



## CITY COUNCIL REGULAR MEETING

Clearlake City Hall Council Chambers

14050 Olympic Dr, Clearlake, CA

Thursday, December 07, 2023

Regular Meeting 6:00 PM

The City Council meetings are viewable in person in the Council Chambers, via livestreaming on the City's YouTube Channel ([https://www.youtube.com/channel/UCTyifT\\_nKS-3woxEu1ilBXA](https://www.youtube.com/channel/UCTyifT_nKS-3woxEu1ilBXA)) or "Lake County PEG TV Live Stream" at <https://www.youtube.com/user/LakeCountyPegTV/featured> and the public may participate through Zoom at the link listed below. The public can submit comments and questions in writing for City Council consideration by sending them to the Administrative Services Director/City Clerk at [mswanson@clearlake.ca.us](mailto:mswanson@clearlake.ca.us). To give the City Council adequate time to review your questions and comments, please submit your written comments prior to 4:00 p.m. on the day of the meeting.

## AGENDA

**MEETING PROCEDURES:** *All items on agenda will be open for public comments before final action is taken. Citizens wishing to introduce written material into the record at the public meeting on any item are requested to provide a copy of the written material to the Administrative Services Director/City Clerk prior to the meeting date so that the material may be distributed to the City Council prior to the meeting. Speakers must restrict comments to the item as it appears on the agenda and stay within a three minutes time limit. The Mayor has the discretion of limiting the total discussion time for an item.*

### AMERICANS WITH DISABILITY ACT (ADA) REQUESTS

If you need disability related modification, including auxiliary aids or services, to participate in this meeting, please contact Melissa Swanson, Administrative Services Director/City Clerk at the Clearlake City Hall, 14050 Olympic Drive, Clearlake, California 95422, phone (707) 994-8201, ext 106, or via email at [mswanson@clearlake.ca.us](mailto:mswanson@clearlake.ca.us) at least 72 hours prior to the meeting, to allow time to provide for special accommodations.

### AGENDA REPORTS

Staff reports for each agenda item are available for review at [www.clearlake.ca.us](http://www.clearlake.ca.us). Any writings or documents pertaining to an open session item provided to a majority of the City Council less than 72 hours prior to the meeting, shall be made available for public inspection on the City's website at [www.clearlake.ca.us](http://www.clearlake.ca.us).

**Zoom Link:** <https://clearlakeca.zoom.us/j/82106719961>

Or One tap mobile :

+16694449171,,82106719961# US

+17207072699,,82106719961# US (Denver)

Or Telephone:

Dial(for higher quality, dial a number based on your current location):

+1 669 444 9171 US

+1 720 707 2699 US (Denver)

+1 253 205 0468 US  
+1 253 215 8782 US (Tacoma)  
+1 346 248 7799 US (Houston)  
+1 719 359 4580 US  
+1 646 931 3860 US  
+1 689 278 1000 US  
+1 301 715 8592 US (Washington DC)  
+1 305 224 1968 US  
+1 309 205 3325 US  
+1 312 626 6799 US (Chicago)  
+1 360 209 5623 US  
+1 386 347 5053 US  
+1 507 473 4847 US  
+1 564 217 2000 US  
+1 646 558 8656 US (New York)

Webinar ID: 821 0671 9961

International numbers available: <https://clearlakeca.zoom.us/j/kbd8Kv3mpR>

**A. ROLL CALL**

**B. PLEDGE OF ALLEGIANCE**

**C. INVOCATION/MOMENT OF SILENCE:** *The City Council invites members of the clergy, as well as interested members of the public in the City of Clearlake, to voluntarily offer an invocation before the beginning of its meetings for the benefit and blessing of the City Council. This opportunity is voluntary and invocations are to be less than three minutes, offered in a solemn and respectful tone, and directed at the City Council. Invitational speakers who do not abide by these simple rules of respect and brevity shall be given a warning and/or not invited back to provide a subsequent invocation for a reasonable period of time, as determined appropriate by the City. This policy is not intended, and shall not be implemented or construed in any way, to affiliate the City Council with, nor express the City Council's preference for, any faith or religious denomination. Rather, this policy is intended to acknowledge and express the City Council's respect for the diversity of religious denominations and faith represented and practiced among the citizens of Clearlake. If a scheduled invitational speaker does not appear at the scheduled meeting, the Mayor will ask that the City Council observe a moment of silence in lieu of the invocation. More information about the City's invocation policy is available upon request by contacting the Administrative Services Director/City Clerk at (707) 994-8201x106 or via email at [mswanson@clearlake.ca.us](mailto:mswanson@clearlake.ca.us).*

**D. ADOPTION OF THE AGENDA** *(This is the time for agenda modifications.)*

**E. PRESENTATIONS**

1. Presentation of December's Adoptable Dogs
2. Presentation of Employee Years of Service Awards and Certificates of Appreciation to Volunteers

**F. PUBLIC COMMENT:** *This is the time for any member of the public to address the City Council on any matter not on the agenda that is within the subject matter jurisdiction of the City. **The Brown Act, with limited exceptions, does not allow the Council or staff to discuss issues brought forth under Public Comment.** The Council cannot take action on non-agenda items. Concerns may be referred to staff or placed on the next available agenda. Please note that comments from the public will also be taken on each agenda item. Comments shall be limited to three (3) minutes per person.*

**G. CONSENT AGENDA:** *All items listed under the Consent Agenda are considered to be routine in nature and will be approved by one motion. There will be no separate discussion of these items unless a member of the Council requests otherwise, or if staff has requested a change under Adoption of the Agenda, in which case the item will be removed for separate consideration. Any item so removed will be taken up following the motion to approve the Consent Agenda.*

3. Award of Contract for Roofing Repairs at the Senior Center  
Recommended Action: Move to approve the contract with Pro-Ex Construction in the amount of \$30,300.00 and authorize the City Manager to approve up to 10% for additional unforeseen contract amendments.

4. Minutes  
Recommended Action: Receive and file

5. Minutes of the October 11, 2023 Lake County Vector Control District Board Meeting  
Recommended Action: Receive and file

6. Warrants  
Recommended Action: Receive and file

7. Annual Calendar of Meetings for 2024  
Recommended Action: Review and approve

8. Approve Resolution 2023-46 for the application of the Outdoor Equity Program Grant.  
Recommended Action: Approve Resolution 2023-46

9. Memo Regarding Holiday Closure of City Hall Administration Office  
Recommended Action: Receive and file

## **H. BUSINESS**

10. Discussion and Consideration of a Memorandum of Agreement with the Elem Indian Colony Regarding Development of a Travel Center in the City of Clearlake  
Recommended Action: Approve the MOA and Authorize the City Manager to sign. Additionally, Authorize the City Manager to provide Letters of Support as Requested in the Agreement.

11. Consideration of a summary vacation of the irrevocable dedication of a roadway and public utility easement as being a part of an existing subdivision as requested by Mitchell and Patricia Markowitz.  
Recommended Action: Adopt Resolution 2023-49

12. Discussion and Possible Direction Related to Cost Increases with the Burns Valley Sports Complex Project  
Recommended Action: Provide Direction to Staff

**I. PUBLIC HEARING**

13. Public Hearing to Consider Adoption of 1<sup>st</sup> Amendment to the FY 2023-24 Fee Schedule (Resolution No. 2023-29) Updating Facility Rental Fees, Resolution No. 2023-47  
Recommended Action: Hold Public Hearing, hear public comments and adopt resolution.

**J. BUSINESS**

14. Authorization to Enter into a Five-Year Contract with Flock Safety for Automated License Plate Reader Cameras; Resolution No. 2023-48  
Recommended Action: Authorize the Chief of Police to enter into a 5-year contract with Flock Safety for (ALPR) cameras and adopt Resolution No. 2023-48 waiving the competitive formal bidding process.

15. Appointment of the 2024 Mayor/Vice Mayor

**K. CITY MANAGER AND COUNCILMEMBER REPORTS**

**L. FUTURE AGENDA ITEMS**

**M. CLOSED SESSION**

- (16) Conference with Legal Counsel: Existing Litigation: Pursuant to Government Code Section 54956.9(d)(1): 1) Case No. CV-423786: Koi Nation of Northern California v. City of Clearlake, et al., Lake County Superior Court; 2) Case No. CV-424401: Koi Nation of Northern California v. City of Clearlake, et al., Lake County Superior Court

- (17) CONFERENCE WITH LEGAL COUNSEL – LIABILITY CLAIMS - Claimant: Andrew Kirkendall;  
Agency Claimed Against: City of Clearlake

**N. ANNOUNCEMENT OF ACTION FROM CLOSED SESSION**

**O. ADJOURNMENT**

POSTED: December 4, 2023

BY:



Melissa Swanson, Administrative Services Director/City Clerk





# CITY OF CLEARLAKE

## City Council

### STAFF REPORT

<b>SUBJECT:</b> Award of Contract for Roofing Repairs the Senior Center	<b>MEETING DATE:</b> December 7, 2023
<b>SUBMITTED BY:</b> Adeline Leyba, Public Works Director	
<b>PURPOSE OF REPORT:</b> <input type="checkbox"/> Information only <input type="checkbox"/> Discussion <input checked="" type="checkbox"/> Action Item	

#### WHAT IS BEING ASKED OF THE CITY COUNCIL/BOARD:

The City Council is being asked to approve a contract for roofing repairs at the Senior Center and authorize the City Manager to approve up to 10% for additional unforeseen contract amendments.

#### BACKGROUND/DISCUSSION:

The Senior Center is in need of roof repairs at the Senior Center. These repairs include the removal of all fixtures, clean and seal all roof penetrations, repair of the roof as well as the rain gutters, remove and reinstall solar panels to seal solar mounting brackets.

