>7/17/2018</th>
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<td>SUBMITTED BY:</td>
<td>Kelly Buendia, City Clerk</td>
<td>PURPOSE OF REPORT:</td>
<td>Information only</td>
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### WHAT IS BEING ASKED OF THE CITY COUNCIL/BOARD:

The City Council is asked to agree to placement of a measure on the November 6, 2018 ballot asking Lakeport voters to reconsider whether the Municipal Code of the City of Lakeport shall allow for the sale and use of safe and sane fireworks.

Adopt by majority vote the attached resolution requesting the Lake County Board of Supervisors’ consent to the consolidation of this election with the statewide general election to be held on November 6, 2018 and direct the Registrar of Voters to provide all services necessary to conduct the election and print the measure on the ballot.

### BACKGROUND

In 2009 the voters of Lakeport adopted Measure C which amended the Municipal Code of the City of Lakeport to allow for the sale and use of California State Fire Marshal Approved Safe and Sane Fireworks within the City of Lakeport. Fireworks sales are conducted by four local non-profit groups in accordance with the ordinance adopted by Measure C. Over the years, residents have lodged complaints about the sale and use of fireworks, including County residents outside of the incorporated area of Lakeport. With the devastating wildland fires occurring in Lake County, the number of protests has continued to rise.

In response, the Public Works and Police Departments began public education campaigns which included placement of signs at the city limits warning passerby’s that fireworks were illegal beyond the city limit. The Police Chief conducted outreaches via social media regarding the law and providing safety precautions for legally purchased fireworks. Finally, communication was provided reminding residents about Measure C adopted by voters in 2009.

Regardless of these efforts, public outcry has continued; prompting the item to be placed on the agenda for discussion.

### DISCUSSION

A measure adopted by voters can only be overturned or changed by the voters. A measure can be placed on the ballot through the initiative process or the City Council can place a measure on the ballot. Due to time restraints, an initiative brought by a member of the public could not meet the timeline to be placed on the November 6 election ballot. Should a member of the public wish to start the initiative process now or before the next state-wide election, the city would be required to conduct a special election. The Registrar’s office estimates a special election would cost the City around $30,000. Should the City Council place the item on the November 6, 2018 election ballot, the cost would be $2,000 or less.
MEASURE OVERVIEW

The measure to be submitted to the voters, if approved, would prohibit the use, discharge and explosion of all fireworks, including “safe and sane” fireworks within the City of Lakeport, except as allowed by a state pyrotechnic operator’s license. The measure is approved if it receives at least a majority of affirmative votes of eligible City voters. The following question will be submitted to the voters whereby each voter may vote “yes” or “no” on the measure:

Ballot Question:

“LAKEPORT FIREWORKS PROHIBITION MEASURE. To reduce the risk of wildfire and structure fires within the City and surrounding communities, shall the ordinance to prohibit the use, discharge and explosion of all fireworks, including “safe and sane” fireworks, within the City, other than public displays of fireworks by licensed pyrotechnic operators, be adopted?”

NEXT STEPS:

Should the City Council desire to place the question on the ballot, the City Council must approve a resolution placing the fireworks measure on the ballot and requesting the Lake County Board of Supervisors’ consent to the consolidation of this election with the statewide general election to be held on November 6, 2018 and direct the Registrar of Voters to provide all services necessary to conduct the election and print a sales tax measure on the ballot. To meet elections timelines, staff is requesting that the resolution be addressed at this meeting.

OPTIONS:

The City Council could decide not to place the proposed measure on the ballot.

FISCAL IMPACT:

☐ None  ☑ $2,000.00 Budgeted Item?  ☐ Yes  ☑ No

Budget Adjustment Needed?  ☐ Yes  ☑ No  If yes, amount of appropriation increase:

Affected fund(s):  ☑ General Fund  ☐ Water OM Fund  ☐ Sewer OM Fund  ☐ Other:

Comments:

SUGGESTED MOTIONS:

Move to approve the resolution calling for, providing for, and giving notice of the general municipal election to be held in the City of Lakeport on the 6th day of November, 2018, for the purpose of submitting to the voters one question to prohibit the use, discharge and explosion of all fireworks, including the “safe and sane” fireworks, establishing deadlines for direct and rebuttal arguments, providing for the preparation of an impartial analysis, and requesting approval of the Lake County Board of Supervisors for consolidation of this election with the statewide general elections to be held on that date, and requesting election services to be provided by the County Elections Official

Attachments:  1. Lakeport Municipal Code Chapter 5.30 - Fireworks
2. Proposed Resolution
3. Proposed Ordinance
Chapter 5.30
FIREWORKS

Sections:
5.30.010 Definitions.
5.30.020 General prohibition against possession, sale or use of fireworks.
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5.30.170 Safe and sane fireworks--Revocation of permit--Appeal.
5.30.180 Safe and sane fireworks--Limitation on places and hours of discharge.
5.30.190 Safe and sane fireworks--Supervision of minors.
5.30.200 Seizure of fireworks.
5.30.210 Fireworks wholesaler public education plan.
5.30.220 Police and fire department illegal fireworks operation plan and after-action report.
5.30.230 Exception--Permit required for agricultural and wildlife fireworks.
5.30.240 Exception--Permit required for model rockets.
5.30.250 Administrative fines and penalties.
5.30.260 Amendment.
5.30.270 Concurrent authorities.
5.30.280 Severability.

5.30.010 Definitions.
The following words and phrases, as used in this chapter, are defined as follows:

A. "Affiliated organizations," for purposes of this chapter, shall be the following:

1. Organizations incorporated under the same charter or organization and their auxiliaries if the auxiliary is incorporated under the same charter;

2. Organizations sharing the same officers and/or place of meetings and/or national parent organization;

3. Subdivisions and/or fractional divisions, however named or delineated, of organizations;
4. Suborganizations, one of whose primary purposes is to provide financial and/or manpower support to a parent nonprofit organization.

However, different organizations affiliated with and officially recognized by any elementary, junior high and/or high school and/or school district that serves, in whole or in part, the residents of the city or any public or private community college, college and/or university located within the boundaries of the city shall not be presumed to be affiliated organizations unless it can be shown that they serve the same interest area or concern (i.e., boosters of high school football and boosters of high school basketball would be presumed to be two different, nonaffiliated organizations).

B. "Agricultural and wildlife fireworks" means fireworks designed or used to prevent damage to crops or unwanted occupancy of areas by animals or birds through the employment of sound or light, or both, whenever such fireworks are so classified by the State Fire Marshal.

C. "Citation" means an administrative citation issued pursuant to this chapter to remedy a violation.

D. "Citee" means any person served with an administrative citation charging him or her as a responsible person for violation.

E. "City" means the city of Lakeport.


G. "Code enforcement officer" (CEO) means any employee or agent of the city designated by the city council to enforce any provision of this chapter.

H. "Dangerous fireworks" shall mean dangerous fireworks as defined in Health and Safety Code Sections 12505 and 12561 and the relevant sections of Title 19, Code of Regulations, Subchapter 6, which are hereby incorporated by reference.

I. "Director" means the city manager or his or her designee.

J. "Fireworks stand" means any building, counter, or other structure of a temporary nature used in the sale, offering for sale, or display for sale of safe and sane fireworks.

K. "Hearing officer" means the person appointed by the city manager to serve as the hearing officer for administrative hearings held pursuant to this chapter.

L. "Issuance" or "issued" means any of the following:

1. The preparation and service of an administrative fine citation to a citee in the same manner as a summons in a civil action in accordance with Article III (commencing with Section 415.10) of Chapter 4 of Title 5 of Part 2 of the Code of Civil Procedures; or

2. Mailing of administrative fine citation to the citee, by certified mail with return receipt, to the address shown on the official records of the county assessor; or

3. By personally serving the responsible party by personal delivery of the administrative fine citation or by substituted service. Substituted service may be accomplished as follows:
a. By leaving a copy at the recipient’s dwelling or usual place of abode, in the presence of a competent member of the household, and thereafter mailing by first class mail, postage prepaid, a copy to the recipient at the address where the copy was left; or

b. In the event the responsible party cannot be served by first class mail, postage prepaid, or cannot be personally served and has a property manager or rental agency overseeing the premises, substituted service may be made upon the property manager or rental agency or may be effected by posting the property with the administrative fine citation and mailing a copy by first class mail, postage prepaid, to the responsible party in violation at the address of the property where the violation exists.

M. "Nonprofit organization" means any nonprofit association, charity or corporation organized primarily for veteran, patriotic, welfare, civic betterment or charitable purposes which has been recognized as tax-exempt by the Internal Revenue Service or the Franchise Tax Board, or a group which is an integral part of a recognized national organization having such tax-exempt status, or an organization affiliated with and officially recognized by an elementary, junior high and/or high school and/or school district that serves, in whole or in part, the residents of the city or a public and/or private community college, college and/or university which is located within the boundaries of the city.

N. "Person" means a natural person or a legal entity that is also an owner, tenant, lessee and/or other person with any right to possession or control of the property where a violation of this code occurred.

O. "Principal and permanent meeting place" includes, but is not limited to, a permanent structure, playing field, geographic area or service population which resides in or is located within the city.

P. "Public display of fireworks" means an entertainment feature where the public is admitted or permitted to view the display or discharge of fireworks, including but not limited to those defined in this section.

Q. "Qualified applicants" means any group or organization which has met all of the following criteria for a continuous period of not less than one full year preceding submittal of an application for a permit to sell pursuant to this chapter and which continues to meet the criteria for the duration of any permit to sell issued by the city pursuant to this chapter:

1. The organization shall be a nonprofit organization pursuant to Internal Revenue Code Section 501(c)3, 4, 6, 7, 8, 10, 19, 23, or 26, Section 501(d), or Section 501(e); or a group which is an integral part of a recognized national organization having such tax-exempt status or an organization affiliated with and officially recognized by an elementary, junior high and/or high school and/or school district that serves, in whole or in part, the residents of the city or a public and/or private community college, college and/or university which is located within the boundaries of the city;

2. The organization shall be organized primarily for veterans, patriotic, welfare, civic betterment, educational, youth development or charitable purposes;

3. The organization must have its principal and permanent meeting place within the city;
4. The organization must be one which provides direct and regular community services and benefits to the residents of the city;

5. The organization has a minimum bona fide membership of at least twenty members who either reside in the city, are employed in the city, or are owners or operators of a business or other establishment located in the city;

6. The organization has not been found by any court of competent jurisdiction or city administrative hearing officer to be in violation of any civil or criminal local, state or federal law relating to fireworks within twenty-four calendar months prior to the organization’s submittal of an application for a permit to sell;

7. The organization has not had a permit to sell revoked for cause pursuant to this chapter.

R. "Safe and sane fireworks" (a.k.a. "state-approved fireworks") means safe and sane fireworks as set forth in Health and Safety Code Sections 12529 and 12562 and the relevant sections of Title 19, Code of Regulations, Subchapter 6, which are hereby incorporated by reference.

S. "Responsible person" means a person who causes a violation of this chapter to occur or allows a violation to exist or continue, by his or her action or failure to act, or whose agent, employee or independent contractor causes a violation to occur, or allows a violation to exist or continue. There is a rebuttable presumption that the record owner of a residential parcel, as shown on the county’s latest equalized property taxes assessment rolls, and a lessee of a residential parcel has notice of any violation existing on said property. For purposes of this chapter, there may be more than one responsible person for a violation. Any person, irrespective of age, found in violation of any provision of this chapter may be issued a citation in accordance with the provisions of this chapter. Every parent, guardian or other person, having the legal care, custody or control of any person under the age of eighteen years, who knows or reasonably should know that a minor is in violation of this chapter, may be issued a citation in accordance with the provisions of this chapter, in addition to any citation that may be issued to the offending minor.

T. "Violation" or "violates" means any violation of any provision of this chapter.

U. "Fireworks wholesaler" has the same meaning as in Health and Safety Code Section 12533 and the relevant sections of Title 19, Code of Regulations, Subchapter 6, which are hereby incorporated by reference. (Measure C §2(part), 2009)

5.30.020 General prohibition against possession, sale or use of fireworks.
Except as otherwise provided in this chapter, no person shall possess, sell, use, display or explode any dangerous fireworks including, but not limited to, any rocket, firecracker, roman candle, squib, torpedo, wire core sparkler, wooden core sparkler, black cartridge, aerial shell or other combustible device or explosive substance or any kind of fireworks, by whatsoever name known, or any altered safe and sane fireworks within the city. (Measure C §2(part), 2009)

5.30.030 Exception--Certain public displays and/or special effects.
It shall be unlawful to cause, allow, permit, aid, abet, or suffer any discharge of dangerous fireworks (including a public display) or any use of special effects without having first obtained a permit from the city manager.
The city manager shall have authority to adopt reasonable rules and regulations for the granting of permits for those activities contained in Section 12640 of the California Health and Safety Code, including supervised public displays of fireworks by a jurisdiction, fair association, amusement park, other organization, or for the use of fireworks by artisans in pursuit of their trade. Each such use or display shall be handled by a licensed pyrotechnic operator (as defined by Section 12527 of the California Health and Safety Code) in accordance with a city-issued permit, and shall be of such character and so located, discharged or fired as in the opinion of the city manager or his or her designee, after proper investigation, will not be hazardous or endanger any person.

Every application for a permit to conduct a public display of fireworks shall be accompanied by a nonrefundable fee as established by resolution of the city council. This fee shall be in addition to any fee or tax imposed by the city council. Every applicant shall agree to hold the city, its officers and employees harmless from any and all claims for damages or other costs arising out of the activity authorized by the permit. (Measure C §2(part), 2009)

5.30.040 Certain public displays--Liability insurance.
Any person, firm or corporation applying for a public display permit shall furnish to the city manager proof of coverage by a policy of public liability and property damage insurance. The policy shall provide limits of bodily injury and property damage liability of not less than five million dollars combined single limits for each occurrence annually for payments of damages to persons or property which may result from or be caused by such public display of fireworks, or any negligence on the part of the licensee or his/her/its agents, servants, employees and/or subcontractors presenting such public display.

No permit shall be issued until the permittee furnishes the city manager with a certificate of insurance for each policy required, executed by the company issuing said policy and approved as to form by the city attorney. Such policies shall contain a provision which includes the city of Lakeport as an additional insured and declares said insurance to be primary and that no other insurance carried by an insured party shall be called upon for contribution. Such insurance policies shall contain an endorsement that the company issuing such policy or policies will not allow the same to be canceled without serving, by first class mail, thirty days’ notice of cancellation upon the city clerk for the city. Notwithstanding any other provision of this chapter, the failure of the permittee to carry such policy or policies in force and to properly renew said insurance during the time covered by such permit shall automatically revoke the permit as of the date of expiration of such insurance policy or policies. A payment of the full amount of the permit fee required by this chapter shall be made to the city before any such revoked permit may be reinstated. (Measure C §2(part), 2009)

5.30.050 Certain public displays--Appeals.
The decision of the city manager or the city manager’s designated representative in acting on an application for a permit to conduct a public display of fireworks in accordance with the provisions of this chapter shall be subject to an appeal by the applicant to the city council. Notice of such appeal shall be filed with the city council within ten days after the date of the decision regarding such fireworks permit. Upon failure to file such notice within the ten-day period, the action of the city manager or the city manager’s designated representative shall be final and conclusive. (Measure C §2(part), 2009)

5.30.060 Exception--Safe and sane fireworks.
It shall not be unlawful to possess, sell, use, display or discharge, within the city, those fireworks that are defined and classified as "safe and sane fireworks" (a.k.a. "state-approved fireworks") in the California State Fireworks Law (Sections 12500, et seq., of the Health and Safety Code and the relevant sections of Title 19, Code of Regulations, Subchapter 6) as set forth in this chapter. (Measure C §2(part), 2009)

5.30.070 Safe and sane fireworks--Permits required.
It shall be unlawful for any person to sell safe and sane fireworks within the city without having first applied for and received a permit from the city. (Measure C §2(part), 2009)

5.30.080 Safe and sane fireworks--Application.
A. No nonprofit organization shall submit more than one application for a permit to sell safe and sane fireworks within the city. If more than one application is submitted on behalf of any nonprofit organization, including an affiliated organization, all such requests shall be voidable at the discretion of the city manager. If a question arises as to whether organizations and/or groups are affiliated, the city council shall have ultimate authority to decide said question. Any attempt to transfer an application shall void any and all applications filed by or on behalf of both the transferor nonprofit organization and the transferee nonprofit organization.