Staff solicited bids for this project and the following bid was received:

Pro-Ex Construction: \$30,300.00

#### OPTIONS:

1. Move to approve the contract with Pro-Ex Construction in the amount of \$30,300.00.
2. Other direction

#### FISCAL IMPACT:

☐ None ☒ \$30,300.00 Budgeted Item? ☒ Yes ☐ No

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

Affected fund(s): ☐ General Fund ☐ Measure P Fund ☐ Measure V Fund ☒ Other:

Comments:

#### STRATEGIC PLAN IMPACT:

- ☐ Goal #1: Make Clearlake a Visibly Cleaner City
- ☐ Goal #2: Make Clearlake a Statistically Safer City
- ☒ Goal #3: Improve the Quality of Life in Clearlake with Improved Public Facilities
- ☒ Goal #4: Improve the Image of Clearlake

- ☐ Goal #5: Ensure Fiscal Sustainability of City
- ☐ Goal #6: Update Policies and Procedures to Current Government Standards
- ☐ Goal #7: Support Economic Development

**SUGGESTED MOTIONS:**

Move to approve the contract with Pro-Ex Construction in the amount of \$30,300.00 and authorize the City Manager to approve up to 10% for additional unforeseen contract amendments.

☐ **Attachments:**

## MINUTES OF PREVIOUS MEETING

October 11, 2023

The regular monthly meeting of the Board of Trustees of the Lake County Vector Control District was called to order at 1:33 P.M. by President Giambruno.

Board Present: Rob Bostock, Curt Giambruno, Ron Nagy, and George Spurr.

Absent: One county-appointed seat is vacant.

District Personnel: Jamesina J. Scott, Ph.D., District Manager and Research Director.

Guests: Mr. Chuck Leonard, Mrs. Vicki Leonard, and Mr. Leonard's brother and sister-in-law.

### **Presentation of Plaque to Mr. Chuck Leonard for Twenty-One Years of Service on the Lake County Vector Control District Board of Trustees**

Dr. Scott presented Mr. Leonard with the plaque recognizing his service to the Board of Trustees. Mr. Leonard was a valuable member of the Board and will be missed.

Citizen's Input: None.

Agenda Additions and/or Deletions: A budget transfer was needed to purchase the new Toyota Tacoma pickup truck. Mr. Spurr moved to add the budget transfer to the agenda after Item 11. Mr. Bostock seconded the motion. Motion carried unanimously.

### **Approve Minutes of September 13, 2023 Regular Meeting with Corrections to the Check Numbers to Include Checks 22043-22057 Making the Total Expenditures for September 2023. \$141,063.61**

Mr. Bostock moved to approve the Board Minutes of September 13, 2023 with corrections. Mr. Spurr seconded the motion. Motion carried unanimously.

**Research Report**

Dr. Scott reported on arbovirus activity. West Nile virus (WNV) activity has been detected in twenty-five mosquito samples from Lake County. In addition, eight dead birds have tested positive for WNV this year and there have been four cases of WNV human illness including one fatality.

For the rest of California, 183 human cases of WNV illness have been reported this year as well as 696 WNV-positive dead birds, 4,135 WNV-positive mosquito samples, 26 horses, and 163 WNV-positive sentinel chickens.

One human case of St. Louis encephalitis (SLE) virus has been reported in California this year. In addition, 302 SLEV-positive mosquito samples have been reported from twelve counties.

In the rest of the nation, 1,419 human cases of West Nile virus illness have been reported from thirty-eight states.

Fourteen locally-acquired dengue virus (DENV) cases have been reported from one Texas resident and thirteen Florida residents this year.

Six cases of eastern equine encephalitis virus (EEEV) infections have been reported from three states. All six cases were neuroinvasive with one case being fatal.

Ten human cases of Jamestown Canyon virus (JCV) have been reported from four states in 2023.

Sixteen human cases of La Crosse encephalitis virus (LACV) have been reported from seven states this year.

Twenty-seven human cases of Powassan virus (POWV), a tick-borne virus, have been reported from nine states this year.

Four human cases of St. Louis encephalitis virus (SLEV) have been reported from two states in 2023.

Dr. Scott reported on local malaria transmission in the United States. Nine locally-acquired cases of malaria have been reported from Florida, Maryland, and Texas. All patients were treated and are recovering. Before 2023,

locally-acquired mosquito-borne malaria had not occurred in the United States since 2003.

Dr. Scott reported on the California Department of Public Health Vector-Borne Disease Section Annual Report for 2022. Key data for Lake County include: No cases of Lyme disease were reported in Lake County in 2022, Six cases of Lyme disease have been confirmed in Lake County between 2013-2022.

Dr. Scott reported on adult biting fly activity. The District set 81 carbon-dioxide-baited-traps in various locations around the county in September. The most abundant mosquito species was *Anopheles franciscanus* followed by *Culex tarsalis*. Large numbers of *Culicoides* spp. (biting black gnats) were collected as well.

The New Jersey Light Traps set in Clearlake and Upper Lake were sampled in September. The most abundant mosquito species collected were *Anopheles franciscanus*, *Culex tarsalis*, and *Anopheles freeborni*.

Dr. Scott reported on tick testing. Twenty *Ixodes pacificus* ticks have been submitted for identification. Eighteen ticks were tested for Lyme disease. Sixteen of the ticks were negative, and results are still pending for the remaining two ticks.

Dr. Scott reported on the Clear Lake Gnat, Chironominae, and Tanypodinae Surveillance in Clear Lake. Lake checks were not completed in September due to the Alumaweld boat still being out for repairs.

### **Operation Report**

For the month of September, a quarter-inch of rain was recorded at the District. The total rainfall for the season is 35.82 inches.

The level of Clear Lake was at 3.39 feet on the Rumsey Gauge on September 1, and declined to 2.48 feet by September 30.

Vector Control Technicians Porter Anderson and Sandi Courcier conducted larval surveillance along the shoreline in Lakeport from the Boston Whaler. *Anopheles* spp. were found under willow trees and in some of the manmade inlets.

The Vector Control Technicians responded to 133 service requests in September, including 38 yellowjacket requests. In addition, 20 online service requests were submitted in September.

Dr. Scott met with the City of Lakeport's department heads and other responsible agencies on September 7. The requirements and the process for the District's application for a zoning and general plan amendment to identify the District's Esplanade parcels as Public and Civil Use were discussed. She expects to submit the District's application by the end of the month.

Dr. Scott attended the California Special Districts Association (CSDA) Webinar on Effective Meeting Management through Parliamentary Procedure in September.

Dr. Scott participated in a special meeting of the Employer Risk Management Authority (ERMA) Board of Directors on September 25. Dr. Scott serves as the Vector Control Joint Powers Agency (VCJPA) Alternate Representative.

Dr. Scott attended the Society for Vector Ecology's Annual Conference September 17-22 in Charleston, South Carolina.

### **Approve Checks for the Month of October 2023**

Mr. Nagy moved to approve payments for the month of October 2023 in the amount of \$84,656.49. Mr. Spurr seconded the motion. Motion carried unanimously.

### **Approve Fiscal Year 2022/2023 Prop. 4 Compliance Resolution No. 23-05**

Mr. Spurr moved to approve the 2022/2023 Prop. 4 Compliance Resolution No. 23-05. Mr. Nagy seconded the motion. The resolution was approved with a roll call vote as follows: Motion carried with a roll call vote of 4 in favor (Mr. Bostock, Mr. Nagy, Mr. Spurr, and Mr. Giambruno), none against, and one seat vacant.

### **Approve Budget Transfer**

Mr. Spurr moved to approve the budget transfer from account 796.90-91 Contingencies, in the amount of \$5,000, to account 796.62-72 FA Equipment-Autos/Light Trucks. Mr. Bostock seconded the motion. Motion carried unanimously.

**Other Business**

Mr. Spurr mentioned that he thought it would be a good idea to put a news release in the local paper, including a photograph, of Mr. Leonard receiving his plaque for his service on the District Board of Trustees. The trustees agreed, and Dr. Scott said she would follow up.

**Announcement of Next Regular Board Meeting**

The next regular meeting of the Board will be at 1:30 PM on November 8, 2023 at the Lake County Vector Control District Office, 410 Esplanade Lakeport, CA 95453.

Mr. Nagy moved to adjourn the meeting. Mr. Bostock seconded the motion. There being no other business to discuss, the meeting was adjourned by President Giambruno at 2:28 PM.

Respectfully submitted,

Ronald Nagy  
Secretary





Clearlake, CA

Section G, Item 6.

Check Register

Packet: APPKT02511 - 11/2/23 AP CHECK RUN AA

By Check Number

Vendor Number	Vendor Name	Payment Date	Payment Type	Discount Amount	Payment Amount	Number
<b>Bank Code: AP-Accounts Payable</b>						
VEN01085	ACC BUSINESS	11/02/2023	Regular	0.00	608.66	15778
VEN01085	ACC BUSINESS	11/02/2023	Regular	0.00	608.66	15779
000591	ACTION SANITARY	11/02/2023	Regular	0.00	627.43	15780
VEN01433	ADAMS COMMERCIAL GENERAL CO	11/02/2023	Regular	0.00	47,452.94	15781
002353	ALL IN ONE AUTO	11/02/2023	Regular	0.00	14,185.00	15782
001507	ALVARO VALENCIA	11/02/2023	Regular	0.00	100.00	15783
000085	ARAMARK UNIFORM SERVICES	11/02/2023	Regular	0.00	49.31	15784
001397	AT&T CALNET 3	11/02/2023	Regular	0.00	331.11	15785
000068	BOB'S JANITORIAL	11/02/2023	Regular	0.00	147.89	15786
2404	CALTRONICS	11/02/2023	Regular	0.00	98.82	15787
VEN01440	CITIZENS CARING FOR CLEARLAKE	11/02/2023	Regular	0.00	21,608.97	15788
000024	CLEARLAKE POLICE ASSOCIATION	11/02/2023	Regular	0.00	1,752.00	15789
000320	CNOA	11/02/2023	Regular	0.00	60.00	15790
000548	COMPUTER LOGISTICS	11/02/2023	Regular	0.00	814.47	15791
000160	DEPT OF JUSTICE	11/02/2023	Regular	0.00	130.00	15792
VEN01122	DOCUSIGN INC.	11/02/2023	Regular	0.00	3,105.00	15793
000073	EASTLAKE SANITARY LANDFILL	11/02/2023	Regular	0.00	157.23	15794
000120	FED EX	11/02/2023	Regular	0.00	68.19	15795
000096	GOLDEN STATE WATER COMPANY	11/02/2023	Regular	0.00	490.76	15796
000096	GOLDEN STATE WATER COMPANY	11/02/2023	Regular	0.00	39.31	15797
001729	HD EXCAVATING	11/02/2023	Regular	0.00	1,500.00	15798
VEN01394	HUNTERS SERVICES INC	11/02/2023	Regular	0.00	285.00	15799
002269	LAKE COUNTY CHAMBER	11/02/2023	Regular	0.00	1,500.00	15800
000158	LAKE COUNTY SPECIAL DISTRICTS	11/02/2023	Regular	0.00	310.64	15801
000158	LAKE COUNTY SPECIAL DISTRICTS	11/02/2023	Regular	0.00	88.70	15802
000158	LAKE COUNTY SPECIAL DISTRICTS	11/02/2023	Regular	0.00	119.84	15803
000158	LAKE COUNTY SPECIAL DISTRICTS	11/02/2023	Regular	0.00	119.84	15804
000158	LAKE COUNTY SPECIAL DISTRICTS	11/02/2023	Regular	0.00	17.74	15805
001760	LAKESHORE LIONS	11/02/2023	Regular	0.00	1,000.00	15806
001915	LEONARDO FLORES	11/02/2023	Regular	0.00	19.00	15807
000793	MEDIACOM	11/02/2023	Regular	0.00	650.00	15808
002106	MIDSATE BARRIER INC	11/02/2023	Regular	0.00	1,937.50	15809
001489	NAPA AUTO PARTS	11/02/2023	Regular	0.00	93.89	15810
001392	OFFICE DEPOT	11/02/2023	Regular	0.00	114.81	15811
000027	OPERATING ENGINEERS PUBLIC EMF	11/02/2023	Regular	0.00	78,015.00	15812
001843	PG&E CFM	11/02/2023	Regular	0.00	26.28	15813
000506	SIGNS OF RANDY HARE	11/02/2023	Regular	0.00	711.78	15814
000708	VALIC LOCKBOX	11/02/2023	Regular	0.00	470.00	15815