B. Timing.
   1. All applications for permits to sell safe and sane fireworks shall be in writing to the city clerk on forms supplied by the city. Applications may be filed beginning March 1st of each year up to and including March 31st of the same year, at which time the filing period for that year will be closed.

   2. Applicants for such permits shall be notified by April 15th of each calendar year by the city manager of the approval or disapproval of such application for such permit. All organizations whose permits have been approved shall have up to and including June 1st of that year to pick up such permit.

C. Contents of Application.
   1. Every application shall set forth the name of the nonprofit organization, address and telephone number of one or more responsible adults who will be in charge of and responsible for the fireworks stand during the period safe and sane fireworks are sold, displayed or stored.

   2. The application shall be made in triplicate. The original of the application shall be retained by the city clerk, one copy shall be transmitted to the fire chief and one copy shall be sent to the city building department. (Measure C §2(part), 2009)

5.30.090 Safe and sane fireworks--Denial of application.
A. The city manager shall issue the permit to sell safe and sane fireworks unless any of the following apply:

   1. The city manager finds, in writing, that the applicant has failed to provide sufficient plans, information or other data necessary to permit a determination respecting compliance with the requirements of this chapter;
2. The city manager finds, in writing, that the applicant is not in compliance with any of the requirements of this chapter;

3. The city manager finds, in writing, that the applicant falls within the provisions of Section 5.30.170(C);

4. The city manager determines that the number of qualified applicants exceeds the number of permissible permits under Section 5.30.100(B); or

5. If the governor of the state of California declares a state of emergency for the city of Lakeport or county of Lake related to imminent threat of devastating wildfires and a related imminent peril to people and property, the city council may, by unanimous vote, suspend the sale and use of safe and sane fireworks for the calendar year in which the governor declares the state of emergency.

B. The city manager must advise, in writing, all qualified applicants of its determination no later than April 15th as well as advise them of the procedures that the city must follow.

C. Any denial of a permit pursuant to this section may be appealed to the city council. Upon notice of appeal from an applicant, the city manager shall provide the city council with the name of the applicant and a brief statement of the grounds for denial of issuance of the permit. The city council shall consider the appeal at its next regularly scheduled meeting. (Measure C §2(part), 2009)

5.30.100 Safe and sane fireworks--Prerequisite for issuance of permit.
A. All organizations whose permits have been approved shall not be issued a permit unless all of the following are submitted to the city clerk by June 1st:

1. The location of the fireworks stand; written permission from the owner of record, lessor of record or the property manager of the property (whichever is controlling) upon which said proposed stand will be located; and the zoning of the real property on which the fireworks stand is to be located, which zoning classification shall be obtained from the planning department for the city.

2. A copy of the requisite state retail sales permit from the office of the California State Fire Marshal.

3. A certificate evidencing an occurrence-based policy of insurance naming the city of Lakeport as an additional insured thereunder, with the following minimum limits: one million dollars public liability and property damage; and general aggregate coverage of two million dollars.

4. A copy of a temporary sales tax permit issued by the California State Board of Equalization.

B. The maximum number of permits which may be issued and the maximum number of safe and sane fireworks stands that will be permitted pursuant to this chapter during any one calendar year shall not exceed four. If the number of qualified applicants exceeds the number of permissible permits under this section, the city shall select the nonprofit organizations to whom permits shall be issued by the following method:
1. Notwithstanding Section 5.30.010(Q), preference shall be given to any nonprofit organization that was issued a permit to sell safe and sane fireworks in the city in 2007 so long as such nonprofit organization continuously applies for and is issued a permit from year to year, beginning with the effective date of the ordinance codified in this chapter.

2. In the event that any permits are available after issuing permits pursuant to subsection (B)(1) of this section, the city manager or his or her designee shall conduct a drawing in which qualified applicants shall be randomly selected to receive any available permits.

C. The continued validity of any city permit issued pursuant to this chapter shall be subject to the requirement that at least one or more representatives of each nonprofit organization, preferably those responsible adults listed on the permit application, shall attend a safe and sane fireworks stand operator safety seminar conducted by the fire department and the licensed fireworks wholesaler that is supplying the safe and sane fireworks to the nonprofit organization. The failure of a nonprofit organization to have a responsible individual(s) attend the safety seminar shall result in the revocation of its permit to sell safe and sane fireworks.

D. Permits issued pursuant to this section are valid only during the calendar year issued.

(Measure C §2(part), 2009)

5.30.110 Deadlines for applications and all other filings.
If the deadline for submitting any type of application, payment of any administrative fine, filing of a notice of appeal, etc., called for within this chapter falls on a day City Hall is closed, the deadline shall automatically be extended to the close of business of the next day City Hall is open. (Measure C §2(part), 2009)

5.30.120 Safe and sane fireworks--Temporary sales tax permit.
Nonprofit organizations licensed and permitted to sell safe and sane fireworks in the city are required to obtain a temporary sales tax permit from the local office of the California State Board of Equalization. (Measure C §2(part), 2009)

5.30.130 Safe and sane fireworks--Operation of fireworks stand.
A. No person shall knowingly sell fireworks to any person under the age of eighteen. Proof that the fireworks stand operator/organization demanded, was shown and acted in reliance upon bona fide evidence of age and identity in any sale of fireworks forbidden by this chapter shall be a defense for any proceedings for suspension or revocation of its safe and sane fireworks permit or any criminal proceedings for violations of this chapter. For purposes of this section, bona fide evidence of age and identity of purchaser is a document issued by a federal, state, county or municipal government which contains a photograph of the purchaser including, but not limited to, a valid California driver’s license or identification card issued to a member of the Armed Forces.

B. The sale of safe and sane fireworks shall begin no earlier than nine a.m. on July 1st and shall not continue after nine p.m. on July 4th of the same year. Sale of fireworks shall be permitted only from nine a.m. to nine p.m., daily, on July 1st through July 4th.

C. No person other than the permitted nonprofit organization(s) shall operate the stand for which the permit is issued or share or otherwise participate in the profits of the operation of such stand.
D. No person other than the individuals who are members of the permittee or the spouses, parents or adult children of such members shall sell or otherwise participate in the sale of safe and sane fireworks at such stand.

E. No person under the age of eighteen shall sell or participate in the sale of safe and sane fireworks within such stand.

F. No person shall be paid any consideration by the permittee nonprofit organization(s) or any wholesaler/distributor of safe and sane fireworks for selling or otherwise participating in the sale of safe and sane fireworks at such stand; provided, however, that compensation may be paid for licensed security personnel during sale or nonsale hours and to the party authorizing the location of the stand on its property. (Measure C §2(part), 2009)

5.30.140 Safe and sane fireworks--Temporary fireworks stand.
All retail sales of safe and sane fireworks shall be permitted from within a temporary fireworks stand, and retail sales from any other building or structure are hereby prohibited. Temporary stands shall be subject to the following provisions:

A. No fireworks stand shall be located within twenty-five feet of any other building or within one hundred feet of any gasoline pump or distribution point.

B. Fireworks stands need not comply with the provisions of the building code of the city; provided, however, that all stands shall be constructed in a manner which will reasonably ensure the safety of attendants and patrons; and provided further, that any electrical installation shall comply with all applicable codes.

C. No stand shall have a floor area in excess of seven hundred fifty square feet.

D. Each stand shall have at least two exits. Each stand in excess of forty feet in length shall have at least three exits spaced approximately equidistant apart; provided, however, that in no case shall the distance between the exits exceed thirty-two feet. Exit doors shall be not less than twenty-four inches wide and six feet in height and shall swing in the direction of exit travel.

E. Each stand shall be provided with two two-and-one-half-gallon water type (minimum rating 2A) or soda-and-acid fire extinguishers, in good working order and easily accessible for use in case of fire. (Measure C §2(part), 2009)

5.30.150 Safe and sane fireworks--General requirements for permittees.
A. All weeds and combustible materials shall be cleared from the location of the fireworks stand to a distance of at least twenty-five feet surrounding the fireworks stand. All trash resulting from the operation of the fireworks stand must be removed on a daily basis.

B. "NO SMOKING" signs shall be prominently displayed on and in the safe and sane fireworks stand.

C. Each safe and sane fireworks stand must have an adult in attendance and in charge thereof while fireworks are on sale or stored therein. Sleeping or remaining in the stand after close of business each day is prohibited. On closing of the safe and sane fireworks stand each day, all fireworks must be removed from the premises and taken to a secured location operated by the fireworks wholesaler.
D. All unsold stock of fireworks in the hands of the permittee after ten p.m. on July 8th shall be returned to the wholesaler/distributor and removed from the city within five days. On closing of the safe and sane fireworks stand, all litter shall be removed from the premises.

E. No fuel-powered generator or similar equipment shall be allowed within fifty feet of a safe and sane fireworks stand.

F. Each safe and sane fireworks stand must post its city permit to sell safe and sane fireworks, its temporary sales tax permit from the California State Board of Equalization, its State Fire Marshal retail sales permit, and proof of their required insurance in a prominent place inside the safe and sane fireworks stand.

G. No person shall smoke within twenty-five feet of the safe and sane fireworks stand. No person shall light, cause to be lighted or permit to be lighted any safe and sane fireworks or combustible material within fifty feet of any safe and sane fireworks stand. (Measure C §2(part), 2009)

5.30.160 Nonprofit organization surcharge.
A. All nonprofit retail booth locations shall assess a surcharge on all retail sales of state-approved fireworks that occur in the city.

B. The assessment is intended to raise funds for the city to pay for the costs of administering this chapter, including but not limited to: increased police and fire protection; processing and issuing permits; inspections of stands; public education and awareness campaign; enforcement, including additional personnel time; cleanup of the trash and debris left behind each year; and other costs in connection with the city’s Fourth of July celebration.

C. The assessment shall be five percent of the gross sales of the fireworks sold in the city that year. Payment of the assessment by each nonprofit retail booth operator shall be due to the city clerk by August 15th of each year. (Measure C §2(part), 2009)

5.30.170 Safe and sane fireworks--Revocation of permit--Appeal.
A. The city manager or the city manager’s designee may revoke, immediately and without notice or hearing, the permit of any permittee who violates any of the following provisions: Section 5.30.130(A), (B) or (E) or Section 5.30.150(C). If the revocation occurs between June 22nd and July 5th, the city manager shall inform the permittee that the permittee may seek review of the city manager’s decision by the city council at the next regular meeting by submitting a notice of appeal to the city clerk within five business days of receiving the notice of revocation. At the earliest opportunity on the next business day after the revocation, the city manager shall provide the city council with written notice that a fireworks permit has been revoked, including the name of the permittee and a brief statement of the grounds for revocation. If the revocation occurs before or after the specified period, the appeal procedures of subsection (B) of this section shall apply.

B. The city manager, or the city manager’s designee, may revoke the permit of any permittee who violates any provision of this chapter not specified in subsection (A) of this section. Such revocation shall not take effect for five days, during which time the permittee may appeal the city manager’s decision by submitting a written request to the city clerk for review of the revocation by the city council. The city manager shall provide the city council with written notice that a fireworks permit has been revoked, including the name of the permittee and a brief statement of the grounds for revocation. The city council shall consider the appeal of revocation at its next regular meeting.
C. Any permittee whose permit has been revoked pursuant to subsection (A) or (B) of this section shall be barred from receiving a permit under this chapter for up to five years from the date of revocation. (Measure C §2(part), 2009)

5.30.180 Safe and sane fireworks--Limitation on places and hours of discharge.
A. It shall be unlawful to discharge any safe and sane fireworks except during the hours of nine a.m. to ten p.m. on July 1st through July 4th, or during the hours of nine a.m. to eleven p.m. on day of the city’s Fourth of July public display of fireworks.

B. It shall be unlawful for any person to ignite, discharge, project or otherwise fire or use any safe and sane fireworks, or permit the ignition, discharge or projection thereof, upon or over or onto the property of another without his/her consent, or to ignite, discharge, project or otherwise fire or make use of any safe and sane fireworks within ten feet of any residence, dwelling or other structure used as a place of habitation by human beings. (Measure C §2(part), 2009)

5.30.190 Safe and sane fireworks--Supervision of minors.
It shall be unlawful for any person having the care, custody or control of a minor (under eighteen years) to permit such minor to discharge, explode, fire or set off any dangerous fireworks, at any time, or to permit such minor to discharge or set off any safe and sane fireworks unless such minor does so under the direct supervision of a person over eighteen years of age and during the hours and on the days permitted by this chapter. (Measure C §2(part), 2009)

5.30.200 Seizure of fireworks.
The fire chief, or the fire chief’s designee, may seize, take, remove or cause to be removed, at the expense of the permittee or licensed fireworks wholesaler, whichever is applicable, all stock of fireworks offered or exposed for sale, stored or held in violation of this chapter when such violation creates an imminent threat to public health or safety. (Measure C §2(part), 2009)

5.30.210 Fireworks wholesaler public education plan.
Each fireworks distributor/wholesaler who is supplying one or more of the nonprofit organizations who are permittees under this chapter shall annually submit a public education plan to the city by no later than five p.m. on June 1st. Said public education plan should outline the public safety and education efforts for that year that have been initiated, supported and/or delivered by each fireworks distributor/wholesaler within the city. Said public education plan should include, but is not limited to, samples of all the materials and the extent of distribution of all of the safety and education materials discussed in that wholesaler’s/distributor’s plan. (Measure C §2(part), 2009)

5.30.220 Police and fire department illegal fireworks operation plan and after-action report.
A. On or before May 1st of every year, both the city’s police and fire departments must present to the city council an operation plan for the thirty-day period surrounding the 4th of July (June 17th through July 16th) for that year. Said operation plan should include, but not be limited to, the following information:

1. Identification of areas within the city where illegal fireworks were a problem in the previous year;

2. A detailed explanation of the deployment of fire and law enforcement personnel to deal with those troublesome areas as well as with the balance of the city;
3. A report on the apparatus and personnel who will be on duty for the period of June 17th through July 16th of that year, and more particularly, on the 1st through the 5th of July, inclusive;

4. Recommendations on and discussion of what, if any, dedicated illegal fireworks enforcement patrols there should be for that year and all other relevant information and statistics deemed necessary by the city council.

B. By no later than September 1st of that same year, both police and fire departments must report back to the city council with an after-action report. That report should include, but is not limited to:

1. An evaluation of the success or failure of that department’s operation plan for that year including a listing of any significant fireworks-related incidents, both dangerous fireworks and safe and sane fireworks;

2. Relevant incident statistics for the period of June 17th through July 16th, arrest and citation statistics for all crimes, but more particularly for the possession, sale and/or use of dangerous fireworks, altered safe and sane fireworks and misuse of safe and sane fireworks outside the strict limitations of this chapter;

3. A report on how many calls there were regarding suspected dangerous fireworks, how many of those calls either of the departments responded to, how many of those calls resulted in seizures and/or administrative fine citations, the status of payment of those administrative fines, and how many fireworks seizures resulted in no citations, and if so, why. (Measure C §2 (part), 2009)

5.30.230 Exception--Permit required for agricultural and wildlife fireworks.
It shall be unlawful for any person to possess, sell, furnish, or give away, or offer or expose for sale, or fire, discharge, or explode, any agricultural and wildlife fireworks in the city without first obtaining a permit from the city manager.

The permit shall not be transferable, and shall particularly describe the place where agricultural and wildlife fireworks are to be stored, sold, or discharged. Such permit shall be for such length of time as the city manager shall determine, but in any event not to exceed twelve months. (Measure C §2 (part), 2009)

5.30.240 Exception--Permit required for model rockets.
The sale, purchase, storage, firing or discharge of model rockets may be allowed by written permit from the city manager which shall include, but not be limited to, the conditions contained in Title 19 of the California State Administrative Code and any other conditions which the city manager may deem to be reasonably necessary for the safety and welfare of the public and the community. (Measure C §2(part), 2009)

5.30.250 Administrative fines and penalties.
A. Purpose.

1. This chapter authorizes the imposition of administrative fines on any person who violates any provision of this chapter in order to encourage and obtain compliance with the provisions of this chapter for the benefit and protection of the entire community. This section governs the
imposition, enforcement, collection and administrative review of all administrative fines related to: the possession, use, storage, sale and/or display of those fireworks classified as dangerous fireworks in California Health and Safety Code Section 12500 et seq., with the exception of a pyrotechnic licensee when operating pursuant to that license; and the use of safe and sane fireworks as defined in California Health and Safety Code Section 12500 et seq. on or at dates, times and/or locations other than those permitted by this chapter. Said administrative fines are imposed under authority of Government Code Section 53069.4, Health and Safety Code Section 12557, and the police power of the city.

2. The issuance of citations imposing administrative fines may be performed at the discretion of the officials of the city authorized hereunder, and the issuance of a citation to any person constitutes but one remedy of the city to redress violations of this code by any person. By adopting this chapter, the city does not intend to limit its authority to employ any other remedy, civil or criminal, to redress any violation of this code by any person which this city may otherwise pursue.

3. The imposition of fines related to dangerous fireworks under this chapter shall be limited to persons who possess, sell, use and/or display, or the seizure of, less than twenty-five pounds (gross weight) of such dangerous fireworks.

4. Fines collected pursuant to this chapter related to dangerous fireworks shall not be subject to Health and Safety Code Section 12706, which section provides that certain fines collected by a court of the state be deposited with, and disbursed by, the county treasurer. However, the city shall provide cost reimbursement to the State Fire Marshal pursuant to regulations to be adopted by the State Fire Marshal addressing the State Fire Marshal’s cost for the transportation and disposal of dangerous fireworks seized by the city, which costs will be part of any administrative fine imposed. Unless and until said regulations have been adopted by the state of California, the city shall hold in trust two hundred fifty dollars or twenty-five percent of any fine collected, whichever is greater, to cover the cost reimbursement to the State Fire Marshal for said cost of transportation and disposal of the dangerous fireworks.

5. Because of the serious threat of fire or injury posed by the use of dangerous fireworks that can result from persistent or repeated failures to comply with the provisions of this code and the effect of such conditions or activities on the safety and the use and enjoyment of surrounding properties and to the public health, safety and welfare, this chapter imposes strict civil liability upon the owners of residential real property for all violations of this code existing on their residential real property. Each contiguous use, display and/or possession shall constitute a separate violation and shall be subject to a separate administrative fine.

6. At least fifty percent of the fines collected pursuant to this chapter must be placed in a segregated fund entitled “Lakeport illegal fireworks enforcement fund.” The sole and exclusive purpose of this fund is to pay for increased fire and police deployment, protection and investigation of and against illegal fireworks in the city for the thirty-day period surrounding the 4th of July (June 17th through July 16th).

B. Issuance of Administrative Citation--Contents.
1. Whenever a code enforcement officer (CEO) determines that a violation of the code has occurred, the CEO may issue an administrative citation on a city-approved form listing the code violation(s) and the amount of the administrative fine required to be paid by the responsible person(s) in accordance with the provisions of this chapter.

2. Each administrative citation shall contain the following information:
   a. The name, mailing address, date of birth, CDL number, and home or business telephone number of the responsible person charged with any violation of this code;
   b. The address or description of the location of the violation;
   c. The date or dates on which the person violated this code;
   d. The section or sections of this code that were violated;
   e. A description of the violation(s);
   f. The amount of the administrative fine for each violation, the procedure in place to pay the fines, and any late fee and interest charge(s), if not timely paid, and notice that if the city is required to take action to collect such fines, the responsible person may be charged costs and attorney’s fees;
   g. Notice of the procedure to request an administrative hearing to contest the citation (including the form to be used, how to obtain the form, and the period within which the request must be made in order for it to be considered timely);
   h. The name and signature of the CEO who issued the citation and the name and signature of the citee, if he or she is physically present and will sign the citation at the time of its issuance. The refusal of a citee to sign a citation shall not affect its validity or any related subsequent proceedings, nor shall signing a citation constitute an admission that a person is responsible for a violation of the code;
   i. Any other information deemed necessary by the director for enforcement or collection purposes.

C. Administrative Fines.

1. Each person who violates any provision of this code as it relates to the possession, use, storage, sale and/or display of dangerous fireworks shall be subject to the imposition and payment of an administrative fine or fines as provided below:

<table>
<thead>
<tr>
<th>Number of Offenses in 1-Year Period</th>
<th>Amount of Administrative Penalty</th>
<th>Late Charge</th>
<th>Total Amount of Penalty plus Late Charge</th>
</tr>
</thead>
<tbody>
<tr>
<td>First</td>
<td>$1,000</td>
<td>$250</td>
<td>$1,250</td>
</tr>
<tr>
<td>Second</td>
<td>$3,000</td>
<td>$500</td>
<td>$3,500</td>
</tr>
</tbody>
</table>
## ATTACHMENT 1

<table>
<thead>
<tr>
<th>Number of Offenses in 1-Year Period</th>
<th>Amount of Administrative Penalty</th>
<th>Late Charge</th>
<th>Total Amount of Penalty plus Late Charge</th>
</tr>
</thead>
<tbody>
<tr>
<td>Third</td>
<td>$5,000</td>
<td>$1,000</td>
<td>$6,000</td>
</tr>
</tbody>
</table>

2. Each person who uses safe and sane fireworks on or at dates, times and/or locations other than those permitted by this chapter shall be subject to the imposition and payment of an administrative fine or fines as provided below:

<table>
<thead>
<tr>
<th>Number of Offenses in 1-Year Period</th>
<th>Amount of Administrative Penalty</th>
<th>Late Charge</th>
<th>Total Amount of Penalty plus Late Charge</th>
</tr>
</thead>
<tbody>
<tr>
<td>First</td>
<td>$250</td>
<td>$75</td>
<td>$325</td>
</tr>
<tr>
<td>Second</td>
<td>$500</td>
<td>$150</td>
<td>$650</td>
</tr>
<tr>
<td>Third</td>
<td>$750</td>
<td>$300</td>
<td>$1,050</td>
</tr>
</tbody>
</table>

3. In the case of a violation of any of the provisions listed above, the administrative fine(s) shall be due and payable within thirty calendar days from the issuance of the administrative fine citation, and the citee shall be required to abate the violation and surrender all dangerous fireworks to the CEO immediately. For penalties not paid in full within that time, a late charge in the amount set forth above is hereby imposed and must be paid to the city by the citee. Fines not paid within the time established by this section shall accrue interest at the prevailing established rate. On the second and each subsequent time that a person is issued a citation for the same violation in any twelve-month period, the fine is increased as indicated above and the citee shall be liable for the amount of the new fine until it is paid, in addition to being responsible for payment of previous fines.

4. All administrative fines and any late charges and interest due shall be paid to the city at such a location or address as stated on the citation, or as may otherwise be designated by the city manager. Payment of any fine or fines shall not excuse the citee from complying with the provision of the code so violated. The issuance of the citation and/or payment of any fine shall not bar the city from employing any other enforcement action or remedy to obtain compliance with the provisions of the code so violated including the issuance of additional citations and/or criminal prosecution.

5. Upon confirmation of the citation or when the citation is deemed confirmed, all unpaid administrative fines, late fees and/or interest shall constitute a judgment which may be collected in any manner allowed by law for collection of judgments including but not limited to recordation to create a lien on any real property owned by the responsible person. The city shall be entitled to recover its attorney’s fees and costs incurred in collecting any administrative fines, late charges and/or interest.

6. Payment of the administrative fine shall not excuse or discharge a citee from the duty to immediately abate and correct a violation of this chapter, nor from any other responsibility or legal consequences for a continuation or a repeated occurrence(s) of a violation of this chapter.
D. Right to an Administrative Hearing.

1. Any citee may contest the violation(s), or that he or she is a responsible person, by filing a request for an administrative hearing on a city-approved form with the city clerk within thirty calendar days from the issuance date of a citation. If the city clerk does not receive the request in the required time period, the citee shall have waived a right to a hearing and the citation shall be deemed confirmed and final.

2. No fees shall be charged for the filing of a request for a hearing.

3. Citees must deposit the full amount of the penalty listed on the citation on or before the request for a hearing is filed. Failure to deposit the full amount of all penalties within the required time period, or the tender of a nonnegotiable check, shall render a request for an administrative hearing incomplete and untimely. Penalties that are deposited with the city shall not accrue interest. Penalties deposited shall be returned to the person who deposited them if the citation is overturned.

4. A request for a hearing shall contain the following:
   a. The citation number;
   b. The name, address, telephone number and any facsimile numbers and e-mail addresses of each person contesting the citation;
   c. A statement of the reason(s) why a citation is being contested;
   d. The date and signature of the citee(s).

5. The city will notify all persons who filed a request for a hearing in writing by first class mail of the date, time and place set for the hearing at least ten calendar days prior to the date of the hearing. Service of this notice is deemed complete at time of mailing. The failure of a citee to receive a properly addressed notice shall not invalidate the citation or any hearing, city action or proceeding conducted pursuant to this chapter.

6. The hearing will be conducted within sixty days of the date a timely and complete request is received by the city clerk.

7. If the CEO submits an additional written report concerning the citation to the city for consideration at the hearing, the CEO shall also serve a copy of such report by first class mail on the person requesting an administrative hearing no less than seven calendar days prior to the date of the hearing. Failure to receive said report shall not invalidate the citation or any hearing, city action or proceeding conducted pursuant to this chapter.

E. Administrative Hearing--Procedures.

1. The hearing officer designated or appointed by the city manager shall hear all requests for administrative hearings of administrative fines in accordance with the procedures established herein.

2. Administrative hearings are informal, and formal rules of evidence and discovery do not apply. The city bears the burden of proof to establish a violation and responsibility therefor by
a preponderance of evidence. The citation is prima facie evidence of the violation, however, and the CEO who issued the citation is not required to attend or participate at the hearing. The citee(s) and CEO, if present, shall have an opportunity to present evidence and witnesses and to cross-examine witnesses. A citee may bring an interpreter to the hearing provided there is no expense to the city. The hearing officer may question any person who presents evidence or who testifies at any hearing.

3. A citee may appear at the hearing in person or by written declaration executed under penalty of perjury. Said declaration and any documents in support thereof shall be tendered to and received by the city at least seven business days prior to the hearing. If the citee fails to attend or does not submit a written declaration in a timely manner, he or she shall be deemed to have waived the right to a hearing. In such an instance, the hearing officer shall cancel the hearing and not render a decision. In such instances, the citation shall be deemed confirmed.

4. Hearings may be continued once at the request of a citee or the officer who issued the citation. The hearing officer may also continue the hearing for cause.

F. Hearing Decision—Right of Appeal.

1. After considering all the testimony and evidence submitted at the hearing, the hearing officer shall issue a written decision to uphold or overturn the citation and shall state the reasons therefor.

2. The hearing officer shall serve citee(s) by first class mail with a copy of the written decision. The date the decision is deposited with the U.S. Postal Service shall constitute the date of its service. The failure of a citee to receive a properly addressed decision shall not invalidate any hearing, city action or proceeding conducted pursuant to this chapter.

3. Decisions of the hearing officer may be appealed to the city council within thirty days after the date of their service. Each decision shall contain a statement advising the citee of this appeal right and the procedure for its exercise. A citee shall file a notice of appeal with the city within twenty calendar days after the date of service of the hearing officer’s decision.

4. If a hearing officer’s decision is not appealed in a timely manner, the decision shall be deemed confirmed.

5. The city council is the sole reviewing authority and an appeal from a hearing officer’s decision is not appealable to the superior court. If a responsible person prevails on appeal, the city shall reimburse his or her fine deposit within thirty calendar days of the city council’s decision on the appeal. (Measure C §2(part), 2009)

5.30.260 Amendment.
This chapter shall not be repealed or amended except by a vote of the people of the city of Lakeport. (Measure C §2(part), 2009)

5.30.270 Concurrent authorities.
5.30.280 Severability.
If any section, subsection, sentence, clause or phrase of this chapter that is for any reason held to
be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision
shall not affect the validity of the remaining portions of this chapter. The people of the city of
Lakeport hereby declare that they would have passed this chapter and each section, subsection,
sentence, clause and phrase thereof, irrespective of the fact that any one or more sections,
subsections, sentences, clauses or phrases be declared invalid or unconstitutional. (Measure C §2
(part), 2009)
RESOLUTION NO. ____ (2018)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAKEPORT CALLING FOR AND PROVIDING FOR AND GIVING NOTICE OF THE GENERAL MUNICIPAL ELECTION TO BE HELD IN THE CITY OF LAKEPORT, COUNTY OF LAKE, STATE OF CALIFORNIA, ON THE 6TH DAY OF NOVEMBER, 2018, FOR THE SUBMISSION TO THE VOTERS OF ONE QUESTION TO PROHIBIT THE USE, DISCHARGE AND EXPLOSION OF ALL FIREWORKS, INCLUDING THE "SAFE AND SANE" FIREWORKS, ESTABLISHING DEADLINES FOR DIRECT AND REBUTTAL ARGUMENTS, PROVIDING FOR THE PREPARATION OF AN IMPARTIAL ANALYSIS, AND REQUESTING APPROVAL OF THE LAKE COUNTY BOARD OF SUPERVISORS FOR CONSOLIDATION OF THIS ELECTION WITH THE STATEWIDE GENERAL ELECTIONS TO BE HELD ON THAT DATE, AND REQUESTING ELECTION SERVICES TO BE PROVIDED BY THE COUNTY ELECTIONS OFFICIAL

WHEREAS, the general municipal election of the City of Lakeport is scheduled for November 6, 2018; and

WHEREAS, the interests of efficiency call for the consolidation of that election with the state general election to be held that same date; and

WHEREAS, pursuant to Resolution No. 2666 (2018), adopted May 15, 2018, the City of Lakeport has called its general municipal election for the purpose of electing two (2) members of the City Council for November 6, 2018 to be consolidated with the statewide general election on that same date, and requested the Lake County Board of Supervisors to authorize the Lake County Registrar of Voters to provide all the services necessary to conduct such election; and

WHEREAS, the City Council desires to submit to the voters the question of adopting an ordinance to repeal Measure C, which was approved by the voters in 2009, and prohibit the use, discharge and explosion of all fireworks, including “safe and sane” fireworks within the City of Lakeport, except as allowed by a state pyrotechnic operator’s license; and

WHEREAS, the interests of efficiency call for the consolidation of the general municipal election on the question of whether to prohibit the use, discharge and explosion of all fireworks, including “safe and sane” fireworks, with the election of the two members of the City Council on the same date as the general statewide election; and

WHEREAS, the City Council requests services from the Lake County Registrar of Voters for the conduct of this election.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Lakeport as follows:

Section 1: Call for General Municipal Election

A. The General Municipal Election is hereby called and ordered to be held in the City of Lakeport, County of Lake, State of California, on the 6th day of November, 2018.
B. The General Municipal Election hereby called and ordered to be held, shall be held and conducted, and the votes received and canvassed, and the returns thereof made, and the result hereof ascertained, determined, and declared as herein provided, and in all particulars not recited herein, according to the laws of the State of California, providing for Municipal Elections; and the polls for such election shall be and remain open during the time required by said laws.