**Bank Code AP Summary**

Payment Type	Payable Count	Payment Count	Discount	Payment
Regular Checks	56	38	0.00	179,415.77
Manual Checks	0	0	0.00	0.00
Voided Checks	0	0	0.00	0.00
Bank Drafts	0	0	0.00	0.00
EFT's	0	0	0.00	0.00
	<b>56</b>	<b>38</b>	<b>0.00</b>	<b>179,415.77</b>

Fund Summary

Fund	Name	Period	Amount
999	Pooled Cash	11/2023	179,415.77
			<u>179,415.77</u>



Clearlake, CA

Section G, Item 6.

Check Register

Packet: APPKT02519 - 11/7/23 PAYMENT PROCESS AA

By Check Number

Vendor Number	Vendor Name	Payment Date	Payment Type	Discount Amount	Payment Amount	Number
<b>Bank Code: AP-Accounts Payable</b>						
002131	AIRCON ENERGY INC	11/07/2023	Regular	0.00	1,302.08	15816
000085	ARAMARK UNIFORM SERVICES	11/07/2023	Regular	0.00	49.31	15817
000068	BOB'S JANITORIAL	11/07/2023	Regular	0.00	32.08	15818
VEN01178	CALIFORNIA INTERGOVERNMENTAL	11/07/2023	Regular	0.00	32,402.30	15819
001293	CDW GOVERNMENT	11/07/2023	Regular	0.00	17,898.06	15820
VEN01153	CELEBRITY TALENT INTERNATIONAL,	11/07/2023	Regular	0.00	1,000.00	15821
VEN01440	CITIZENS CARING FOR CLEARLAKE	11/07/2023	Regular	0.00	87,250.00	15822
001645	CIVIC PLUS	11/07/2023	Regular	0.00	10,500.00	15823
000774	DEEP VALLEY SECURITY	11/07/2023	Regular	0.00	42.95	15824
001199	EUREKA OXYGEN CO	11/07/2023	Regular	0.00	43.58	15825
001732	GARY PRICE CONSULTING SERVICES	11/07/2023	Regular	0.00	2,200.00	15826
000121	HIGHLANDS WATER COMPANY	11/07/2023	Regular	0.00	116.62	15827
000121	HIGHLANDS WATER COMPANY	11/07/2023	Regular	0.00	41.74	15828
000121	HIGHLANDS WATER COMPANY	11/07/2023	Regular	0.00	103.14	15829
000121	HIGHLANDS WATER COMPANY	11/07/2023	Regular	0.00	282.91	15830
000121	HIGHLANDS WATER COMPANY	11/07/2023	Regular	0.00	550.84	15831
000121	HIGHLANDS WATER COMPANY	11/07/2023	Regular	0.00	86.68	15832
000121	HIGHLANDS WATER COMPANY	11/07/2023	Regular	0.00	431.26	15833
000121	HIGHLANDS WATER COMPANY	11/07/2023	Regular	0.00	284.40	15834
000121	HIGHLANDS WATER COMPANY	11/07/2023	Regular	0.00	260.44	15835
000121	HIGHLANDS WATER COMPANY	11/07/2023	Regular	0.00	66.28	15836
001949	ICE WATER DISTRIBUTORS INC	11/07/2023	Regular	0.00	95.50	15837
001775	JONES & MAYER	11/07/2023	Regular	0.00	9,006.93	15838
000108	LAKE COUNTY RECORD BEE	11/07/2023	Regular	0.00	266.73	15839
001814	LENAHAN,LEE,SLATER,AND PEARSE,	11/07/2023	Regular	0.00	6,825.00	15840
002176	MANAGEMENT CONNECTIONS	11/07/2023	Regular	0.00	920.19	15841
001843	PG&E CFM	11/07/2023	Regular	0.00	1,199.14	15842
000711	PURCHASE POWER	11/07/2023	Regular	0.00	1,020.99	15843
VEN01412	THE EIDAM CORPORATION - LUCY &	11/07/2023	Regular	0.00	12,566.88	15844
001559	ULINE SHIPPING SUPPLIES	11/07/2023	Regular	0.00	1,573.85	15845

**Bank Code AP Summary**

Payment Type	Payable Count	Payment Count	Discount	Payment
Regular Checks	37	30	0.00	188,419.88
Manual Checks	0	0	0.00	0.00
Voided Checks	0	0	0.00	0.00
Bank Drafts	0	0	0.00	0.00
EFT's	0	0	0.00	0.00
	<b>37</b>	<b>30</b>	<b>0.00</b>	<b>188,419.88</b>

Fund Summary

Fund	Name	Period	Amount
999	Pooled Cash	11/2023	188,419.88
			<u>188,419.88</u>



Clearlake, CA

Section G, Item 6.

# Check Register

Packet: APPKT02547 - 11/20/23 AP PAYABLES AA

By Check Number

Vendor Number	Vendor Name	Payment Date	Payment Type	Discount Amount	Payment Amount	Number
<b>Bank Code: AP-Accounts Payable</b>						
VEN01414	ADAM HERNANDEZ	11/20/2023	Regular	0.00	36.45	15882
002398	AMIE M AVILA	11/20/2023	Regular	0.00	18.23	15883
000447	CREATIVE FORMS & CONCEPTS	11/20/2023	Regular	0.00	662.49	15884
VEN01335	CRYSTAL MELANSON	11/20/2023	Regular	0.00	10.80	15885
VEN01229	DONALD BAZE	11/20/2023	Regular	0.00	313.27	15886
000797	GRANITE CONSTRUCTION	11/20/2023	Regular	0.00	1,019.14	15887
002274	JOHN R BENOIT	11/20/2023	Regular	0.00	7,363.08	15888
002280	LAW OFFICES OF P SCOTT BROWNE	11/20/2023	Regular	0.00	2,046.43	15889
002031	REDWOOD COAST PETROLEUM & N	11/20/2023	Regular	0.00	4,972.73	15890
VEN01255	REDWOOD EMPIRE MUNICIPAL INSL	11/20/2023	Regular	0.00	198.80	15891
002273	STACEY MATTINA	11/20/2023	Regular	0.00	829.52	15892
VEN01221	WINE COUNTRY VENTURES, INC	11/20/2023	Regular	0.00	1,190.00	15893
000138	ZUMAR INDUSTRIES	11/20/2023	Regular	0.00	1,311.92	15894

## Bank Code AP Summary

Payment Type	Payable Count	Payment Count	Discount	Payment
Regular Checks	16	13	0.00	19,972.86
Manual Checks	0	0	0.00	0.00
Voided Checks	0	0	0.00	0.00
Bank Drafts	0	0	0.00	0.00
EFT's	0	0	0.00	0.00
	<b>16</b>	<b>13</b>	<b>0.00</b>	<b>19,972.86</b>

Fund Summary

Fund	Name	Period	Amount
999	Pooled Cash	11/2023	19,972.86
			<hr/> 19,972.86



Clearlake, CA

Section G, Item 6.

Check Register

Packet: APPKT02569 - 11/29/23 AP CHECK RUN AA

By Check Number

Vendor Number	Vendor Name	Payment Date	Payment Type	Discount Amount	Payment Amount	Number
<b>Bank Code: AP-Accounts Payable</b>						
000591	ACTION SANITARY	11/29/2023	Regular	0.00	570.75	15900
VEN01168	ADAM J GIORDANO	11/29/2023	Regular	0.00	400.00	15901
000085	ARAMARK UNIFORM SERVICES	11/29/2023	Regular	0.00	147.93	15902
001397	AT&T CALNET 3	11/29/2023	Regular	0.00	28.98	15903
001397	AT&T CALNET 3	11/29/2023	Regular	0.00	221.39	15904
001397	AT&T CALNET 3	11/29/2023	Regular	0.00	30.85	15905
001397	AT&T CALNET 3	11/29/2023	Regular	0.00	28.98	15906
001397	AT&T CALNET 3	11/29/2023	Regular	0.00	228.72	15907
001397	AT&T CALNET 3	11/29/2023	Regular	0.00	67.61	15908
001397	AT&T CALNET 3	11/29/2023	Regular	0.00	30.34	15909
001397	AT&T CALNET 3	11/29/2023	Regular	0.00	59.14	15910
001397	AT&T CALNET 3	11/29/2023	Regular	0.00	627.30	15911
2418	BICOASTAL MEDIA, LLC	11/29/2023	Regular	0.00	300.00	15912
000068	BOB'S JANITORIAL	11/29/2023	Regular	0.00	97.88	15913
2404	CALTRONICS	11/29/2023	Regular	0.00	752.78	15914
003667	CASE EXCAVATING INC	11/29/2023	Regular	0.00	1,225.00	15915
VEN01440	CITIZENS CARING FOR CLEARLAKE	11/29/2023	Regular	0.00	20,838.69	15916
000763	COUNTY OF LAKE DEPT. OF INFORM.	11/29/2023	Regular	0.00	329.00	15917
VEN01233	DATAWORKS PLUS, LLC	11/29/2023	Regular	0.00	1,729.25	15918
001744	DC ELECTRIC	11/29/2023	Regular	0.00	6,175.75	15919
002392	DE LAGE LANDEN PUBLIC FINANCE	11/29/2023	Regular	0.00	829.68	15920
000160	DEPT OF JUSTICE	11/29/2023	Regular	0.00	441.00	15921
000073	EASTLAKE SANITARY LANDFILL	11/29/2023	Regular	0.00	10.00	15922
VEN01126	ECORP CONSULTING, INC	11/29/2023	Regular	0.00	2,160.00	15923
000096	GOLDEN STATE WATER COMPANY	11/29/2023	Regular	0.00	557.51	15924
000096	GOLDEN STATE WATER COMPANY	11/29/2023	Regular	0.00	39.31	15925
001125	HUMBERTO NEGRETE DBA	11/29/2023	Regular	0.00	2,575.00	15926
VEN01394	HUNTERS SERVICES INC	11/29/2023	Regular	0.00	285.00	15927
000158	LAKE COUNTY SPECIAL DISTRICTS	11/29/2023	Regular	0.00	4.59	15928
000277	LAYNE PAVING	11/29/2023	Regular	0.00	293.63	15929
001814	LENAHAN,LEE,SLATER,AND PEARSE,	11/29/2023	Regular	0.00	6,012.50	15930
VEN01410	MARIO OSCAR MACIAS OCHOA - MA	11/29/2023	Regular	0.00	980.00	15931
VEN01451	MASON ENTERTAINMENT, LLC	11/29/2023	Regular	0.00	1,500.00	15932
000793	MEDIACOM	11/29/2023	Regular	0.00	359.99	15933
001489	NAPA AUTO PARTS	11/29/2023	Regular	0.00	86.22	15934
002177	NATIONAL BUSINESS FURNITURE	11/29/2023	Regular	0.00	73,834.14	15935
001392	OFFICE DEPOT	11/29/2023	Regular	0.00	407.56	15936
VEN01390	PAPE KENWORTH	11/29/2023	Regular	0.00	2,873.54	15937
000129	PARAMEX SCREENING	11/29/2023	Regular	0.00	189.00	15938
002242	PARODI INVESTIGATIVE SOLUTIONS,	11/29/2023	Regular	0.00	1,600.00	15939
VEN01098	PAVEMENT COATINGS CO.	11/29/2023	Regular	0.00	598,794.41	15940
001483	PETERSON CAT	11/29/2023	Regular	0.00	251.91	15941
001843	PG&E CFM	11/29/2023	Regular	0.00	672.20	15942
001843	PG&E CFM	11/29/2023	Regular	0.00	1,094.09	15943
001843	PG&E CFM	11/29/2023	Regular	0.00	87.44	15944
001843	PG&E CFM	11/29/2023	Regular	0.00	3,860.09	15945
	**Void**	11/29/2023	Regular	0.00	0.00	15946
VEN01336	SSA LANDSCAPE ARCHITECTS, INC.	11/29/2023	Regular	0.00	40,362.75	15947
001432	SUN RIDGE SYSTEMS (RIMS)	11/29/2023	Regular	0.00	32,080.00	15948
VEN01372	TALL TREE ENGINEERING, INC	11/29/2023	Regular	0.00	3,800.00	15949
002375	THOMAS DEWALT	11/29/2023	Regular	0.00	1,680.00	15950
000099	U.S. CELLULAR	11/29/2023	Regular	0.00	459.88	15951
000708	VALIC LOCKBOX	11/29/2023	Regular	0.00	470.00	15952



Check Register

Vendor Number

VEN01180

Vendor Name

VIKKI MARIE THOMPSON

Payment Date

11/29/2023

Payment Type

Regular

Packet: APPKT02569-11

Section G, Item 6.

A

Discount Amount

0.00

Payment Amount

270.00

Number

15953

Bank Code AP Summary

Payment Type	Payable Count	Payment Count	Discount	Payment
Regular Checks	77	53	0.00	812,811.78
Manual Checks	0	0	0.00	0.00
Voided Checks	0	1	0.00	0.00
Bank Drafts	0	0	0.00	0.00
EFT's	0	0	0.00	0.00
	<b>77</b>	<b>54</b>	<b>0.00</b>	<b>812,811.78</b>

Fund Summary

Fund	Name	Period	Amount
999	Pooled Cash	11/2023	812,811.78
			<hr/> 812,811.78



# CITY OF CLEARLAKE

## City Council

### STAFF REPORT

**SUBJECT:** Annual Calendar of Meetings for 2024

**MEETING DATE:** December 7, 2023

**SUBMITTED BY:** Melissa Swanson, Administrative Services Director/City Clerk

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

#### WHAT IS BEING ASKED OF THE CITY COUNCIL/BOARD:

The City Council is being asked to approve the proposed 2024 City Council meeting calendar.

#### BACKGROUND/DISCUSSION:

The proposed meeting schedule for 2024 is attached. In addition to the proposed regular meeting schedule, your Council may schedule additional special meetings and workshops with proper Brown Act noticing.

#### OPTIONS:

1. Move to approve the proposed 2024 City Council meeting calendar.
2. 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 ☐ Measure P Fund ☐ Measure V Fund ☐ Other:

Comments:

#### STRATEGIC PLAN IMPACT:

- ☐ Goal #1: Make Clearlake a Visibly Cleaner City
- ☐ Goal #2: Make Clearlake a Statistically Safer City
- ☐ Goal #3: Improve the Quality of Life in Clearlake with Improved Public Facilities
- ☐ Goal #4: Improve the Image of Clearlake
- ☐ Goal #5: Ensure Fiscal Sustainability of City
- ☐ Goal #6: Update Policies and Procedures to Current Government Standards
- ☐ Goal #7: Support Economic Development

#### SUGGESTED MOTIONS:

Move to approve the 2024 City Council meeting calendar

*Section G, Item 7.*

☒ **Attachments:** 1) Proposed meeting calendar

# January 2024

January 2024							February 2024						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
7	1	2	3	4	5	6	4	5	6	7	1	2	3
14	8	9	10	11	12	13	11	12	13	14	15	16	17
21	15	16	17	18	19	20	18	19	20	21	22	23	24
28	22	23	24	25	26	27	25	26	27	28	29		

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
Dec 31	Jan 1, 24	2	3	4 6:00pm Council Meeting	5	6
7	8	9	10	11	12	13
14	15	16	17	18 6:00pm Council Meeting	19	20
21	22	23	24	25	26	27
28	29	30	31	Feb 1	2	3

# February 2024

February 2024							March 2024						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
4	5	6	7	8	2	3	3	4	5	6	7	1	2
11	12	13	14	15	9	10	10	11	12	13	14	8	9
18	19	20	21	22	16	17	17	18	19	20	21	15	16
25	26	27	28	29	23	24	24	25	26	27	28	22	23
							31					29	30

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
Jan 28	29	30	31	Feb 1 6:00pm Council Meeting	2	3
4	5	6	7	8	9	10
11	12	13	14	15 6:00pm Council Meeting	16	17
18	19	20	21	22	23	24
25	26	27	28	29	Mar 1	2

# March 2024

March 2024							April 2024						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
3	4	5	6	7	1	2	7	1	2	3	4	5	6
10	11	12	13	14	8	9	14	8	9	10	11	12	13
17	18	19	20	21	15	16	21	15	16	17	18	19	20
24	25	26	27	28	22	23	28	22	23	24	25	26	27
31					29	30		29	30				

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
Feb 25	26	27	28	29	Mar 1	2
3	4	5	6	7 6:00pm Council Meeting	8	9
10	11	12	13	14	15	16
17	18	19	20	21 6:00pm Council Meeting	22	23
24	25	26	27	28	29	30
31	Apr 1	2	3	4	5	6



# April 2024

April 2024							May 2024						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
7	1	2	3	4	5	6	5	6	7	1	2	3	4
14	8	9	10	11	12	13	12	13	14	8	9	10	11
21	15	16	17	18	19	20	19	20	21	15	16	17	18
28	22	23	24	25	26	27	26	27	28	22	23	24	25
	29	30							29	30	31		

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
Mar 31	Apr 1	2	3	4 6:00pm Council Meeting	5	6
7	8	9	10	11	12	13
14	15	16	17	18 6:00pm Council Meeting	19	20
21	22	23	24	25	26	27
28	29	30	May 1	2	3	4

# May 2024

May 2024							June 2024						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
5	6	7	1	2	3	4	2	3	4	5	6	7	1
12	13	14	8	9	10	11	9	10	11	12	13	14	8
19	20	21	15	16	17	18	16	17	18	19	20	21	15
26	27	28	22	23	24	25	23	24	25	26	27	28	22
			29	30	31		30						29

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
Apr 28	29	30	May 1	2 6:00pm Council Meeting	3	4
5	6	7	8	9	10	11
12	13	14	15	16 6:00pm Council Meeting	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	Jun 1

June 2024

June 2024							July 2024						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
2	3	4	5	6	7	8	7	1	2	3	4	5	6
9	10	11	12	13	14	15	9	8	9	10	11	12	13
16	17	18	19	20	21	22	14	15	16	17	18	19	20
23	24	25	26	27	28	29	21	22	23	24	25	26	27
30							28	29	30	31			