C. The interests of efficiency call for the consolidation of that election with the state general election to be held that same date, the Lakeport City Council hereby declares its intent to consolidate this general election with the Statewide General Election to be held on November 6, 2018. This resolution shall constitute the request for consolidation required by Elections Code section 10403 and the City Clerk shall forward a certified copy of this resolution to the Clerk of the Lake County Board of Supervisors not later than 99 days prior to November 6, 2018.

D. All voting places, precincts, and election officials within the boundaries of the City of Lakeport shall be the same as those for the general election. The City Council hereby acknowledges that the consolidated election will be held and conducted in the manner prescribed by Elections Code section 10418.

E. The Lakeport City Council hereby requests approval of the Lake County Board of Supervisors to authorize the County Elections Official to provide election services to conduct said election.

F. The City Clerk is hereby authorized to utilize the services of the Lake County Clerk for the conduct of the general election. The City of Lakeport hereby agrees to pay the costs of those services as outlined by current policy of the Lake County Elections Division.

Section 2: Measure to be Voted on at General Municipal Election

A. The City Council of the City of Lakeport does order submitted to the voters of the City of Lakeport at the General Municipal Election the Measure as follows:

| LAKEPORT FIREWORKS PROHIBITION MEASURE. To reduce the risk of wildfire and structure fires within the City and surrounding communities, shall the ordinance to prohibit the use, discharge and explosion of all fireworks, including “safe and sane” fireworks, within the City, other than public displays of fireworks by licensed pyrotechnic operators, be adopted? | YES |
| | NO |

B. The Measure shall be submitted to the voters with spaces provided on the ballot form whereby each voter may vote “yes” or “no” on the measure. This measure shall be considered approved if a simple majority plus one of the voters in said election cast a “yes” vote.
C. The full text of the ordinance to prohibit the use, discharge and explosion of all fireworks, including “safe and sane” fireworks, entitled the “Lakeport Fireworks Prohibition Measure” is attached as Exhibit “A” to this Resolution. The full text of the ordinance shall be printed in the Voter Information Pamphlet.

Section 3. Arguments for and Against the Measure and Impartial Analysis

A. Primary Arguments. The City Council hereby establishes August 16, 2018, at 5:00 p.m. as the deadline for submission to the City Clerk of direct arguments in favor or against the Measure. All primary arguments may not exceed 300 words in length under Elections Code section 9282, and shall be accompanied by the printed name(s) and signature(s) of the author(s) submitting it, in accordance with Article 4, Chapter 3, Division 9 of the California Elections Code. The argument may be changed or withdrawn until and including the above date, after which no arguments for the Measure may be submitted to the City Clerk. All primary arguments submitted shall comply with Elections Code Section 9600 et seq. If more than one argument for or against the Measure is received, the City Clerk shall select the argument for printing and distribution to the voters giving preference and priority in accordance with California Elections Code Section 9287.

B. Rebuttal Arguments. The City Council hereby establishes, August 23, 2018, at 5:00 p.m. as the deadline for submission to the City Clerk of rebuttal arguments in favor and against the Measure.

1. Pursuant to California Elections Code section 9285, subdivision (b), the City Council hereby adopts the provisions of California Elections Code section 9285, subdivision (a), relating to rebuttal arguments for the Measure only for the November 6, 2018 election and thereafter repeals this sub-section.

2. The author or a majority of the authors of an argument relating to the Measure may prepare and submit a rebuttal argument or may authorize in writing any other person or persons to prepare, submit, or sign the rebuttal argument. The rebuttal argument shall not exceed 250 words and shall not be signed by more than five (5) persons that shall appear therewith. All rebuttal arguments submitted shall comply with Elections Code Section 9600 et seq.

C. Impartial Analysis. The City Clerk is directed to transmit copies of the Measure to the City Attorney who shall prepare an impartial analysis of the measure (not to exceed 500 words) showing the effect of the measure on the existing law and the operation of the measure and file same with the City Clerk no later than August 10, 2018 at 5:00 pm.

Section 4. CEQA

The adoption of this Resolution is exempt from the California Environmental Quality Act (Public Resources Code §§ 21000 et seq. (“CEQA”) and 14 Cal. Code Reg. §§ 15000 et seq. (“CEQA Guidelines’”). The calling and noticing of a General Municipal Election is not a project.
within the meaning of CEQA Guidelines Section 15378. The prohibition on fireworks is not a commitment to any particular action or actions nor will it result in a potentially significant physical impact on the environment under CEQA Guidelines 15061(b)(3). In addition, the prohibition on fireworks is categorically exempt under CEQA Guidelines Sections 15307 and 15308 because the measure is an action taken by a regulatory agency, as authorized by state law or local ordinance, to maintain, restore, or enhance a natural resource and protect the environment because prohibiting fireworks will reduce the risk of wildfire and other natural hazards associated with explosives.

Section 5. Severability

If any section, subsection, sentence, clause, phrase or portion of this Resolution or its application to any person or circumstance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Resolution or its application to other persons and circumstances. The City Council of the City of Lakeport hereby declares that it would have adopted this Resolution and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional and, to that end, the provisions hereof are hereby declared to be severable.

Section 6. Effective Date

This Resolution shall take effect immediately upon its adoption.

Section 7. Certification and Notice

The City Clerk shall certify to the passage and adoption of this Resolution, and give notice of this measure to be voted upon in the manner provided by the Elections Code of the State of California.

PASSED AND ADOPTED by the City Council of the City of Lakeport, County of Lake, State of California on this 17th day of July, 2018, by the following vote:

AYES: 
NOES: 
ABSENT: 
ABSTAINING: 

______________________________
MIREYA G. TURNER, MAYOR

____________________________
KELLY BUENDIA, CITY CLERK
ORDINANCE NO. ____

AN ORDINANCE OF THE CITY OF LAKEPORT AMENDING CHAPTER 5.30 OF THE MUNICIPAL CODE TO PROHIBIT THE SALE, USE, DISCHARGE AND EXPLOSION OF FIREWORKS WITHIN THE CITY

The People of the City of Lakeport do hereby ordain as follows:

Section 1. Chapter 5.30 of the Municipal Code is hereby amended as follows:

Section 5.30.010 Fireworks Prohibited Generally.

Except as hereinafter provided, it shall be unlawful for any person, firm, partnership or corporation to possess, use, sell, or discharge any fireworks within the City of Lakeport. As used in this chapter, “fireworks” includes “safe and sane fireworks” as that term is defined in Part 2 of Division 11 of the Health and Safety Code, as may be amended from time to time. Sparklers, which are defined as a stick or wire coated with a pyrotechnic composition that produces a shower of sparks upon ignition, are classified as dangerous fireworks and prohibited. This section does apply to the proper use of “agricultural and wildlife fireworks,” “exempt fireworks,” and “emergency signaling devices” as those terms are defined in Part 2 of Division 11 of the Health and Safety Code, as may be amended from time to time.

5.30.020 Public Fireworks Display — License.

A supervised public display of fireworks shall be permitted in accordance with this ordinance and the most current California Fire Code, Chapter 6 of Division 1 of Title 10 of the California Code of Regulations, and Part 2 of Division 11 of the Health and Safety Code. Such rules shall require such display to be handled by a pyrotechnic operator licensed by the State Fire Marshal and a display permit from the local fire department having jurisdiction. The character, location and related arrangements for the display shall be such that in the opinion of the approving authority, such display shall not constitute a hazard to persons or property. It shall further require that applications for permits shall be made in writing at least thirty (30) days in advance of the proposed date of the display. Permits granted hereunder shall not be transferable and shall be for a single display only.

5.30.30 Penalty.

A violation of the provisions of this chapter is punishable as a misdemeanor by a fine of not more than five hundred dollars ($1000.00) or by imprisonment in the County Jail for a period of not more than six (6) months, or by both such fine and imprisonment. The city may also pursue any and all remedies and actions available and applicable under local and state law for any violation of the provisions of this chapter, including but not limited to Chapter 8.30. Each person, firm, partnership or corporation shall be deemed guilty of a separate offense for each and every day or any portion thereof during which any violation of this chapter is committed,
continued or permitted by such person, firm, partnership or corporation, and shall be deemed punishable therefor as provided in this chapter.

5.30.40 Violation by Parent or Guardian.

Any parent, guardian, or other adult person having lawful custody, permanent or temporary, of any minor who suffers, permits, or lets either willfully or negligently such minor person to violate the provisions of this ordinance shall be deemed guilty of a violation of this ordinance and punishable as provided in Section 5.30.30 above.

Section 2. Sections 5.30.50 through 5.30.280 of the Lakeport Municipal Code are repealed in their entirety.

Section 3. Effective Date. If approved by a majority of voters (50% +1), this Ordinance shall be effective January 1, 2019.

Section 4. Compliance with the California Environmental Quality Act (CEQA). The adoption of this Ordinance is exempt from CEQA (Public Resources Code §§ 21000 et seq.) and 14 Cal. Code Reg. §§ 15000 et seq. (“CEQA Guidelines”). The prohibition on fireworks is not a commitment to any particular action or actions nor will it result in a potentially significant physical impact on the environment under CEQA Guidelines section 15061(b)(3). In addition, the prohibition on fireworks is categorically exempt under CEQA Guidelines sections 15307 and 15308 because the measure is an action taken by a regulatory agency, as authorized by state law or local ordinance, to maintain, restore, or enhance a natural resource and protect the environment because prohibiting fireworks will reduce the risk of wildfire and other natural hazards associated with explosives.

Section 5. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the Ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

Section 6. Election. Voter approval of this ordinance shall have the effect of repealing Measure C, which enacted the current version of Chapter 5.30 of the Lakeport Municipal Code. If the measure is defeated, the City’s current fireworks regulations will remain unchanged.

Section 7. Execution. The Mayor shall sign and the City Clerk shall attest to the passage of this Ordinance upon certification by the City Council of the results of the election approving this Ordinance.

I hereby certify that the foregoing Ordinance was duly adopted by a majority of voters of the City of Lakeport casting votes on the question in the election held on November 6, 2018:

___________________________________
MIREYA G. TURNER, Mayor
ATTEST:

__________________________
KELLY BUENDIA, City Clerk
STAFF REPORT

RE: Consideration of Resolution Granting Consent to County of Lake to Establish the Lake County Tourism Improvement District.

MEETING DATE: 07/17/2018

SUBMITTED BY: Kevin M. Ingram, Community Development Director

PURPOSE OF REPORT: Information only  Discussion  Action Item

WHAT IS BEING ASKED OF THE CITY COUNCIL/BOARD:

The City Council is being asked to consider the adoption of a resolution granting consent to the County of Lake to establish the Lake County Tourism Improvement District (LCTID).

BACKGROUND/DISCUSSION:

The Lake County Tourism Improvement District (LCTID) is a benefit assessment district proposed to help fund marketing and sales promotion efforts for Lake County, Lakeport, and Clearlake lodging businesses. This approach has been used successfully in other destination areas throughout the state to improve tourism and drive additional room nights. The proposed LCTID includes all lodging businesses located within the boundaries of the cities of Lakeport and Clearlake and the unincorporated area of Lake County.

Hoteliers decided to pursue formation of the LCTID in order to create a revenue source devoted to marketing Lake County as a tourist, meeting, and events destination. If established, the LCTID would generate approximately $340,000 on an annual basis for promotion of travel and tourism specific to Lake County.

TOURISM IMPROVEMENT DISTRICTS: Tourism Improvement Districts (TIDs) utilize the efficiencies of private sector operation in the market-based promotion of tourism. These special assessment districts allow lodging and tourism-related business owners to organize their efforts to increase tourism. Lodging business owners within the district fund the TID through non-tax room assessments, and those funds are used to provide services that the businesses desire and that benefit the lodging businesses within the TID.

TID benefits:

- Funds cannot be diverted for other government programs
- They are customized to fit the needs of each destination
- They allow for a wide range of services: including marketing of the destination, tourism promotion activities, and sales lead generation
- They are designed, created, and governed by those who will pay the assessment
- They provide a stable funding source for tourism promotion
The LCTID will be formed pursuant to California’s Property and Business Improvement District Law of 1994. This law allows for the creation of special benefit assessment districts to raise funds within a specific geographic area. The Management District Plan (Attachment 2) includes the proposed boundary of the LCTID, a service plan and budget and a proposed means of governance. The LCTID will include all lodging businesses, existing and in the future, available for public occupancy within the boundaries of the cities of Lakeport and Clearlake and the unincorporated area of Lake County.

The proposed LCTID will have a five (5) year term. The assessment will be implemented beginning September 1, 2018. Once per year, beginning on the anniversary of LCTID formation, there is a thirty (30) day period in which business owners paying fifty percent (50%) or more of the assessment may protest and begin proceedings to terminate the LCTID.

The County and cities will be responsible for collecting the assessment on a monthly or quarterly basis from each lodging business located in the LCTID boundaries. The County and cities shall forward the assessments to Visit Lake County California, which will have the responsibility of managing LCTID programs as provided in the Management District Plan. The County and cities shall retain a fee equal to two percent (2%) of the amount of assessment collected to cover their costs of collection and administration.

DISTRICT FORMATION PROCESS:

June 19, 2018  RESOLUTION OF INTENTION HEARING
Upon the submission of a written petition, signed by the property or business owners in the proposed district who will pay more than fifty percent (50%) of the assessments proposed to be levied, the Board of Supervisors initiated proceedings to form a district by the adoption of a resolution expressing its intention to form a district.

Petition Status: Petitions in favor of district formation were submitted by 16 hotels, which represent 56.8% of the total LCTID assessment. This majority petition allowed the Board of Supervisors to initiate proceedings for LCTID formation at the June 19, 2018 meeting.

RESOLUTION REQUESTING CONSENT
The Property and Business Improvement District Law of 1994 requires the County to obtain the consent of any other jurisdictions that are proposed to be included in the LCTID boundary. Adopting this resolution will formally request the consent of the cities of Lakeport and Clearlake to be included in the LCTID. Each city must grant their consent to be included in the proposed LCTID prior to the final public hearing. (Attachment 1)

June 22, 2018  NOTICE
The Property and Business Improvement District Act of 1994 requires the County mail written notice to the owners of all businesses proposed to be within the LCTID. Mailing the notice begins a mandatory forty-five (45) day period in which owners may protest LCTID formation.

July 12, 2018  RESOLUTION GRANTING CONSENT (CITY OF CLEARLAKE)
Following the Resolution Requesting Consent adopted on June 19, 2018, the City of Clearlake will hear this resolution to formally grant consent for the County of Lake to operate the LCTID within the City of Clearlake’s jurisdiction.

July 17, 2018  RESOLUTION GRANTING CONSENT (CITY OF LAKEPORT)
Following the Resolution Requesting Consent adopted on June 19, 2018, the City of Lakeport will hear this resolution to formally grant consent for the County of Lake to operate the LCTID within the City of Lakeport’s jurisdiction.

July 24, 2018  PUBLIC MEETING (COUNTY OF LAKE)
Allow public testimony on the establishment of the LCTID and levy of assessments. No Board action required.

August 7, 2018

FINAL PUBLIC HEARING (COUNTY OF LAKE)

If written protests are received from the owners of businesses in the proposed LCTID which will pay more than fifty percent (50%) of the assessments proposed to be levied and protests are not withdrawn so as to reduce the protests to less than fifty percent (50%), no further proceedings to levy the proposed assessment against such businesses shall be taken for a period of one (1) year from the date of the finding of a majority protest by the Board.

At the conclusion of the public hearing to establish the LCTID, the Board may adopt, revise, change, reduce, or modify the proposed assessment or the type or types of improvements and activities to be funded with the revenues from the assessments. Proposed assessments may only be revised by reducing any or all of them.

If the Board, following the public hearing, decides to establish the proposed LCTID, the Board shall adopt a resolution of formation.

OPTIONS:

1. Adopt Resolution granting consent to County of Lake to establish the Lake County Tourism Improvement District.

2. Direct staff to make modification or revisions to the proposed Resolution.

3. Take no action or take action to deny the proposed Resolution granting consent to establish the Lake County Tourism Improvement District.

Alternatively, the City Council could provide other direction.