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
May 26	27	28	29	30	31	Jun 1
2	3	4	5	6 6:00pm Council Meeting	7	8
9	10	11	12	13	14	15
16	17	18	19	20 6:00pm Council Meeting	21	22
23	24	25	26	27	28	29
30	Jul 1	2	3	4	5	6

# July 2024

July 2024							August 2024						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
7	1	2	3	4	5	6	4	5	6	7	1	2	3
14	8	9	10	11	12	13	11	12	13	14	15	16	17
21	15	16	17	18	19	20	18	19	20	21	22	23	24
28	22	23	24	25	26	27	25	26	27	28	29	30	31

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
Jun 30	Jul 1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18 6:00pm Council Meeting	19	20
21	22	23	24	25	26	27
28	29	30	31	Aug 1	2	3

# August 2024

August 2024							September 2024						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
4	5	6	7	8	9	10	1	2	3	4	5	6	7
11	12	13	14	15	16	17	8	9	10	11	12	13	14
18	19	20	21	22	23	24	15	16	17	18	19	20	21
25	26	27	28	29	30	31	22	23	24	25	26	27	28
							29	30					

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
Jul 28	29	30	31	Aug 1 6:00pm Council Meeting	2	3
4	5	6	7	8	9	10
11	12	13	14	15 6:00pm Council Meeting	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

# September 2024

September 2024							October 2024						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
1	2	3	4	5	6	7	6	7	8	9	10	11	12
8	9	10	11	12	13	14	13	14	15	16	17	18	19
15	16	17	18	19	20	21	20	21	22	23	24	25	26
22	23	24	25	26	27	28	27	28	29	30	31		
29	30												

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
Sep 1	2	3	4	5 6:00pm Council Meeting	6	7
8	9	10	11	12	13	14
15	16	17	18	19 6:00pm Council Meeting	20	21
22	23	24	25	26	27	28
29	30	Oct 1	2	3	4	5

# October 2024

October 2024							November 2024						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
6	7	1	2	3	4	5	3	4	5	6	7	1	2
13	14	8	9	10	11	12	10	11	12	13	14	15	16
20	21	22	23	24	25	26	17	18	19	20	21	22	23
27	28	29	30	31			24	25	26	27	28	29	30

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
Sep 29	30	Oct 1	2	3 6:00pm Council Meeting	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31	Nov 1	2



# November 2024

November 2024							December 2024						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
3	4	5	6	7	8	9	1	2	3	4	5	6	7
10	11	12	13	14	15	16	8	9	10	11	12	13	14
17	18	19	20	21	22	23	15	16	17	18	19	20	21
24	25	26	27	28	29	30	22	23	24	25	26	27	28
							29	30	31				

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
Oct 27	28	29	30	31	Nov 1	2
3	4	5	6	7 6:00pm Council Meeting	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

# December 2024

December 2024							January 2025						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
1	2	3	4	5	6	7				1	2	3	4
8	9	10	11	12	13	14	5	6	7	8	9	10	11
15	16	17	18	19	20	21	12	13	14	15	16	17	18
22	23	24	25	26	27	28	19	20	21	22	23	24	25
29	30	31					26	27	28	29	30	31	

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
Dec 1	2	3	4	5 6:00pm Council Meeting	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31	Jan 1, 25	2	3	4



# CITY OF CLEARLAKE

## City Council

### STAFF REPORT

**SUBJECT:** Adoption of Resolution No. 2023-46, A Resolution of the City of Clearlake, Approving Application for Outdoor Equity Grant.

**MEETING DATE:**  
December 7,  
2023

**SUBMITTED BY:** Tina Viramontes – Recreation and Events Coordinator

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

#### WHAT IS BEING ASKED OF THE CITY COUNCIL/BOARD:

The City Council is being asked to approve applications for Outdoor Equity Grant funds.

**BACKGROUND/DISCUSSION:** The State Department of Parks and Recreation has been delegated the responsibility by the Legislature of the State of California for the administration of the Outdoor Equity Grant Program, setting up necessary procedures governing applications. If approved for the grant funding the City is eligible to receive \$700,000.

If approved, the application will be submitted for the Recreation Department. This application for funding will consist of the expansion of the Recreation Department. Outdoor activities will include overnight camping trips to the Clearlake State Park, Clearlake Campground, daytime trips to learn equine safety and care, flag football and an inflatable water park. If approved for this grant, the Recreation Department will have the funding to hire three part time Interns.

If adopted, staff will move forward with the application for outdoor recreation funding.

#### OPTIONS:

1. Move to adopt Resolution No. 2023-46 and approve staff to submit the Outdoor Equity Program grant application.
2. 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 ☐ Measure P Fund ☐ Measure V Fund ☐ Other:

Comments: Grant application is budgeted. An appropriation of funds would be needed upon grant award.

**STRATEGIC PLAN IMPACT:**

- ☐ Goal #1: Make Clearlake a Visibly Cleaner City
- ☒ Goal #2: Make Clearlake a Statistically Safer City
- ☒ Goal #3: Improve the Quality of Life in Clearlake with Improved Public Facilities
- ☒ Goal #4: Improve the Image of Clearlake
- ☐ Goal #5: Ensure Fiscal Sustainability of City
- ☐ Goal #6: Update Policies and Procedures to Current Government Standards
- ☒ Goal #7: Support Economic Development

**SUGGESTED MOTIONS:**

Move to adopt Resolution No. 2023-46 and approve staff to move forward with the grant application.

- ☒ **Attachments:**    1) Resolution No. 2023-46

**RESOLUTION NUMBER 2023-46, A RESOLUTION OF THE CITY COUNCIL OF CLEARLAKE APPROVING THE APPLICATION FOR OUTDOOR EQUITY GRANTS PROGRAM GRANT FUNDS**

WHEREAS, the State Department of Parks and Recreation has been delegated the responsibility by the Legislature of the State of California for the administration of the Outdoor Equity Grants Program, setting up necessary procedures governing the application; and

WHEREAS, said procedures established by the State Department of Parks and Recreation require the Applicant to certify by resolution the approval of the application before submission of said application to the State; and

WHEREAS, successful Applicants will enter into a contract with the State of California to complete the Grant Scope program;

NOW, THEREFORE, BE IT RESOLVED that the Clearlake City Council hereby:

APPROVES THE FILING OF AN APPLICATION FOR THE OUTDOOR EQUITY GRANT; AND

1. Certifies that said Applicant has or will have available, prior commencement of any work on the program(s) included in this application, the sufficient funds to complete the program(s); and
2. Certifies that if the grant is awarded, the Applicant has or will have sufficient funds to operate the program(s) as described in the Grant Selection Criteria response, and
3. Certifies that the Applicant has reviewed, understands, and agrees to the General Provisions contained in the contract shown in the Grant Administration Guide; and
4. Delegates the authority to the Clearlake City Manager to conduct all negotiations, sign and submit all documents, including, but not limited to applications, agreements, amendments, and pay requests, which may be necessary for the completion of the Grant Scope; and
5. Agrees to comply with all applicable federal, state and local laws, ordinances, rules, regulations and guidelines.

Approved and adopted the 7<sup>th</sup> day of December 2023, I, the undersigned, hereby certify that the foregoing Resolution Number 2023-46 was duly adopted by the Clearlake City Council following a roll call vote:

Ayes:

Noes:

Absent:

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Mayor – City of Clearlake



# CITY OF CLEARLAKE

## City Council

### STAFF REPORT

**SUBJECT:** Memo Regarding Holiday Closure of City Hall  
Administration Office

**MEETING DATE:**  
December 7,  
2023

**SUBMITTED BY:** Melissa Swanson, Administrative Services Director/City Clerk

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

#### WHAT IS BEING ASKED OF THE CITY COUNCIL/BOARD:

Report for information only. No action by the Council is necessary.

#### BACKGROUND/DISCUSSION:

For your Council's information:

City Hall Administration offices, including Building, Planning, Administrative Services and Finance Departments, will be closed for the holidays beginning Monday, December 25<sup>th</sup>, 2023 through Monday, January 1<sup>st</sup>, 2024.

The Administration offices will reopen on Tuesday, January 2<sup>nd</sup>.

#### FISCAL IMPACT:

☒ None ☐ \$ Budgeted Item? ☐ Yes ☐ No

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

Affected fund(s): ☐ General Fund ☐ Measure P Fund ☐ Measure V Fund ☐ Other:

Comments:



# CITY OF CLEARLAKE

## City Council

### STAFF REPORT

<b>SUBJECT:</b> Discussion and Consideration of a Memorandum of Agreement with the Elem Indian Colony Regarding Development of a Travel Center in the City of Clearlake	<b>MEETING DATE:</b> December 7, 2023
<b>SUBMITTED BY:</b> Alan D. Flora, City Manager	
<b>PURPOSE OF REPORT:</b> <input type="checkbox"/> Information only <input checked="" type="checkbox"/> Discussion <input checked="" type="checkbox"/> Action Item	

#### WHAT IS BEING ASKED OF THE CITY COUNCIL:

The City Council is being asked to consider an agreement with the Elem Indian Colony regarding the development of a travel center in Clearlake.

#### BACKGROUND/DISCUSSION:

In March of 2021, the Elem Indian Colony of Pomo Indians of the Sulphur Bank Rancheria (Elem) reached out to City officials to discuss a proposed development project in the City of Clearlake. In 2019 Elem had purchased property at 14825 & 14855 Lakeshore Drive, Clearlake. This site, near Redbud Park, was the former site of Mario's Restaurant and Silks. After many years of neglect and blight the City initiated steps to place the property into receivership, the building was demolished in 2018, and purchased by Elem from the court-appointed receiver in 2019.

On October 21, 2021 Elem officially submitted an application to the Bureau of Indian Affairs (BIA) regarding the project and requesting the property be placed into federal trust. On January 25, 2022 the City received a copy of the Environmental Assessment and draft Finding of no Significant Impact (FONSI) from the BIA, and on behalf of the Elem project. After review the City identified a number of concerns with the environmental assessment and impacts of the project. On February 1, 2022 those concerns were shared with BIA and Elem. Ultimately the BIA and Elem revised the environmental assessment and final FONSI was sent to the City in May of 2023. Unfortunately, the BIA did not provide a revised draft to the City or other agencies before finalizing the documents. However, City officials met separately with Elem leadership and discussed the project, which ultimately resulted in the agreement under consideration here. The final Notice of Decision was executed by the BIA on July 26, 2023, which places the property into trust and authorizes the project to begin.