FISCAL IMPACT:

☒ None ☐ $ ☐ Budgeted Item? ☐ Yes ☒ No

☐ Budget Adjustment Needed? ☐ Yes ☒ No If yes, amount of appropriation increase: $

Affected fund(s): ☐ General Fund ☐ Water OM Fund ☐ Sewer OM Fund ☐ Other:

Comments: Adopting this resolution will have no immediate fiscal impact. The LCTID, if formed, will work to bring visitors to the County and cities, potentially increasing transient occupancy and sales tax revenues. Because the City of Lakeport will collect the LCTID assessment from assessed businesses within the City of Lakeport’s city limits, it will be paid a fee of two percent (2%) of the amount of TID assessment collected within the city limits to cover its costs of administration. Lakeport’s current Transient Occupancy Tax is 10%. The formation of the LCTID would add a 3% assessment. The City may request an annual report from LCTID.

SUGGESTED MOTION:

Move to adopt the Resolution granting consent to the County of Lake to establish the Lake County Tourism Improvement District.

Attachments: 

1. Draft Resolution Granting Consent to Establish LCTID
2. Management District Plan
3. Board of Supervisors Resolution 2018-76 Requesting Consent to Establish LCTID
RESOLUTION NO. ______ (2018)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAKEPORT, STATE OF CALIFORNIA, GRANTING CONSENT TO THE COUNTY OF LAKE TO ESTABLISH THE LAKE COUNTY TOURISM IMPROVEMENT DISTRICT.

WHEREAS, the County of Lake is beginning the process to establish the Lake County Tourism Improvement District (LCTID) pursuant to the Property and Business Improvement District Law of 1994, Streets and Highways Code section 36600 et seq., to promote tourism and the lodging businesses in Lake County; including the cities of Lakeport and Clearlake; and

WHEREAS, the Board of Supervisors of the County of Lake has requested consent to establish the LCTID in the City of Lakeport with adoption of County of Lake Board of Supervisors Resolution No. 2018-76, dated June 19, 2018.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the City Council of the City of Lakeport, that:

SECTION 1:
The above recitals are true and correct.

SECTION 2:
The City Council consents to the County of Lake establishing the LCTID, which District shall include the City of Lakeport.

SECTION 3:
The City Clerk is hereby directed to transmit a certified copy of this Resolution to the Lake County Clerk of the Board.

SECTION 4:
This Resolution is effective upon its adoption.

The foregoing Resolution was passed and adopted at a regular meeting of the City Council of the City of Lakeport, State of California, on the 17th day of July, 2018, by the following vote:

AYES:
NOES:
ABSTAINING:
ABSENT:
LAKE COUNTY TOURISM IMPROVEMENT DISTRICT
MANAGEMENT DISTRICT PLAN

Prepared pursuant to the Property and Business Improvement District Law of 1994, Streets and Highways Code section 36600 et seq.

March 21, 2018
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Prepared by
Civitas

CIVITAS

(800)999-7781
www.civitasadvisors.com
I. OVERVIEW

Developed by Lake County lodging businesses and the County of Lake, the Lake County Tourism Improvement District (LCTID) is an assessment district proposed to provide specific benefits to payors, by funding marketing and sales promotion efforts for assessed businesses. This approach has been used successfully in other destination areas throughout the country to provide the benefit of additional room night sales directly to payors.

Location: The proposed LCTID includes all lodging businesses located within the boundaries of the cities of Lakeport and Clearlake and the unincorporated area of Lake County, as shown on the map in Section III.

Services: The LCTID is designed to provide specific benefits directly to payors by increasing room night sales. Marketing and sales promotions will increase overnight tourism and market payors as tourist, meeting and event destinations, thereby increasing room night sales.

Budget: The total LCTID annual budget for the initial year of its five (5) year operation is anticipated to be approximately $340,000.

Cost: The annual assessment rate is three percent (3%) of gross short-term room rental revenue. Based on the benefit received, assessments will not be collected on: stays of more than thirty (30) consecutive days; stays by any federal or state officer or employee when on official business; stays by any officer or employee of a foreign government who is exempt by reason of express provision of federal law or international treaty; stays at a campsite in a unit of the state park system or any facility operated by a local government entity; and stays pursuant to contracts executed prior to September 1, 2018.

Collection: The County and cities will be responsible for collecting the assessment on a monthly or quarterly basis (including any delinquencies, penalties and interest) from each lodging business located in the boundaries of the LCTID. The County and cities shall take all reasonable efforts to collect the assessments from each lodging business.

Duration: The proposed LCTID will have a five (5) year life, beginning September 1, 2018 through August 30, 2023. Once per year, beginning on the anniversary of LCTID formation, there is a thirty (30) day period in which owners paying fifty percent (50%) or more of the assessment may protest and initiate a Board of Supervisors hearing on LCTID termination.

Management: Visit Lake County California (VLCC) will serve as the LCTID’s Owners’ Association. The Owners’ Association is charged with managing funds and implementing programs in accordance with this Plan, and must provide annual reports to the Board of Supervisors.
II. BACKGROUND

TIDs are an evolution of the traditional Business Improvement District. The first TID was formed in West Hollywood, California in 1989. Since then, over ninety California destinations have followed suit. In recent years, other states have begun adopting the California model – Montana, South Dakota, Washington, Colorado, Texas and Louisiana have adopted TID laws. Several other states are in the process of adopting their own legislation. The cities of Wichita, Kansas and Newark, New Jersey used an existing business improvement district law to form a TBID. And, some cities, like Portland, Oregon and Memphis, Tennessee have utilized their home rule powers to create TIDs without a state law.

California’s TIDs collectively raise over $267 million annually for local destination marketing. With competitors raising their budgets, and increasing rivalry for visitor dollars, it is important that Lake County lodging businesses invest in stable, lodging-specific marketing programs.

TIDs utilize the efficiencies of private sector operation in the market-based promotion of tourism districts. TIDs allow lodging business owners to organize their efforts to increase room night sales. Lodging business owners within the TID pay an assessment and those funds are used to provide services that increase room night sales.

In California, TIDs are formed pursuant to the Property and Business Improvement District Law of 1994. This law allows for the creation of a benefit assessment district to raise funds within a specific geographic area. The key difference between TIDs and other benefit assessment districts is that funds raised are returned to the private non-profit corporation governing the district.

There are many benefits to TIDs:

- Funds must be spent on services and improvements that provide a specific benefit only to those who pay;
- Funds cannot be diverted to general government programs;
- They are customized to fit the needs of payors in each destination;
- They allow for a wide range of services;
- They are designed, created and governed by those who will pay the assessment; and
- They provide a stable, long-term funding source for tourism promotion.
III. **BOUNDARY**

The LCTID will include all lodging businesses, existing and in the future, available for public occupancy within the boundaries of the cities of Lakeport and Clearlake; and the unincorporated area of Lake County.

Lodging business means: any structure, or any portion of any structure, which is occupied or intended or designed for occupancy by transients for dwelling, lodging, or sleeping purposes, and include any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodginghouse, roominghouse, apartment house, dormitory, public or private club, mobile home or house trailer at a fixed location or other similar structure or portion thereof; and shall further include any space, lot, area or site in any trailer court, recreational vehicle park, mobile home park, camp, park or lot where a trailer, tent, recreational vehicle, mobile home, motorhome, or other similar conveyance is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes.

The boundary, as shown in the map below, currently includes 96 lodging businesses. A complete listing of lodging businesses within the proposed LCTID can be found in Appendix 2.
IV. BUDGET AND SERVICES

A. Annual Service Plan
Assessment funds will be spent to provide specific benefits conferred or privileges granted directly to the payors that are not provided to those not charged, and which do not exceed the reasonable cost to the County of conferring the benefits or granting the privileges. The privileges and services provided with the LCTID funds are sales and marketing programs available only to assessed businesses.

A service plan budget has been developed to deliver services that benefit the assessed businesses. A detailed annual budget will be developed and approved by VLCC. The table below illustrates the initial annual budget allocations. The total initial budget is $340,000.

<table>
<thead>
<tr>
<th>Budget Category</th>
<th>Allocation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sales &amp; Marketing</td>
<td>$255,000.00, 75%</td>
</tr>
<tr>
<td>Administration &amp; Operations</td>
<td>$68,000.00, 20%</td>
</tr>
<tr>
<td>Contingency / Reserve</td>
<td>$10,200.00, 3%</td>
</tr>
<tr>
<td>County/City Fee</td>
<td>$6,800.00, 2%</td>
</tr>
</tbody>
</table>

Although actual revenues will fluctuate due to market conditions, the proportional allocations of the budget shall remain the same. However, the County and the VLCC Board shall have the authority to adjust budget allocations between the categories by no more than fifteen percent (15%) of the total budget per year. A description of the proposed improvements and activities for the initial year of operation is below. The same activities are proposed for subsequent years. In the event of a legal challenge against the LCTID, any and all assessment funds may be used for the costs of defending the LCTID.

Each budget category includes all costs related to providing that service, in accordance with Generally Accepted Accounting Procedures (GAAP). For example, the sales and marketing budget includes the cost of staff time dedicated to overseeing and implementing the sales and marketing program. Staff time dedicated purely to administrative tasks is allocated to the administrative portion of the budget. The costs of an individual staff member may be allocated to multiple budget categories, as appropriate in accordance with GAAP. The staffing levels necessary to provide the services below will be determined by the VLCC Board on an as-needed basis.
A sales and marketing program will promote assessed businesses as tourist, meeting, and event destinations. The sales and marketing program will have a central theme of promoting Lake County as a desirable place for overnight visits. The program will have the goal of increasing overnight visitation and room night sales at assessed businesses, and may include the following activities:

- Internet marketing efforts to increase awareness and optimize internet presence to drive overnight visitation and room sales to assessed businesses;
- Print ads in magazines and newspapers, television ads, and radio ads targeted at potential visitors to drive overnight visitation and room sales to assessed businesses;
- Attendance of trade shows to promote assessed businesses;
- Sales blitzes for assessed businesses;
- Familiarization tours of assessed businesses;
- Preparation and production of collateral promotional materials such as brochures, flyers and maps featuring assessed businesses;
- Attendance of professional industry conferences and affiliation events to promote assessed businesses;
- Lead generation activities designed to attract tourists and group events to assessed businesses;
- Director of Sales and General Manager meetings to plan and coordinate tourism promotion efforts for assessed businesses; and
- Development and maintenance of a website designed to promote assessed businesses.

Administration and Operations
The administration and operations portion of the budget shall be utilized for administrative staffing costs, office costs, advocacy, and other general administrative costs such as insurance, legal, and accounting fees.

County Administration Fee
The County and cities shall retain a fee equal to two percent (2%) of the amount of assessment collected, within their respective jurisdictions, to cover their costs of collection and administration.

Contingency/Reserve
The budget includes a contingency line item to account for uncollected assessments, if any. If there are contingency funds collected, they may be held in a reserve fund or utilized for other program, administration or renewal costs at the discretion of the VLCC Board. Policies relating to contributions to the reserve fund, the target amount of the reserve fund, and expenditure of monies from the reserve fund shall be set by the VLCC Board. Contingency/reserve funds may be spent on District programs or administrative and renewal costs in such proportions as determined by the VLCC Board. The reserve fund may be used for the costs of renewing the LCTID.

B. Annual Budget
The total five (5) year improvement and service plan budget is projected at approximately $340,000 annually, or $1,700,000 through 2023. This amount may fluctuate as sales and revenue increase at assessed businesses, but is not expected to change significantly over the term.

C. California Constitutional Compliance
The LCTID assessment is not a property-based assessment subject to the requirements of Proposition 218. Courts have found Proposition 218 limited the term ‘assessments’ to levies on real property.¹

¹ Jarvis v. the City of San Diego 72 Cal App. 4th 230
Rather, the LCTID assessment is a business-based assessment, and is subject to Proposition 26. Pursuant to Proposition 26 all levies are a tax unless they fit one of seven exceptions. Two of these exceptions apply to the LCTID, a “specific benefit” and a “specific government service.” Both require that the costs of benefits or services do not exceed the reasonable costs to the County of conferring the benefits or providing the services.

1. Specific Benefit
Proposition 26 requires that assessment funds be expended on, “a specific benefit conferred or privilege granted directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of conferring the benefit or granting the privilege.”

The services in this Plan are designed to provide targeted benefits directly to assessed businesses, and are intended only to provide benefits and services directly to those businesses paying the assessment. These services are tailored not to serve the general public, businesses in general, or parcels of land, but rather to serve the specific businesses within the LCTID. The activities described in this Plan are specifically targeted to increase room night sales for assessed lodging businesses within the boundaries of the LCTID, and are narrowly tailored. LCTID funds will be used exclusively to provide the specific benefit of increased room night sales directly to the assessees. Assessment funds shall not be used to feature non-assessed lodging businesses in LCTID programs, or to directly generate sales for non-assessed businesses. The activities paid for from assessment revenues are business services constituting and providing specific benefits to the assessed businesses.

The assessment imposed by this LCTID is for a specific benefit conferred directly to the payors that is not provided to those not charged. The specific benefit conferred directly to the payors is an increase in room night sales. The specific benefit of an increase in room night sales for assessed lodging businesses will be provided only to lodging businesses paying the district assessment, with marketing and sales programs promoting lodging businesses paying the LCTID assessment. The marketing and sales programs will be designed to increase room night sales at each assessed lodging businesses. Because they are necessary to provide the marketing and sales programs that specifically benefit the assessed lodging businesses, the administration and contingency services also provide the specific benefit of increased room night sales to the assessed lodging businesses.

Although the LCTID, in providing specific benefits to payors, may produce incidental benefits to non-paying businesses, the incidental benefit does not preclude the services from being considered a specific benefit. The legislature has found that, “A specific benefit is not excluded from classification as a ‘specific benefit’ merely because an indirect benefit to a nonpayor occurs incidentally and without cost to the payor as a consequence of providing the specific benefit to the payor.”

2. Specific Government Service
The assessment may also be utilized to provide, “a specific government service or product provided directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of providing the service or product.” The legislature has recognized that marketing and promotions services like those to be provided by the LCTID are government services within the meaning of Proposition 26. Further, the legislature has determined that “a specific government service is not excluded from classification as a ‘specific government

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2 Cal. Const. art XIII C § 1(e)(1)
3 Government Code § 53758(a)
4 Cal. Const. art XIII C § 1(e)(2)
5 Government Code § 53758(b)
service’ merely because an indirect benefit to a nonpayor occurs incidentally and without cost to the payor as a consequence of providing the specific government service to the payor.’’

3. Reasonable Cost
LCTID services will be implemented carefully to ensure they do not exceed the reasonable cost of such services. The full amount assessed will be used to provide the services described herein. Funds will be managed by VLCC, and reports submitted on an annual basis to the County. Only assessed lodging businesses will be featured in marketing materials, receive sales leads generated from LCTID-funded activities, be featured in advertising campaigns, and benefit from other LCTID-funded services. Non-assessed lodging businesses will not receive these, nor any other, LCTID-funded services and benefits.

The LCTID-funded programs are all targeted directly at and feature only assessed businesses. It is, however, possible that there will be a spill over benefit to non-assessed businesses. If non-assessed lodging businesses receive incremental room nights, that portion of the promotion or program generating those room nights shall be paid with non-LCTID funds. LCTID funds shall only be spent to benefit the assessed businesses, and shall not be spent on that portion of any program which directly generates incidental room nights for non-assessed businesses.

D. Assessment
The annual assessment rate is three percent (3%) of gross short-term room rental revenue. Based on the benefit received, assessments will not be collected on: stays of more than thirty (30) consecutive days; stays by any federal or state officer or employee when on official business; stays by any officer or employee of a foreign government who is exempt by reason of express provision of federal law or international treaty; stays at a campsite in a unit of the state park system or any facility operated by a local government entity; and stays pursuant to contracts executed prior to September 1, 2018.