The "fee to trust" process is provided to transfer real property to a federally recognized tribe. The property is officially owned by the federal government, but it is considered sovereign land outside of local and state jurisdiction. Often this is used for tribal housing or gaming facilities such as casinos, but can be used for other purposes of interest to tribes upon approval by the BIA.

The current project on the two aforementioned parcels, totaling approximately 1 acre, will result in the construction of an approximately 8,000 sq. ft. building housing a 6,000 sq. ft. convenience store and 2,000 sq. ft. office space. Additionally the site will accommodate fueling and electric vehicle charging stations.

The proposed MOA does not approve the project, as the City has no jurisdiction over the land upon the determination. However, the Elem Tribal Council has shown a great interest and effort in working in partnership with the City in a community spirit and agreement has been reached on numerous things surrounding the project.

A brief summary of the key points are:

- Tax revenue – transactions on tribal lands are not subject to federal, state, or local taxes. Elem has agreed to pay the city an equal amount of the tax receipts for the local Measure P and Measure V and 60% of the normal 1% city sales tax rate, increasing by 10% per year until it reaches 100%. State sales taxes would not be collected.
- Consistency with City Ordinances/Plans – Elem agrees to develop the project consistent with City standards and ordinances, in spite of no obligation to do so on tribal lands.
- Review of plans/permits – Projects on tribal lands are not subject to review and approval for building permits, grading permits etc. In spite of that Elem has agreed to submit the plans to the City for review and comment.
- Law Enforcement services – the Clearlake Police Department will provide law enforcement services to the property unless such time when the tribe desires to develop a tribal police department.
- Flavored tobacco – The tribe agrees not to sell flavored tobacco products consistent with Proposition 31.
- Public Benefit Fund – The tribe will establish a public benefit fund, with an initial grant of \$100,000 to assist with projects that benefit the community at large. The Board will include two City representatives and two Tribal representatives in determining supported projects.
- Tribal/City Advisory Committee – A committee will be established with two representatives from each government, that will discuss common issues that should be considered by each entity. Meetings will be open to the public and held quarterly.

Staff deeply appreciate the sincere, collaboration and mutual interest in community benefit shown by Elem leadership throughout this process. These types of negotiations often are conducted much differently, but the City's concerns were taken seriously and addressed in a meaningful way by Elem. We look forward to a long and collaborative relationship with Elem that will benefit the Clearlake community and support Tribal sovereignty and economic development.

#### OPTIONS:

1. Approve the MOA and Authorize the City Manager to sign. Additionally Authorize the City Manager to provide Letters of Support as Requested in the Agreement.
2. Provide alternative 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 ☒ Measure P Fund ☒ Measure V Fund ☐ Other:

Comments: The agreement would provide revenue to the City.

#### STRATEGIC PLAN IMPACT:

- ☒ Goal #1: Make Clearlake a Visibly Cleaner City
- ☒ Goal #2: Make Clearlake a Statistically Safer City
- ☐ Goal #3: Improve the Quality of Life in Clearlake with Improved Public Facilities
- ☒ Goal #4: Improve the Image of Clearlake



- ☒ Goal #5: Ensure Fiscal Sustainability of City
- ☐ Goal #6: Update Policies and Procedures to Current Government Standards
- ☒ Goal #7: Support Economic Development

**SUGGESTED MOTIONS:**

☒ **Attachments:**

1. Proposed MOA
2. BIA Notice of Decision
3. Travel Center Final EA
4. City Letter regarding draft EA

**MEMORANDUM  
OF  
AGREEMENT  
  
BETWEEN  
THE  
ELEM INDIAN COLONY  
  
AND  
  
THE CITY OF CLEARLAKE**

## Memorandum of Agreement

This Memorandum of Agreement (hereinafter “Agreement”) is made this 7<sup>th</sup> day of December, 2023, by and between the City of Clearlake, California and the Elem Indian Colony of Pomo Indians of the Sulphur Bank Rancheria, California (hereinafter “Elem Indian Colony” or “Tribe”).

### RECITALS

**WHEREAS**, the historical existence of a separate, cohesive band of Pomo Indians, occupying the present day City of Clearlake and surrounding areas in Lake County (hereinafter "County"), which survived the gold rush and subsequent settlement of Lake County by non-Indians, has been documented by the United States Department of the Interior; and

**WHEREAS**, the United States acquired land in trust for the Tribe near the City of Clearlake and formally established a reservation there, known as the Elem Indian Colony, on which tribal members continued to live as a community despite great adversity; and

**WHEREAS**, in 1953, as part of a federal policy designed to assimilate the nation's Indian tribes, the United States Congress enacted the Rancheria Act, P.L. 85-671, authorizing the termination of federal- trust responsibilities to a number of California Indian tribes, including many of the Indian Tribes in Lake County; and

**WHEREAS**, the Elem Indian Colony of the Sulphur Gulch Rancheria did not suffer termination and has remained a tribe since time immemorial located in and around Lake County; and

**WHEREAS**, in 1970 President Richard Nixon issued a formal policy statement on Indian affairs in which he declared the policy of termination a failure and called upon Congress to repudiate it, Cong. Rec. 2.258; and

**WHEREAS**, in 1978, Congress enacted the Indian Self Determination Act, 25 U.S.C. §450, et seq.; and

**WHEREAS**, in 2018, the Tribe, desiring economic development and employment opportunities for its membership, the Tribe identified land in the City of Clearlake that would meet the Tribe's

economic development needs. The Tribe purchased two (2) parcels of fee land comprising an acre of land for the purpose of developing a travel center/convenience store, and other business, that could be compatible with the surrounding area land uses and minimizing adverse impacts to city services and residents; and

**WHEREAS**, in 2022, the Tribe initiated the federal environmental review process necessary to comply with the National Environmental Policy Act (“NEPA”), as a first step to taking said parcels into trust with the federal government for purposes of economic development; and

**WHEREAS**, the Tribe has now requested the City’s support its request to the Bureau of Indian Affairs to take these parcels into trust, and in consideration for such support, the Tribe has entered into an agreement with the City which would provide the City with certain land use, law enforcement and related jurisdiction over the Tribe's trust lands, as well as compensate the City for the potential impact of the Tribe's use of these parcels on City services; and

**WHEREAS**, the economic development the Tribe proposes is not a City project and is not a project subject to the discretionary approval of the City, County, or State of California, and therefore is not subject to the California Environmental Quality Act (“CEQA”); and

**WHEREAS**, the City would not otherwise have any jurisdiction over the Tribe’s trust lands nor receive any compensation for alleged impacts such transfer of jurisdiction would cause; and

**WHEREAS**, the City and Tribe enter into this Memorandum of Agreement (“MOA”) to mitigate impacts of this acquisition, including, but not limited to, conforming to certain specific land use restrictions identified in City ordinances; to mitigate environmental impacts of its planned uses of the trust land as identified in an environmental assessment evaluating the Tribe’s proposed development; to compensate the City for law enforcement and other public services to be provided on the Tribe's reservation lands; to pay fees for the review to determine conformance with certain building and design standards set out in City ordinances;

**NOW, THEREFORE**, the parties agree as follows:

1    **Land to be Taken into Trust.** The Tribe has requested the United States to take into trust for its benefit the parcels (2) identified in subsection A below. The Tribe agrees to request the United States to take into trust for its benefit only these two (2) parcels detailed in Exhibit A, appended hereto (hereinafter "Trust Lands"), and to use said parcels exclusively for economic development purposes and subject to the restrictions set out below, unless and until this Agreement is amended as provided herein to authorize any other trust acquisition;

**A. Parcel A: APN 040-240-080.**

**B. Parcel B: APN 040-240-070.**

2.   **Compliance with City Ordinances.** The Trust Lands identified in Exhibit A and any new structures and changed uses, shall be used and developed in a manner consistent with and in compliance with all applicable City general and community plans, zoning ordinances and design guidelines in effect at the time of the execution of this Agreement. Any future changes, additions or modifications in the use or development of the parcels shall be subject to the then existing City review process and ordinances, City Plans, and City development standards, design guidelines and fees in effect at the time of the change. The City’s review of the Tribe’s project shall determine only if the uses are in compliance with the City ordinances, plans, development standards, design guidelines and fees. The City shall not approve the Tribe’s development project, designs or methods of construction or construction delivery.

3.    **Environmental Review**

          A.     The Tribe's development projects are not governed by CEQA, and the Tribe does not agree to submittal of its projects for discretionary approvals by the City, County or State. However, the Tribe does agree to process all its development applications for review by City staff to determine compliance with City Ordinances, Development Standards, Design guidelines and fees; and

          B.     The Director of the City Planning Department shall only determine that the Tribe has complied with the terms of this Section 3; provided that the Director shall not delay or unreasonably withhold said determination; and

C. While it is understood the Tribe is not submitting its projects for approval, it shall make reasonable efforts to comply with City Ordinances, Development Standards, and Design Guidelines

4. **Reimbursement for Law Enforcement Services and Scope of Police Jurisdiction on Trust Lands**

As a matter of federal law, P.L. 280, most state criminal laws continue to apply on Indian trust lands, including Parcel A. This jurisdiction over the enforcement of those laws presently lies with the State or its designee the City. The parties recognize that the economic development the Tribe intends to occur and operate on the parcels comprising Exhibit A may require law enforcement services that the Tribe currently does not have. While the Tribe could seek to develop a police department and seek retrocession of P.L. 280 jurisdiction to the tribe from the State of California, the Tribe desires to utilize the existing law enforcement services provided by the City.

**A. Reimbursement for Law Enforcement.** Effective on the date that final certification is submitted to the City pursuant to Section 13, the Tribe shall reimburse the City Police Department a payment in lieu of taxes equivalent to sum currently paid by City businesses and residents for police services, including any Special fees currently applicable commonly referred to as Measure P. Payments in lieu of Measure P shall be made monthly, similar to other businesses sales tax payments. The parties agree that the fee represents reasonable compensation for any potential additional burdens undertaken by the Police Department with respect to the enforcement of state law on Exhibit A Parcels.