The term “gross room rental revenue” as used herein means: the consideration charged, whether or not received, for the occupancy of space in a lodging business valued in money, whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits and property and services of any kind or nature, without any deduction therefrom whatsoever. Gross room rental revenue shall not include any federal, state or local taxes collected, including but not limited to transient occupancy taxes.

The assessment is levied upon and a direct obligation of the assessed lodging business. However, the assessed lodging business may, at its discretion, pass the assessment on to transients. The amount of assessment, if passed on to each transient, shall be disclosed in advance and separately stated from the amount of rent charged and any other applicable taxes, and each transient shall receive a receipt for payment from the business. If the LCTID assessment is identified separately it shall be disclosed as the “LCTID Assessment.” As an alternative, the disclosure may include the amount of the LCTID assessment and the amount of the assessment imposed pursuant to the California Tourism Marketing Act, Government Code §13995 et seq. and shall be disclosed as the “Tourism Assessment.” The assessment is imposed solely upon, and is the sole obligation of the assessed lodging business even if it is passed on to transients. The assessment shall not be considered revenue for any purpose, including calculation of transient occupancy taxes.

Bonds shall not be issued.

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6 Government Code § 53758(b)
E. Penalties and Interest
The LCTID shall reimburse the County of Lake for any costs associated with collecting unpaid assessments. If sums in excess of the delinquent LCTID assessment are sought to be recovered in the same collection action by the County, the LCTID shall bear its pro rata share of such collection costs. Assessed businesses which are delinquent in paying the assessment shall be responsible for paying:

1. **Original Delinquency**: Any lodging business that fails to remit any assessment imposed within the time required shall pay a penalty of ten percent (10%) of the amount of the assessment in addition to the amount of the assessment.

2. **Continued Delinquency**: Any lodging business that fails to remit any delinquent remittance on or before a period of thirty (30) days following the date on which the remittance first became delinquent shall pay a second delinquency penalty of ten percent (10%) of the amount of the assessment in addition to the amount of the assessment and the ten percent (10%) penalty first imposed.

3. **Fraud**: If the County or cities determine that the non-payment of any remittance due is due from fraud, a penalty of twenty-five percent (25%) of the amount of the assessment shall be added thereto in addition to the penalties stated in subparagraphs 1 and 2 of this subsection (E).

4. **Interest**: In addition to the penalties imposed, any lodging business that fails to remit any assessment imposed shall pay interest at the rate of one-half of one percent (0.5%) per month or fraction thereof on the amount of the assessment, exclusive of penalties, from the date on which the remittance first became delinquent until paid.

5. **Penalties Merged with Assessment**: Every penalty imposed and such interest as accrues under the provisions of this subsection (E) shall become part of the assessment herein required to be paid.

F. Time and Manner for Collecting Assessments
The LCTID assessment will be implemented beginning September 1, 2018 and will continue for five (5) years through August 30, 2023. The County and cities will be responsible for collecting the assessment on a monthly or quarterly basis (including any delinquencies, penalties and interest) from each lodging business located in their respective jurisdictions. The County and cities shall take all reasonable efforts to collect the assessments from each lodging business. The County and cities shall forward the assessments collected to the Owners’ Association.
V. GOVERNANCE

A. Owners’ Association
The Board of Supervisors, through adoption of this Management District Plan, has the right, pursuant to Streets and Highways Code §36651, to identify the body that shall implement the proposed program, which shall be the Owners’ Association of the LCTID as defined in Streets and Highways Code §36612. The Board of Supervisors has determined that Visit Lake County California will serve as the Owners’ Association for the LCTID.

B. Brown Act and California Public Records Act Compliance
An Owners’ Association is a private entity and may not be considered a public entity for any purpose, nor may its board members or staff be considered to be public officials for any purpose. The Owners’ Association is, however, subject to government regulations relating to transparency, namely the Ralph M. Brown Act and the California Public Records Act. These regulations are designed to promote public accountability. The Owners’ Association acts as a legislative body under the Ralph M. Brown Act (Government Code §54950 et seq.). Thus, meetings of the VLCC Board and certain committees must be held in compliance with the public notice and other requirements of the Brown Act. The Owners’ Association is also subject to the record keeping and disclosure requirements of the California Public Records Act. Accordingly, the Owners’ Association shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

C. Annual Report
VLCC shall present an annual report at the end of each year of operation to the Board of Supervisors pursuant to Streets and Highways Code §36650 (see Appendix 1). The annual report shall include:

- Any proposed changes in the boundaries of the improvement district or in any benefit zones or classification of businesses within the district.
- The improvements and activities to be provided for that fiscal year.
- An estimate of the cost of providing the improvements and the activities for that fiscal year.
- The method and basis of levying the assessment in sufficient detail to allow each business owner to estimate the amount of the assessment to be levied against his or her business for that fiscal year.
- The estimated amount of any surplus or deficit revenues to be carried over from a previous fiscal year.
- The estimated amount of any contributions to be made from sources other than assessments levied pursuant to this part.
STREETS AND HIGHWAYS CODE
DIVISION 18. PARKING
PART 7. PROPERTY AND BUSINESS IMPROVEMENT DISTRICT LAW OF 1994


ARTICLE 1. Declarations

36600. Citation of part

This part shall be known and may be cited as the “Property and Business Improvement District Law of 1994.”

36601. Legislative findings and declarations; Legislative guidance

The Legislature finds and declares all of the following:

(a) Businesses located and operating within business districts in some of this state’s communities are economically disadvantaged, are underutilized, and are unable to attract customers due to inadequate facilities, services, and activities in the business districts.

(b) It is in the public interest to promote the economic revitalization and physical maintenance of business districts in order to create jobs, attract new businesses, and prevent the erosion of the business districts.

(c) It is of particular local benefit to allow business districts to fund business related improvements, maintenance, and activities through the levy of assessments upon the businesses or real property that receive benefits from those improvements.

(d) Assessments levied for the purpose of conferring special benefit upon the real property or a specific benefit upon the businesses in a business district are not taxes for the general benefit of a city, even if property, businesses, or persons not assessed receive incidental or collateral effects that benefit them.

(e) Property and business improvement districts formed throughout this state have conferred special benefits upon properties and businesses within their districts and have made those properties and businesses more useful by providing the following benefits:

   (1) Crime reduction. A study by the Rand Corporation has confirmed a 12-percent reduction in the incidence of robbery and an 8-percent reduction in the total incidence of violent crimes within the 30 districts studied.
   (2) Job creation.
   (3) Business attraction.
   (4) Business retention.
   (5) Economic growth.
   (6) New investments.

(f) With the dissolution of redevelopment agencies throughout the state, property and business improvement districts have become even more important tools with which communities can combat blight, promote economic opportunities, and create a clean and safe environment.

(g) Since the enactment of this act, the people of California have adopted Proposition 218, which added Article XIII D to the Constitution in order to place certain requirements and restrictions on the formation of, and activities, expenditures, and assessments by property-based districts. Article XIII D of the Constitution provides that property-based districts may only levy assessments for special benefits.

(h) The act amending this section is intended to provide the Legislature’s guidance with regard to this act, its interaction with the provisions of Article XIII D of the Constitution, and the determination of special benefits in property-based districts.

   (1) The lack of legislative guidance has resulted in uncertainty and inconsistent application of this act, which discourages the use of assessments to fund needed improvements, maintenance, and activities in property-based districts, contributing to blight and other underutilization of property.
   (2) Activities undertaken for the purpose of conferring special benefits upon property to be assessed inherently produce incidental or collateral effects that benefit property or persons not assessed. Therefore, for special benefits to exist as a separate and distinct category from general benefits, the
incidental or collateral effects of those special benefits are inherently part of those special benefits. The mere fact that special benefits produce incidental or collateral effects that benefit property or persons not assessed does not convert any portion of those special benefits or their incidental or collateral effects into general benefits.

(3) It is of the utmost importance that property-based districts created under this act have clarity regarding restrictions on assessments they may levy and the proper determination of special benefits. Legislative clarity with regard to this act will provide districts with clear instructions and courts with legislative intent regarding restrictions on property-based assessments, and the manner in which special benefits should be determined.

36602. Purpose of part

The purpose of this part is to supplement previously enacted provisions of law that authorize cities to levy assessments within property and business improvement districts, to ensure that those assessments conform to all constitutional requirements and are determined and assessed in accordance with the guidance set forth in this act. This part does not affect or limit any other provisions of law authorizing or providing for the furnishing of improvements or activities or the raising of revenue for these purposes.

36603. Preemption of authority or charter city to adopt ordinances levying assessments

Nothing in this part is intended to preempt the authority of a charter city to adopt ordinances providing for a different method of levying assessments for similar or additional purposes from those set forth in this part. A property and business improvement district created pursuant to this part is expressly exempt from the provisions of the Special Assessment Investigation, Limitation and Majority Protest Act of 1931 (Division 4 (commencing with Section 2800)).

36603.5. Part prevails over conflicting provisions

Any provision of this part that conflicts with any other provision of law shall prevail over the other provision of law, as to districts created under this part.

36604. Severability

This part is intended to be construed liberally and, if any provision is held invalid, the remaining provisions shall remain in full force and effect. Assessments levied under this part are not special taxes.

ARTICLE 2. Definitions

36606. “Activities”

“Activities” means, but is not limited to, all of the following that benefit businesses or real property in the district:

(a) Promotion of public events.
(b) Furnishing of music in any public place.
(c) Promotion of tourism within the district.
(d) Marketing and economic development, including retail retention and recruitment.
(e) Providing security, sanitation, graffiti removal, street and sidewalk cleaning, and other municipal services supplemental to those normally provided by the municipality.
(f) Other services provided for the purpose of conferring special benefit upon assessed real property or specific benefits upon assessed businesses located in the district.

36606.5. “Assessment”

“Assessment” means a levy for the purpose of acquiring, constructing, installing, or maintaining improvements and providing activities that will provide certain benefits to properties or businesses located within a property and business improvement district.

36607. “Business”
“Business” means all types of businesses and includes financial institutions and professions.

36608. “City”

“City” means a city, county, city and county, or an agency or entity created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, the public member agencies of which includes only cities, counties, or a city and county, or the State of California.

36609. “City council”

“City council” means the city council of a city or the board of supervisors of a county, or the agency, commission, or board created pursuant to a joint powers agreement and which is a city within the meaning of this part.

36609.4. “Clerk”

“Clerk” means the clerk of the legislative body.

36609.5. “General benefit”

“General benefit” means, for purposes of a property-based district, any benefit that is not a “special benefit” as defined in Section 36615.5.

36610. “Improvement”

“Improvement” means the acquisition, construction, installation, or maintenance of any tangible property with an estimated useful life of five years or more including, but not limited to, the following:

(a) Parking facilities.
(b) Benches, booths, kiosks, display cases, pedestrian shelters and signs.
(c) Trash receptacles and public restrooms.
(d) Lighting and heating facilities.
(e) Decorations.
(f) Parks.
(g) Fountains.
(h) Planting areas.
(i) Closing, opening, widening, or narrowing of existing streets.
(j) Facilities or equipment, or both, to enhance security of persons and property within the district.
(k) Ramps, sidewalks, plazas, and pedestrian malls.
(l) Rehabilitation or removal of existing structures.

36611. “Management district plan”; “Plan”

“Management district plan” or “plan” means a proposal as defined in Section 36622.

36612. “Owners’ association”

“Owners’ association” means a private nonprofit entity that is under contract with a city to administer or implement improvements, maintenance, and activities specified in the management district plan. An owners’ association may be an existing nonprofit entity or a newly formed nonprofit entity. An owners’ association is a private entity and may not be considered a public entity for any purpose, nor may its board members or staff be considered to be public officials for any purpose. Notwithstanding this section, an owners’ association shall comply with the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code), at all times when matters within the subject matter of the district are heard, discussed, or deliberated, and with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), for all records relating to activities of the district.

36614. “Property”

“Property” means real property situated within a district.
36614.5. “Property and business improvement district”; “District”

“Property and business improvement district,” or “district,” means a property and business improvement district established pursuant to this part.

36614.6. “Property-based assessment”

“Property-based assessment” means any assessment made pursuant to this part upon real property.

36614.7. “Property-based district”

“Property-based district” means any district in which a city levies a property-based assessment.

36615. “Property owner”; “Business owner”; “Owner”

“Property owner” means any person shown as the owner of land on the last equalized assessment roll or otherwise known to be the owner of land by the city council. “Business owner” means any person recognized by the city as the owner of the business. “Owner” means either a business owner or a property owner. The city council has no obligation to obtain other information as to the ownership of land or businesses, and its determination of ownership shall be final and conclusive for the purposes of this part. Wherever this part requires the signature of the property owner, the signature of the authorized agent of the property owner shall be sufficient. Wherever this part requires the signature of the business owner, the signature of the authorized agent of the business owner shall be sufficient.

36615.5. “Special benefit”

“Special benefit” means, for purposes of a property-based district, a particular and distinct benefit over and above general benefits conferred on real property located in a district or to the public at large. Special benefit includes incidental or collateral effects that arise from the improvements, maintenance, or activities of property-based districts even if those incidental or collateral effects benefit property or persons not assessed. Special benefit excludes general enhancement of property value.

36616. “Tenant”

“Tenant” means an occupant pursuant to a lease of commercial space or a dwelling unit, other than an owner.

ARTICLE 3. Prior Law

36617. Alternate method of financing certain improvements and activities; Effect on other provisions

This part provides an alternative method of financing certain improvements and activities. The provisions of this part shall not affect or limit any other provisions of law authorizing or providing for the furnishing of improvements or activities or the raising of revenue for these purposes. Every improvement area established pursuant to the Parking and Business Improvement Area Law of 1989 (Part 6 (commencing with Section 36500) of this division) is valid and effective and is unaffected by this part.

CHAPTER 2. Establishment

36620. Establishment of property and business improvement district

A property and business improvement district may be established as provided in this chapter.

36620.5. Requirement of consent of city council

A county may not form a district within the territorial jurisdiction of a city without the consent of the city council of that city. A city may not form a district within the unincorporated territory of a county without the consent of the board.
of supervisors of that county. A city may not form a district within the territorial jurisdiction of another city without the consent of the city council of the other city.

36621. Initiation of proceedings; Petition of property or business owners in proposed district

(a) Upon the submission of a written petition, signed by the property or business owners in the proposed district who will pay more than 50 percent of the assessments proposed to be levied, the city council may initiate proceedings to form a district by the adoption of a resolution expressing its intention to form a district. The amount of assessment attributable to property or a business owned by the same property or business owner that is in excess of 40 percent of the amount of all assessments proposed to be levied, shall not be included in determining whether the petition is signed by property or business owners who will pay more than 50 percent of the total amount of assessments proposed to be levied.

(b) The petition of property or business owners required under subdivision (a) shall include a summary of the management district plan. That summary shall include all of the following:

(1) A map showing the boundaries of the district.
(2) Information specifying where the complete management district plan can be obtained.
(3) Information specifying that the complete management district plan shall be furnished upon request.

(c) The resolution of intention described in subdivision (a) shall contain all of the following:

(1) A brief description of the proposed improvements, maintenance, and activities, the amount of the proposed assessment, a statement as to whether the assessment will be levied on property or businesses within the district, a statement as to whether bonds will be issued, and a description of the exterior boundaries of the proposed district, which may be made by reference to any plan or map that is on file with the clerk. The descriptions and statements do not need to be detailed and shall be sufficient if they enable an owner to generally identify the nature and extent of the improvements, maintenance, and activities, and the location and extent of the proposed district.
(2) A time and place for a public hearing on the establishment of the property and business improvement district and the levy of assessments, which shall be consistent with the requirements of Section 36623.

36622. Contents of management district plan

The management district plan shall include, but is not limited to, all of the following:

(a) If the assessment will be levied on property, a map of the district in sufficient detail to locate each parcel of property and, if businesses are to be assessed, each business within the district. If the assessment will be levied on businesses, a map that identifies the district boundaries in sufficient detail to allow a business owner to reasonably determine whether a business is located within the district boundaries. If the assessment will be levied on property and businesses, a map of the district in sufficient detail to locate each parcel of property and to allow a business owner to reasonably determine whether a business is located within the district boundaries.