**B. Scope of Police Department Jurisdiction.** The Chief of Police shall have authority to enforce all state criminal laws on Trust Lands, including the Parcels identified in Exhibit A, in the same manner and to the same extent as the Chief as such jurisdiction elsewhere in the City; provided that prior to entering any facility on the Trust Lands identified in Exhibit A, for the purpose of investigating or enforcing state criminal laws, the Chief or their designee shall notify the Tribe's public safety or security director, if any, and shall coordinate and cooperate

with appropriate Tribal officers, if any, except when, in the good faith and reasonable judgment of the law enforcement officers involved, their safety, or the safety of patrons or employees of the facility, or the integrity of an investigation or enforcement action, would be materially compromised by doing so.

**5. Video or Audio Surveillance.** The Tribe shall assist when, asked by the Chief or their designee and provide video or audio materials, if available, to be used in the police investigation of a crime on Parcel A.

**6. Sale of Flavored Tobacco Products.** The City acknowledges that local and State civil laws are inapplicable to the Tribes trust lands located within the City and are therefore non-enforceable by local law enforcement. Despite this, the Tribe shall not sell any flavored tobacco product consistent with California Proposition 31 which prohibits the sale of certain flavored tobacco products within the state.

**7. Liquor License Support.** The City shall support the Tribe’s California Alcoholic Beverage Control (“ABC”) license application and ABC licensure of liquor sales on the Ex. A property. The City shall forward a support correspondence similar to Ex. B to the ABC when requested by the Tribe and respond to inquiries from the ABC consistent with Ex. B.

**8. Roads and Traffic Circulation.** The Tribe will mitigate traffic and circulation issues in conformity to City requirements as finalized through the process discussed in Sections 2 and 3. The Tribe agrees to pay all required traffic mitigation fees consistent with City fee programs/ordinances. The Tribe is not required to pay other fees commonly paid for project development by other businesses or residents, unless negotiated pursuant to this agreement. The Tribe shall pay to the City, in-lieu of taxes, the equivalent of the City Measure V (1%) for City Road improvements. Payments for City Road improvements shall be made monthly, similar to other businesses sales tax payments.

**9. Sewer Service.** The Tribe shall provide for sewage and disposal for Parcel A waste through either of the following means:

- A. Connection to the City or County existing sewage lines and treatment plant initially, and then then to any proposed new regional treatment plan, according to terms and conditions agreed to by the City or County and the Tribe; or
- B. Connection to the existing City or County sewage collection system, according to the terms and conditions agreed to by the City or County and the Tribe.

If services are provided under subsection A or B of this Section, the Tribe will annex to the City or County Service Area for sewer service and pay fees consistent with that annexation and pay appropriate connection fees, obtain required easements for sewer infrastructure, construct to City or County sewer infrastructure standards, and dedicate to the City or County such sewer infrastructure. All approvals referred to in this Section shall not be unreasonably be withheld, and the standards referred to in this Section shall be substantially identical to those applied to similarly situated users.

**10. Water Supply.** The Tribe shall use its best efforts to obtain a surface water supply for Parcel A through an agreement with either the City's water provider or another water district and shall conform to all standard requirements imposed by the water provider and or City. If approval cannot be obtained, the Tribe shall provide water for Parcel A with wells.

**11. Fire Safety and Emergency Services.** The Tribe shall use its best efforts to obtain fire services through an agreement with either the City's fire service provider or CAL-FIRE, the designated first responder to Indian trust lands in California. The entity providing fire services shall be responsible for providing all necessary fire suppression equipment and personnel.

**12. Electrical.** The Tribe shall use its best efforts to obtain electricity for Parcel A through an agreement with either the City's electrical provider or another electricity provider and shall conform to all standard requirements imposed by the electricity provider or the City.

**13. Reimbursement for Other Public Services.** The Tribe shall provide reasonable reimbursement to the City, or other local jurisdictions, for the impact of providing public



services including administrative impacts to said Trust Lands or to invitees of commercial facilities on said lands, including, where applicable, existing development standards, processing fees, schedules, rates and charges, assessed to other developers in the City, for services other than Fire, Wastewater, Electricity and Water services. The Tribe shall not pay any more for Public Services than other similarly situated businesses or entities in the City.

**14.     Impact on City Revenues.** The City acknowledges that pursuant to federal law the Tribe is under no obligation to pay City for tax revenue impacts. The City claims that the impact of the Tribe’s project on the City revenues is close to \$500,000 annually. The Tribe agrees to pay the City a fee in lieu of tax equal to 60% of the 1% Bradley Burns sales tax and thereafter increase the sum by ten (10) basis points, annually, until the Tribe has reached the 1% paid by other City businesses that pay sales taxes to the City. Payments in lieu of the Bradley Burns sales tax shall be made monthly, similar to other businesses sales tax payments.

**15.     Building Standards.** The Tribe shall adopt the building standards set out in all Uniform Building Codes, as adopted or supplemented by the City, and prior to the use of any structure constructed on the Trust Lands, provide the City, at its own expense, with written certification from the International Conference of Building Officials or a similarly qualified organization used or recommended by the City, that said structures have been constructed in accordance with said standards. The Tribe shall submit construction plans to the City after the final certification is submitted pursuant to this Section 13, provided that the City shall, consistent with State law, keep such plans confidential in light of the interest of the parties in maintaining the security of the facility.

**16.     Public Benefit Fund:** The Tribe shall fund a “Public Benefit Fund”, to assist with funding projects that benefit the community at large. The Tribe will provide a \$100,000 grant as initial Public Benefit funding. A Public Benefit Board (“Board”) representing two (2) members from the City and (2) members of the Tribe’s Council or Executive Committee shall determine what projects shall be funded on an annual basis. The Tribe shall determine future grants to the fund at the end of the third quarter of each fiscal year and thereafter

provide grant funding on an annual basis as recommended by the Board. The Tribe’s goal is to continue contributing to the Public Benefit Fund as revenue allows.

**17. Future Tribe - City Collaboration :** The Tribe and City shall, when possible, collaborate on the acquisition of grants and other funds and training opportunities, whether federal, state or local, in furtherance of the Community interest and collaborate on projects that add value to the City and local community, including but not limited to, increasing tourism.

**18. Dispute Resolution.**

A. **Meet and Confer Process.** In the event the City or the Tribe believe that the other has committed a violation of this Agreement, either party may request in writing that the parties meet and confer in good faith for the purpose of attempting to reach a mutually satisfactory resolution of the problem within fifteen (15) days of the date of service of said request; provided that if the complaining party believes that the problem identified creates a threat to public health or safety, the complaining party may proceed directly to arbitration as provided in Subsection E below.

B. **Notice of Disagreement.** If the complaining party is not satisfied with the result of the meet and confer process, the complaining party may provide written notice to the other identifying and describing any alleged violation of this Agreement ("Notice of Disagreement"), with particularity, if available, and setting forth the action required to remedy the alleged violation.

C. **Response to Notice of Disagreement.** Within fifteen (15) business days of service of a Notice of Disagreement, the recipient shall provide a written response either denying or admitting the allegation(s) set forth in the Notice of Disagreement, and, if the truth of the allegations are admitted, setting forth in detail the steps it has taken and/or will take to cure the alleged violations. Failure to serve a timely response shall entitle the complaining party to proceed directly to arbitration, as provided in Subsection E below.

D. **Expedited Procedure for Threats to Public Safety.** If the City or the Tribe reasonably believes that in violation of this Agreement the other's conduct has caused or will cause a significant threat to public health or safety, resolution of which cannot be delayed for the time periods otherwise specified in this section, the complaining party may proceed directly to the Arbitration Procedures set out in Subsection E below, without reference to the Meet and Confer or Notice of Disagreement processes set out in Subsections A, B & C above, and seek immediate equitable relief: At least twenty-four (24) hours before proceeding in this manner, the complaining party shall provide to the other a written request for correction and notice of intent to exercise its rights under this subsection, setting out the legal and/or factual basis for its reasonable belief that there is a present or an imminent threat to public health or safety.

E. **Binding Arbitration Procedures.** Subject to prior compliance with the Meet and Confer process set out above in Subsection A, and the Notice and Response process in Subsections B and C, and except as provided in Subsection D, either party may initiate binding arbitration to resolve any dispute arising under this Agreement. The arbitration shall be conducted in accordance with the following procedures:

- (1) The arbitration shall be administered by the American Arbitration Association (“AAA”) in accordance with its Commercial Arbitration Rules.
- (2) The arbitration shall be held in Sacramento, California, unless otherwise agreed.  
The arbitrator shall be empowered to grant compensatory, equitable, and declaratory relief: The provisions of California Code of Civil Procedure section 1283.05 et seq. are incorporated into, and made a part of this Agreement; provided, however, that no discovery authorized by said section may be conducted without leave of the arbitrator, who shall decide to grant leave based on the need of the requesting party and the burden of such discovery in light of the nature and complexity of such dispute.

(3) If either party requests an oral hearing, the arbitrator shall set the matter for hearing. Otherwise, the arbitrator shall decide whether to set the matter for hearing.

(4) The resulting award shall be in writing and give the reasons for the decision. Judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof: The costs and expenses of the American Arbitration Association and the arbitrator shall be shared equally by and between the parties unless the arbitrator rules otherwise.

F. **Judicial Review**. The parties consent to judicial enforcement of any award in arbitration, which enforcement shall be in the Superior Court in and for Lake County.

19. **Waiver of Tribal Sovereign Immunity**. The Tribe agrees to waive its sovereign immunity in favor of the City as to any dispute which arises out of this Memorandum of Agreement or the activities undertaken by the Tribe, pursuant to the terms set forth herein for enforcement. The Tribe's governing body shall execute a formal Resolution of Limited Waiver of Sovereign Immunity substantially identical to attached Exhibit C.