(b) The name of the proposed district.

(c) A description of the boundaries of the district, including the boundaries of benefit zones, proposed for establishment or extension in a manner sufficient to identify the affected property and businesses included, which may be made by reference to any plan or map that is on file with the clerk. The boundaries of a proposed property assessment district shall not overlap with the boundaries of another existing property assessment district created pursuant to this part. This part does not prohibit the boundaries of a district created pursuant to this part to overlap with other assessment districts established pursuant to other provisions of law, including, but not limited to, the Parking and Business Improvement Area Law of 1989 (Part 6 (commencing with Section 36500)). This part does not prohibit the boundaries of a business assessment district created pursuant to this part to overlap with another business assessment district created pursuant to this part. This part does not prohibit the boundaries of a business assessment district created pursuant to this part to overlap with a property assessment district created pursuant to this part.

(d) The improvements, maintenance, and activities proposed for each year of operation of the district and the maximum cost thereof. If the improvements, maintenance, and activities proposed for each year of operation are the same, a description of the first year’s proposed improvements, maintenance, and activities and a statement that the same improvements, maintenance, and activities are proposed for subsequent years shall satisfy the requirements of this subdivision.
(e) The total annual amount proposed to be expended for improvements, maintenance, or activities, and debt service in each year of operation of the district. If the assessment is levied on businesses, this amount may be estimated based upon the assessment rate. If the total annual amount proposed to be expended in each year of operation of the district is not significantly different, the amount proposed to be expended in the initial year and a statement that a similar amount applies to subsequent years shall satisfy the requirements of this subdivision.

(f) The proposed source or sources of financing, including the proposed method and basis of levying the assessment in sufficient detail to allow each property or business owner to calculate the amount of the assessment to be levied against his or her property or business. The plan also shall state whether bonds will be issued to finance improvements.

(g) The time and manner of collecting the assessments.

(h) The specific number of years in which assessments will be levied. In a new district, the maximum number of years shall be five. Upon renewal, a district shall have a term not to exceed 10 years. Notwithstanding these limitations, a district created pursuant to this part to finance capital improvements with bonds may levy assessments until the maximum maturity of the bonds. The management district plan may set forth specific increases in assessments for each year of operation of the district.

(i) The proposed time for implementation and completion of the management district plan.

(j) Any proposed rules and regulations to be applicable to the district.

(k) (1) A list of the properties or businesses to be assessed, including the assessor’s parcel numbers for properties to be assessed, and a statement of the method or methods by which the expenses of a district will be imposed upon benefited real property or businesses, in proportion to the benefit received by the property or business, to defray the cost thereof.

(2) In a property-based district, the proportionate special benefit derived by each identified parcel shall be determined exclusively in relationship to the entirety of the capital cost of a public improvement, the maintenance and operation expenses of a public improvement, or the cost of the activities. An assessment shall not be imposed on any parcel that exceeds the reasonable cost of the proportional special benefit conferred on that parcel. Only special benefits are assessable, and a property-based district shall separate the general benefits, if any, from the special benefits conferred on a parcel. Parcels within a property-based district that are owned or used by any city, public agency, the State of California, or the United States shall not be exempt from assessment unless the governmental entity can demonstrate by clear and convincing evidence that those publicly owned parcels in fact receive no special benefit. The value of any incidental, secondary, or collateral effects that arise from the improvements, maintenance, or activities of a property-based district and that benefit property or persons not assessed shall not be deducted from the entirety of the cost of any special benefit or affect the proportionate special benefit derived by each identified parcel.

(l) In a property-based district, the total amount of all special benefits to be conferred upon the properties located within the property-based district.

(m) In a property-based district, the total amount of general benefits, if any.

(n) In a property-based district, a detailed engineer’s report prepared by a registered professional engineer certified by the State of California supporting all assessments contemplated by the management district plan.

(o) Any other item or matter required to be incorporated therein by the city council.

36623. Procedure to levy assessment

(a) If a city council proposes to levy a new or increased property assessment, the notice and protest and hearing procedure shall comply with Section 53753 of the Government Code.

(b) If a city council proposes to levy a new or increased business assessment, the notice and protest and hearing procedure shall comply with Section 54954.6 of the Government Code, except that notice shall be mailed to the owners of the businesses proposed to be assessed. A protest may be made orally or in writing by any interested person. Every written protest shall be filed with the clerk at or before the time fixed for the public hearing. The city council may waive any irregularity in the form or content of any written protest. A written protest may be withdrawn in writing at any time before the conclusion of the public hearing. Each written protest shall contain a description of the business in which the person subscribing the protest is interested sufficient to identify the business and, if a person subscribing is not shown on the official records of the city as the owner of the business, the protest shall contain or be accompanied by written evidence that the person subscribing is the owner of the business or the authorized representative. A written protest that does not comply with this section shall not be counted in determining a majority protest. If written protests are received from the owners or authorized representatives of businesses in the proposed district that will pay
50 percent or more of the assessments proposed to be levied and protests are not withdrawn so as to reduce the protests to less than 50 percent, no further proceedings to levy the proposed assessment against such businesses, as contained in the resolution of intention, shall be taken for a period of one year from the date of the finding of a majority protest by the city council.

(c) If a city council proposes to conduct a single proceeding to levy both a new or increased property assessment and a new or increased business assessment, the notice and protest and hearing procedure for the property assessment shall comply with subdivision (a), and the notice and protest and hearing procedure for the business assessment shall comply with subdivision (b). If a majority protest is received from either the property or business owners, that respective portion of the assessment shall not be levied. The remaining portion of the assessment may be levied unless the improvement or other special benefit was proposed to be funded by assessing both property and business owners.

36624. Changes to proposed assessments

At the conclusion of the public hearing to establish the district, the city council may adopt, revise, change, reduce, or modify the proposed assessment or the type or types of improvements, maintenance, and activities to be funded with the revenues from the assessments. Proposed assessments may only be revised by reducing any or all of them. At the public hearing, the city council may only make changes in, to, or from the boundaries of the proposed property and business improvement district that will exclude territory that will not benefit from the proposed improvements, maintenance, and activities. Any modifications, revisions, reductions, or changes to the proposed assessment district shall be reflected in the notice and map recorded pursuant to Section 36627.

36625. Resolution of formation

(a) If the city council, following the public hearing, decides to establish a proposed property and business improvement district, the city council shall adopt a resolution of formation that shall include, but is not limited to, all of the following:

(1) A brief description of the proposed improvements, maintenance, and activities, the amount of the proposed assessment, a statement as to whether the assessment will be levied on property, businesses, or both within the district, a statement on whether bonds will be issued, and a description of the exterior boundaries of the proposed district, which may be made by reference to any plan or map that is on file with the clerk. The descriptions and statements need not be detailed and shall be sufficient if they enable an owner to generally identify the nature and extent of the improvements, maintenance, and activities and the location and extent of the proposed district.
(2) The number, date of adoption, and title of the resolution of intention.
(3) The time and place where the public hearing was held concerning the establishment of the district.
(4) A determination regarding any protests received. The city shall not establish the district or levy assessments if a majority protest was received.
(5) A statement that the properties, businesses, or properties and businesses in the district established by the resolution shall be subject to any amendments to this part.
(6) A statement that the improvements, maintenance, and activities to be conferred on businesses and properties in the district will be funded by the levy of the assessments. The revenue from the levy of assessments within a district shall not be used to provide improvements, maintenance, or activities outside the district or for any purpose other than the purposes specified in the resolution of intention, as modified by the city council at the hearing concerning establishment of the district. Notwithstanding the foregoing, improvements and activities that must be provided outside the district boundaries to create a special or specific benefit to the assessed parcels or businesses may be provided, but shall be limited to marketing or signage pointing to the district.
(7) A finding that the property or businesses within the area of the property and business improvement district will be benefited by the improvements, maintenance, and activities funded by the proposed assessments, and, for a property-based district, that property within the district will receive a special benefit.
(8) In a property-based district, the total amount of all special benefits to be conferred on the properties within the property-based district.

(b) The adoption of the resolution of formation and, if required, recordation of the notice and map pursuant to Section 36627 shall constitute the levy of an assessment in each of the fiscal years referred to in the management district plan.
36626. Resolution establishing district

If the city council, following the public hearing, desires to establish the proposed property and business improvement district, and the city council has not made changes pursuant to Section 36624, or has made changes that do not substantially change the proposed assessment, the city council shall adopt a resolution establishing the district. The resolution shall contain all of the information specified in Section 36625.

36627. Notice and assessment diagram

Following adoption of the resolution establishing district assessments on properties pursuant to Section 36625 or Section 36626, the clerk shall record a notice and an assessment diagram pursuant to Section 3114. No other provision of Division 4.5 (commencing with Section 3100) applies to an assessment district created pursuant to this part.

36628. Establishment of separate benefit zones within district; Categories of businesses

The city council may establish one or more separate benefit zones within the district based upon the degree of benefit derived from the improvements or activities to be provided within the benefit zone and may impose a different assessment within each benefit zone. If the assessment is to be levied on businesses, the city council may also define categories of businesses based upon the degree of benefit that each will derive from the improvements or activities to be provided within the district and may impose a different assessment or rate of assessment on each category of business, or on each category of business within each zone.

36628.5. Assessments on businesses or property owners

The city council may levy assessments on businesses or on property owners, or a combination of the two, pursuant to this part. The city council shall structure the assessments in whatever manner it determines corresponds with the distribution of benefits from the proposed improvements, maintenance, and activities, provided that any property-based assessment conforms with the requirements set forth in paragraph (2) of subdivision (k) of Section 36622.

36629. Provisions and procedures applicable to benefit zones and business categories

All provisions of this part applicable to the establishment, modification, or disestablishment of a property and business improvement district apply to the establishment, modification, or disestablishment of benefit zones or categories of business. The city council shall, to establish, modify, or disestablish a benefit zone or category of business, follow the procedure to establish, modify, or disestablish a property and business improvement district.

36630. Expiration of district; Creation of new district

If a property and business improvement district expires due to the time limit set pursuant to subdivision (h) of Section 36622, a new management district plan may be created and the district may be renewed pursuant to this part.

CHAPTER 3. Assessments

36631. Time and manner of collection of assessments; Delinquent payments

The collection of the assessments levied pursuant to this part shall be made at the time and in the manner set forth by the city council in the resolution levying the assessment. Assessments levied on real property may be collected at the same time and in the same manner as for the ad valorem property tax, and may provide for the same lien priority and penalties for delinquent payment. All delinquent payments for assessments levied pursuant to this part may be charged interest and penalties.

36632. Assessments to be based on estimated benefit; Classification of real property and businesses; Exclusion of residential and agricultural property

(a) The assessments levied on real property pursuant to this part shall be levied on the basis of the estimated benefit to the real property within the property and business improvement district. The city council may
classify properties for purposes of determining the benefit to property of the improvements and activities provided pursuant to this part.

(b) Assessments levied on businesses pursuant to this part shall be levied on the basis of the estimated benefit to the businesses within the property and business improvement district. The city council may classify businesses for purposes of determining the benefit to the businesses of the improvements and activities provided pursuant to this part.

(c) Properties zoned solely for residential use, or that are zoned for agricultural use, are conclusively presumed not to benefit from the improvements and service funded through these assessments, and shall not be subject to any assessment pursuant to this part.

36633. Time for contesting validity of assessment

The validity of an assessment levied under this part shall not be contested in any action or proceeding unless the action or proceeding is commenced within 30 days after the resolution levying the assessment is adopted pursuant to Section 36626. Any appeal from a final judgment in an action or proceeding shall be perfected within 30 days after the entry of judgment.

36634. Service contracts authorized to establish levels of city services

The city council may execute baseline service contracts that would establish levels of city services that would continue after a property and business improvement district has been formed.

36635. Request to modify management district plan

The owners’ association may, at any time, request that the city council modify the management district plan. Any modification of the management district plan shall be made pursuant to this chapter.

36636. Modification of plan by resolution after public hearing; Adoption of resolution of intention

(a) Upon the written request of the owners’ association, the city council may modify the management district plan after conducting one public hearing on the proposed modifications. The city council may modify the improvements and activities to be funded with the revenue derived from the levy of the assessments by adopting a resolution determining to make the modifications after holding a public hearing on the proposed modifications. If the modification includes the levy of a new or increased assessment, the city council shall comply with Section 36623. Notice of all other public hearings pursuant to this section shall comply with both of the following:

(1) The resolution of intention shall be published in a newspaper of general circulation in the city once at least seven days before the public hearing.

(2) A complete copy of the resolution of intention shall be mailed by first class mail, at least 10 days before the public hearing, to each business owner or property owner affected by the proposed modification.

(b) The city council shall adopt a resolution of intention which states the proposed modification prior to the public hearing required by this section. The public hearing shall be held not more than 90 days after the adoption of the resolution of intention.

36637. Reflection of modification in notices recorded and maps

Any subsequent modification of the resolution shall be reflected in subsequent notices and maps recorded pursuant to Division 4.5 (commencing with Section 3100), in a manner consistent with the provisions of Section 36627.

CHAPTER 3.5. Financing

36640. Bonds authorized; Procedure; Restriction on reduction or termination of assessments

(a) The city council may, by resolution, determine and declare that bonds shall be issued to finance the estimated cost of some or all of the proposed improvements described in the resolution of formation adopted pursuant to Section 36625, if the resolution of formation adopted pursuant to that section provides for the issuance of bonds, under the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500))
or in conjunction with Marks-Roos Local Bond Pooling Act of 1985 (Article 4 (commencing with Section 6584) of Chapter 5 of Division 7 of Title 1 of the Government Code). Either act, as the case may be, shall govern the proceedings relating to the issuance of bonds, although proceedings under the Bond Act of 1915 may be modified by the city council as necessary to accommodate assessments levied upon business pursuant to this part.

(b) The resolution adopted pursuant to subdivision (a) shall generally describe the proposed improvements specified in the resolution of formation adopted pursuant to Section 36625, set forth the estimated cost of those improvements, specify the number of annual installments and the fiscal years during which they are to be collected. The amount of debt service to retire the bonds shall not exceed the amount of revenue estimated to be raised from assessments over 30 years.

(c) Notwithstanding any other provision of this part, assessments levied to pay the principal and interest on any bond issued pursuant to this section shall not be reduced or terminated if doing so would interfere with the timely retirement of the debt.

CHAPTER 4. Governance

36650. Report by owners’ association; Approval or modification by city council

(a) The owners’ association shall cause to be prepared a report for each fiscal year, except the first year, for which assessments are to be levied and collected to pay the costs of the improvements, maintenance, and activities described in the report. The owners’ association’s first report shall be due after the first year of operation of the district. The report may propose changes, including, but not limited to, the boundaries of the property and business improvement district or any benefit zones within the district, the basis and method of levying the assessments, and any changes in the classification of property, including any categories of business, if a classification is used.

(b) The report shall be filed with the clerk and shall refer to the property and business improvement district by name, specify the fiscal year to which the report applies, and, with respect to that fiscal year, shall contain all of the following information:

   1. Any proposed changes in the boundaries of the property and business improvement district or in any benefit zones or classification of property or businesses within the district.
   2. The improvements, maintenance, and activities to be provided for that fiscal year.
   3. An estimate of the cost of providing the improvements, maintenance, and activities for that fiscal year.
   4. The method and basis of levying the assessment in sufficient detail to allow each real property or business owner, as appropriate, to estimate the amount of the assessment to be levied against his or her property or business for that fiscal year.
   5. The estimated amount of any surplus or deficit revenues to be carried over from a previous fiscal year.
   6. The estimated amount of any contributions to be made from sources other than assessments levied pursuant to this part.

(c) The city council may approve the report as filed by the owners’ association or may modify any particular contained in the report and approve it as modified. Any modification shall be made pursuant to Sections 36635 and 36636.

The city council shall not approve a change in the basis and method of levying assessments that would impair an authorized or executed contract to be paid from the revenues derived from the levy of assessments, including any commitment to pay principal and interest on any bonds issued on behalf of the district.

36651. Designation of owners’ association to provide improvements, maintenance, and activities

The management district plan may, but is not required to, state that an owners’ association will provide the improvements, maintenance, and activities described in the management district plan. If the management district plan designates an owners’ association, the city shall contract with the designated nonprofit corporation to provide services.

CHAPTER 5. Renewal

36660. Renewal of district; Transfer or refund of remaining revenues; District term limit

LCTID Management District Plan
March 21, 2018
(a) Any district previously established whose term has expired, or will expire, may be renewed by following the procedures for establishment as provided in this chapter.
(b) Upon renewal, any remaining revenues derived from the levy of assessments, or any revenues derived from the sale of assets acquired with the revenues, shall be transferred to the renewed district. If the renewed district includes additional parcels or businesses not included in the prior district, the remaining revenues shall be spent to benefit only the parcels or businesses in the prior district. If the renewed district does not include parcels or businesses included in the prior district, the remaining revenues attributable to these parcels shall be refunded to the owners of these parcels or businesses.
(c) Upon renewal, a district shall have a term not to exceed 10 years, or, if the district is authorized to issue bonds, until the maximum maturity of those bonds. There is no requirement that the boundaries, assessments, improvements, or activities of a renewed district be the same as the original or prior district.

CHAPTER 6. Disestablishment

36670. Circumstances permitting disestablishment of district; Procedure

(a) Any district established or extended pursuant to the provisions of this part, where there is no indebtedness, outstanding and unpaid, incurred to accomplish any of the purposes of the district, may be disestablished by resolution by the city council in either of the following circumstances:

(1) If the city council finds there has been misappropriation of funds, malfeasance, or a violation of law in connection with the management of the district, it shall notice a hearing on disestablishment.
(2) During the operation of the district, there shall be a 30-day period each year in which assessees may request disestablishment of the district. The first such period shall begin one year after the date of establishment of the district and shall continue for 30 days. The next such 30-day period shall begin two years after the date of the establishment of the district. Each successive year of operation of the district shall have such a 30-day period. Upon the written petition of the owners or authorized representatives of real property or the owners or authorized representatives of businesses in the district who pay 50 percent or more of the assessments levied, the city council shall pass a resolution of intention to disestablish the district. The city council shall notice a hearing on disestablishment.

(b) The city council shall adopt a resolution of intention to disestablish the district prior to the public hearing required by this section. The resolution shall state the reason for the disestablishment, shall state the time and place of the public hearing, and shall contain a proposal to dispose of any assets acquired with the revenues of the assessments levied within the property and business improvement district. The notice of the hearing on disestablishment required by this section shall be given by mail to the property owner of each parcel or to the owner of each business subject to assessment in the district, as appropriate. The city shall conduct the public hearing not less than 30 days after mailing the notice to the property or business owners. The public hearing shall be held not more than 60 days after the adoption of the resolution of intention.

36671. Refund of remaining revenues upon disestablishment or expiration without renewal of district; Calculation of refund; Use of outstanding revenue collected after disestablishment of district

(a) Upon the disestablishment or expiration without renewal of a district, any remaining revenues, after all outstanding debts are paid, derived from the levy of assessments, or derived from the sale of assets acquired with the revenues, or from bond reserve or construction funds, shall be refunded to the owners of the property or businesses then located and operating within the district in which assessments were levied by applying the same method and basis that was used to calculate the assessments levied in the fiscal year in which the district is disestablished or expires. All outstanding assessment revenue collected after disestablishment shall be spent on improvements and activities specified in the management district plan.
(b) If the disestablishment occurs before an assessment is levied for the fiscal year, the method and basis that was used to calculate the assessments levied in the immediate prior fiscal year shall be used to calculate the amount of any refund.
# APPENDIX 2 – ASSESSED BUSINESSES

<table>
<thead>
<tr>
<th>BUSINESS NAME</th>
<th>BUSINESS ADDRESS</th>
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RESOLUTION NO. 2018-76

RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF LAKE REQUESTING CONSENT OF THE CITY COUNCILS OF THE CITIES OF LAKEPORT AND CLEARLAKE TO ESTABLISH THE LAKE COUNTY TOURISM IMPROVEMENT DISTRICT

WHEREAS, pursuant to the Property and Business Improvement Law of 1994, Streets and Highways Code § 36600 et seq., a county may not form a district within the territorial jurisdiction of a city without the consent of the city council of that city.

WHEREAS, the Board of Supervisors (the “Board”) of the County of Lake (the “County”) desires to begin proceedings to establish the Lake County Tourism Improvement District (“LCTID”);

WHEREAS, certain lodging business owners have requested that the Board establish the LCTID; and

WHEREAS, a portion of the territory proposed to be included in the LCTID lies within the boundaries of the cities of Lakeport and Clearlake, as shown on the map attached hereto as Exhibit A and incorporated herein by such attachment; and

WHEREAS, the area of the cities of Lakeport and Clearlake which lies within the boundaries of the proposed LCTID will, in the opinion of the Board, be benefited by the improvements and activities, and the purpose sought to be accomplished by the work can best be accomplished by a single comprehensive scheme of work; and

NOW, THEREFORE, be it resolved by the Board of Supervisors of the County of Lake that:

Section 1: The above recitals are true and correct.

Section 2: Consent of the cities of Lakeport and Clearlake through their City Councils, is hereby requested to establish the LCTID, and to grant the Board jurisdiction for all the purposes in connection with creation, operation, and future renewals of the proposed LCTID.

Section 3: The Clerk of the Board is hereby directed to transmit a certified copy of this Resolution to the City Clerk of the cities of Lakeport and Clearlake.
BOARD OF SUPERVISORS, COUNTY OF LAKE, STATE OF CALIFORNIA

THIS RESOLUTION was passed by the Board of Supervisors of the County of Lake at a regular meeting thereof held on June 19, 2018, by the following vote:

AYES: Supervisors Simon, Smith, Scott and Steele

NOES: None

ABSENT OR NOT VOTING: Supervisor Brown

ATTEST: CAROL J. HUGHES
Clerk of the Board

By:  
Deputy

Chair, Board of Supervisors

APPROVED AS TO FORM;
ANITA L. GRANT
County Counsel

By:

2|Page
WHAT IS BEING ASKED OF THE CITY COUNCIL/BOARD:

The City Council is being asked to consider and discuss the proposal options and authorize the City Manager to enter into an agreement with Lake County Broadband Solutions (LCBS).

BACKGROUND/DISCUSSION:

As directed by the City Council, staff has been investigating options to install a wireless local area connection (Wi-Fi) in the Library Park and the Downtown area for the public to access at no cost. After inquiries and discussions with national and local providers, Lake County Broadband was the sole provider to offer a formal proposal. Details of the “Light Up Lakeport with Wi-Fi” are discussed in the attached proposal.

One-time equipment costs are proposed to cost the City approximately $7,500 including tax. The monthly cost included in the proposal, $250 per month or $3,000 annually, is for a bandwidth of 20 mbps up and down. Staff’s plan is to limit each user to 1 mbps. The previously mentioned level of service would allow 40 users at Library Park and 140 users downtown to access 1 mbps of bandwidth simultaneously. It is staff’s opinion that this level of service may not be adequate during peak usage times, for example during a concert in the park. Staff is recommending entering a contract for a bandwidth of 50 mbps up and down. This would allow 100 users at Library Park and 350 users downtown to access 1 mbps of bandwidth simultaneously. We feel the benefit of the additional capacity outweighs the cost which is estimated to be approximately $350 per month or $4,200 annually.

Another idea, which has been considered by staff, is implementing an advertising program for our local businesses. We could add their advertisement to the splash page for a fee which would assist in offsetting the cost of the program.

In addition to the Library Park and Downtown Wi-Fi Project, LCBS would provide City Hall with a secondary internet source. This could be an extremely valuable resource during times of service interruption to the Mediacom fiber internet connection currently utilized. This connection experiences occasional interruptions for normal maintenance and during natural disasters when infrastructure supporting the service is damaged. This redundant internet source could prove extreme value in minimizing employee downtime during an outage on day to day activities or even more importantly during a natural disaster when communications and protecting life and property are pivotal.
OPTIONS:
Authorize the City Manager to enter into an agreement with Lake County Broadband Solutions.

Provide staff direction on alternative options to be included in a proposal.

FISCAL IMPACT:

☐ None    ☒ $4,200 Annually   Budgeted Item? ☒ Yes    ☐ No

Budget Adjustment Needed? ☐ Yes   ☒ No    If yes, amount of appropriation increase: $

Affected fund(s): ☐ General Fund   ☐ Water OM Fund   ☐ Sewer OM Fund   ☐ Other:

Comments: The 2018/19 Adopted Budget contains appropriations to cover the 2018/19 total cost of approximately $11,700. However, appropriations of $4,200 would need to be made annually in subsequent years to continue providing this service.

SUGGESTED MOTIONS:

Move to authorize the City Manager to enter into an agreement with Lake County Broadband Solutions for the Library Park and Downtown Wi-Fi Project.

☒ Attachments:   1. Lake County Broadband Solution Proposal
Proposal
City of Lakeport Wi-Fi
May 30, 2018
Executive Summary

Objective

To support a vibrant and connected Main Street commercial corridor and Library Park to improve economic development, visitor and customer experience with the ability to promote local business on a splash or landing page by offering ubiquitous Wi-Fi that is provided at no cost to the end user.

Free Wi-Fi most often comes up in the context of travel. As tourists, we want to be able to connect easily and for free wherever we are. With well over half the world owning a smartphone, every tourist wants the ability to get content and functionality via their smartphone wherever they are to make reservations, compare lodging options, get business done, learn about the area. Today, we aren’t just accessing data, more often we are accessing more of it, more of the time, and the “always on” lifestyle requires a constant shroud of Wi-Fi coverage to follow us wherever we go.

The attractiveness of free Wi-Fi to tourist and locals alike “signals” to visitors and residents that Lakeport is forward thinking and a place to get business done - and have fun!

Project Outline

For the “light Up Lakeport with Wi-Fi” project, Lake County Broadband Solutions will install a Hub and seven (7) access points on building along Main Street from Armstrong Street to 9th Street giving the City of Lakeport the ability to provide Wi-Fi to visitors and customers along Main Street, while allowing Lake County Broadband Solutions the ability to subscribe nearby businesses and residential customers without businesses incurring the burden of managing a secure and functional Wi-Fi service for their own guests.

“Light Up Lakeport with Wi-Fi” project also includes providing Library Park coverage by installing a separate Hub located at 55 Third Street (Park Place storage building) and two (2) access points located on each rest room.

Attached is a layout of the proposed access points for both Main Street and Library Park. Locations. The placement of access points on main Street, as shown in the layout, are desired locations. Building owners for each location need to be contacted to obtain approval and sign an agreement allowing the City of Lakeport and Lake County Broadband Solutions to mount the access points on their building and provide power for the access point. (Power is very minimal).

Lake County Broadband Solutions will also provide a login app for users smartphones for sign on (See attached example). The City of Lakeport will be able to sell advertising of local businesses and attractions that would be displayed on the sign on page. Implementation and selling of ads to be defined. Doing this will provide the City of Lakeport with revenue that could help pay for the monthly service fee for the service and support from Lake County Broadband Solutions.
Terms:

Pricing
- Main Street - $5,350.00 plus tax
- Library Park - $1,425.00 plus tax
- Monthly service and support $250.00

Delivery and Installation
- Installation will be in two (2) phases; Phase 1 Library Park, Phase 2 Main Street. Phase 1 Installation will start 2-3 weeks after order is received. Phase 2 installation time depends on agreements with building owners. With order Lake County Broadband Solutions would immediately start contacting owners of desired building locations. This would also require some support from the City of Lakeport.

Term of Agreement
- Minimum 1 year.

Payment
- TBD

Lake County Broadband Solutions looks forward to providing the City of Lakeport with 21st century Wi-Fi hotspots to support enhancing the city’s position as destination place for tourist and providing residents with a service they can enjoy when they shop locally and attend various events the city provides.

Andy Nester, CEO
Lake County Broadband Solutions, LLC

Email: andy@lcbs.co

Cell: 707-380-9245
Lakeport Dtown & Park

This is a map of the proposed sites for Making the Downtown Main Street Corridor and Library Park WiFi Hotspots.
STAFF REPORT

RE: Cancel Regular Meeting of August 7, 2018 to Participate in National Night Out

MEETING DATE: 07/17/2018

SUBMITTED BY: Brad Rasmussen, Chief of Police

PURPOSE OF REPORT: ☑️ Information only ☐️ Discussion ☐️ Action Item

WHAT IS BEING ASKED OF THE CITY COUNCIL/BOARD:

The City Council is being asked to authorize staff to cancel the regular meeting on August 7, 2018, and approve participation in the Lakeport National Night Out event with a street closure on that date.

BACKGROUND/DISCUSSION:

National Association of Town Watch (NATW) is a non-profit organization dedicated to the development and promotion of various crime prevention programs including neighborhood watch groups, law enforcement agencies, state and regional crime prevention associations, businesses, civic groups, and individuals, devoted to safer communities. The introduction of National Night Out, “America’s Night Out Against Crime,” in 1984 began an effort to promote involvement in crime prevention activities, police-community partnerships, neighborhood camaraderie, and to send a message to criminals letting them know that neighborhoods are organized and fighting back.

NATW’s National Night Out program culminates annually, on the first Tuesday of August. The first National Night Out took place on Tuesday, August 7, 1984. That first year, 2.5 million Americans took part across 400 communities in 23 states. National Night Out now involves over 37 million people and 15,000 communities from all fifty states, U.S. Territories, Canadian cities, and military bases worldwide.

The traditional “lights on” campaign and symbolic front porch vigils turned into a celebration across America with various events and activities including, but not limited to, block parties, cookouts, parades, visits from emergency personnel, rallies and marches, exhibits, youth events, safety demonstrations and seminars, in effort to heighten awareness and enhance community relations.

Matt Peskin, NATW’s Executive Director, said, “It’s a wonderful opportunity for communities nationwide to promote police-community partnerships, crime prevention, and neighborhood camaraderie. While the one night is certainly not an answer to crime, drugs and violence, National Night Out represents the kind of spirit, energy and determination to help make neighborhoods a safer place year round. The night celebrates safety and crime prevention successes and works to expand and strengthen programs for the next 364 days.”

Staff is requesting the authorization to cancel the regular City Council meeting of Tuesday, August 7, 2018, provided there are no time sensitive items for Council to consider, in order to participate in this event. The City of Lakeport National Night Out event would be an opportunity for the community to meet and greet City Council Members and Staff and local emergency personnel. The City would provide hot dogs and drinks. In the past, the Kiwanis have volunteered to do the cooking.
Staff is planning to have this year’s event on Park Street and in Library Park. This would require the Council’s approval to close the Library Park Gazebo, Park Street between Second and Third Streets and Second Street between Park Street and the Alley behind City Hall for the event.

OPTIONS:

Approve the participation of the City of Lakeport in the National Night Out event, with street closures.

Do not approve the participation of the City of Lakeport in the National Night out event

Do not approve street closures.

FISCAL IMPACT:

☐ None ☒ $1500.00 Budgeted Item? ☑ Yes ☐ No

Budget Adjustment Needed? ☐ Yes ☑ No If yes, amount of appropriation increase: $

Affected fund(s): ☒ General Fund ☐ Water OM Fund ☐ Sewer OM Fund ☐ Other:

Comments:

SUGGESTED MOTIONS:

1. Move to authorize staff to conditionally cancel the regular City Council meeting on August 7, 2018, and approve the participation of the City of Lakeport in the National Night Out event, with street closures and the Gazebo reserved for the event.

☒ Attachments: 1. Street Closure Map
National Night Out
Street Closure Map
Event Date: August 7, 2018