20. **Attorney's Fees**. In any arbitration or judicial action brought pursuant to the provisions of this Memorandum of Agreement, the prevailing party shall be entitled to recover reasonable attorneys fees and costs as are determined by the arbitrator or court.<sup>2</sup>

21. **Indemnification**. The Tribe agrees to indemnify and defend the City, its agents or employees against any judicial or administrative claim brought or filed by any third party, including federal, state or local agencies which challenges the validity of or performance by the City under this agreement, the authority of City to enter into this agreement, including the letter of support attached as Exhibit D, or any approval by the City called for in this Agreement.

22. **Support for Trust Application**. In consideration for the obligations undertaken by the Tribe herein, the City shall provide the attached correspondence, Exhibit E, to the United States Department of interior, Bureau of Indian Affairs, which supports the application of the Tribe to the United States, and requests the United States to take the lands identified in Exhibit A into

trust for the benefit of the Tribe, and respond to inquiries about the Tribe's trust application from the Bureau of Indian Affairs in a manner that is consistent with Exhibit E.

**23. Tribe-City Advisory Committee.** City and the Tribe agree to establish a permanent committee, to be known as the “Tribal - City Advisory Committee”. The jurisdiction of the Committee shall include questions related to implementation of this Agreement, proposals for amendments to this Agreement, and concerns over any matter within the scope of this Agreement.

**24. Composition of Committee.** The Committee shall be composed of two (2) members of the City Council or its designees and two (2) members of the Tribal Council or Executive Committee.

A. **Open Meetings.** Committee meetings shall be open to the public, and Committee members may invite staff and associates as they deem appropriate to participate.

B. **Meeting Times.** The Committee shall meet on a quarterly basis, or more frequently, according to procedures established by the Committee.

C. **Authority of Committee.** The Committee may make recommendations to the Tribe and the City, including amendments to this Agreement, which both parties shall consider before implementing any future actions concerning the subject matter of this Agreement

**25. Authority to Enter Agreement.** Each party represents that: (a) it is validly formed and in good standing in the jurisdiction in which it is formed; (b) it has the legal right and all requisite power and authority to enter into this Agreement and to execute, deliver, and perform its obligations under this Agreement; and (c) the execution, delivery, and performance of this Agreement has been duly authorized by all necessary organizational action of such party, and when executed and delivered by both parties, this Agreement will constitute a legal, valid, and binding obligation of such party, enforceable against such party in accordance with its terms and conditions and will not violate or constitute a breach of any agreement binding upon such party.

**26. No Third Party Beneficiaries.** With the sole exception of Section 16 above, this Agreement is not intended to, and shall not be construed to, create any right on the part of any Third Party to bring an action to enforce any of its terms.

**27. Successors in Interest.** If local jurisdiction over the area in which any of the parcels identified in Exhibits A, is located is transferred from the City to a local government other than the City, that local government shall have the right to succeed to the rights and obligations of the City under this Agreement by providing written notice to the Tribe of its intent to do so. Similarly, this agreement will bind any future tribes who may succeed the Elem Indian Colony in owning and/or operating the subject Property. Before such transfer, the City, the Tribe and the other local jurisdiction shall meet to discuss and resolve by amendment to this Agreement all issues of remaining impacts on City services or revenues as set out in this agreement that will or reasonably can be expected to continue after the transfer of responsibility.

**28. Governing Law.** This Agreement shall be construed and interpreted in accordance with the laws of the United States of America and where applicable California law.

**29. Severability.** If any provision of this Agreement is declared invalid or unenforceable, then, to the extent possible, all of the remaining provisions of this Agreement shall remain in full force and effect and shall be binding upon the Parties.

**30. Effectiveness.** This Agreement shall become effective immediately following execution by each of the Parties.

**31. Counterparts.** This Agreement may be executed in counterparts, and when each Party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with the other signed counterparts, shall constitute one agreement, which shall be binding upon and effective as to all Parties.

Signatures of the Parties transmitted by fax or pdf shall be deemed to be their original signatures for all purposes.

**32. No Contra Proferentem.** This Agreement shall not be construed against either party as though one particular party had drafted it, but shall be interpreted as if both parties had prepared it.”

**32. Length of Agreement.** This Agreement shall be valid for a period of twenty (20) years and thereafter automatically renew for a period of ten (10) years unless Amended by the parties.

**33. Amendment to Agreement.** No amendment to this Agreement shall be valid unless reduced to writing, signed by an authorized representative of each party.

**34. Approval by the Department of the Interior.** The parties shall submit this Agreement to the Department of the Interior for either: (1) approval pursuant to 25 U.S.C. § 81, or (2) a written response that this Agreement does not require approval under 25 U.S.C. §81. Service of process in any such judicial proceeding is waived in favor of delivery of court documents by Certified Mail- Return Receipt Requested to the following:

**For the Tribe:**

\_\_\_\_\_  
Augustin Garcia  
Tribal Chairman  
Elem Indian Colony  
1400 Dutton Rd. S-7  
Santa Rose, CA 95401

\_\_\_\_\_  
Jack Duran, Jr., Esq.  
Duran Law Office, PC  
1100 Melody Ln.  
Roseville, CA 95747  
Telephone: (916) 779-3316  
Facsimilie: (916) 520-3526

**For the City:**

\_\_\_\_\_  
City of Clearlake  
14050 Olympic Dr.  
Clearlake, CA 95422

\_\_\_\_\_  
Ryan Jones – City Attorney  
Jones Mayer  
6349 Auburn Blvd.  
Citrus Heights, CA 95621  
(916) 771-0635

**EX A**

**Parcels to be taken into Federal Trust**

**APN #040-240-080**

**APN # 040-240-070**





**EX. B**  
**City Letter of Support to ABC**

**[City Letterhead]**

**SENT VIA CERTIFIED MAIL**

**[DATE]**

California Department of  
Alcohol Beverage Control  
50 D Street, Room 130  
Santa Rosa, CA 95404  
Attn: District Manager

2400 Del Paso Rd. S-155  
Sacramento, CA 95834  
Attn: District Manager

**RE: Support for Elem Indian Colony’s ABC Liquor License Application**

The City of Clearlake, California, Lake County, hereby supports the Elem Indian Colony’s (“Elem” or “Elem Indian Colony”) request for licensure by the California Alcohol Beverage Control (“ABC”)for a license at their 14855 Lakeshore Drive Travel Center and Convenience Store, located on what is now federal Indian lands. The Elem are an area historical federally recognized Indian tribe with a rancheria located not far from the City. In 2017, the Tribe purchased lands within the City for purposes of economic development. Those lands were taken into federal trust on or about \_\_\_\_2023, with the City’s full support. The Elem have demonstrated support for City interests and concerns and the responsible sale of alcohol, in compliance with the Tribe’s Liquor Control Ordinance and State law. If you have any questions please contact my office at 14050 Olympic Drive Clearlake, CA 95422 Phone: 707-994-8201 Fax: 707-995-2653 Email: [aflora@clearlake.ca.us](mailto:aflora@clearlake.ca.us)

Sincerely,

Alan Flora  
City Manager

Cc: City of Clearlake, City Council  
City of Clearlake - City Attorney’s Office  
Elem Indian Colony, Tribal Council

**Ex. C**

**Tribal Resolution Memorializing Limited**

**Waiver of Sovereign Immunity and  
Limited Waiver of Sovereign Immunity**

**A Resolution of Limited Waiver of Sovereign Immunity to the  
City of Clearlake, CA for Purposes of Dispute Resolution  
No. \_\_\_\_\_**

**WHEREAS**, the Elem Indian Colony of Pomo Indians (“Tribe”) **IS A  
FEDERALLY RECOGNIZED** Indian Tribe with the inherent sovereignty to make its  
own laws and be governed by them; and

**WHEREAS**, the Tribe adopted a Constitution and Bylaws and the Tribal  
Resolution adopting such Constitution and Bylaws was accepted and approved by the  
Department of Interior, Bureau of Indian affairs; and

**WHEREAS**, the Tribes Constitution at Article VII, Section 1 “Powers”, authorizes  
the Tribe’s Executive Committee to plan and manage all economic affairs of the  
Reservation/Rancheria; and

**WHEREAS**, the Tribe has identified land acquisition as a priority and desires to  
preserve land by putting fee land into trust for the Tribe and/or Tribal members for  
economic development purposes; and

**WHEREAS**, the Tribe desires to enter into a Memorandum of Agreement  
(“MOA”) with the City of Clearlake to memorialize terms and conditions related to the  
Tribe’s development of the proposed trust lands in the City of Clearlake located on  
Lakeshore Drive, Ex. A to the MOA, said terms and conditions both the Tribe and City  
enter into for purposes of advancing collaboration between the parties and provide certain  
jurisdiction and entitlements to the City over the Tribe’s trust lands the City would not  
ordinarily have under federal law; and

**WHEREAS**, both parties desire to include dispute resolution in the MOA that  
would provide the parties a means to resolve disputes, and

**WHEREAS**, the Tribe as a federally recognized Indian Tribe is cloaked with tribal  
sovereign immunity which prevents the City from engaging the Tribe for dispute  
resolution by traditional means either in federal or state court; and

**WHEREAS**, the Tribe desires to provide a limited waiver of its tribal sovereign  
immunity to the City to provide a means of resolving issues that arise out of or are related  
to the terms and conditions of the MOA; and

**NOW THEREFORE BE IT**, the Elem Executive Committee hereby approve the attached limited waiver of Tribal sovereign immunity, Ex. C on behalf of the City of Clearlake as stated in Section 18 of the Tribe-City MOA

**\*CERTIFICATION\***

**Whereby the Tribal Council, by a vote of \_\_\_\_**, Yes,\_\_\_\_ **No** and \_\_\_\_ **Abstain**, hereby pass this resolution.

**IN WITNESS WHEREOF**, the undersigned has affixed his/her signature on this \_\_\_\_ day of \_\_\_\_\_, 2023\_.

\_\_\_\_\_  
Chairman, Agustine Garcia

\_\_\_\_\_  
Secretary, Sarah Garcia

**Ex. D**  
**Limited Waiver of Sovereign Immunity**

The Elem Indian Colony is a federally recognized Indian tribe that possesses tribal sovereign immunity against unconsented suit pursuant to its inherent sovereign powers and as recognized under state and federal law.

The Tribe desires to enter into a Tribe-City of Clearlake Memorandum of Agreement (“MOA”) that provides both parties certain powers and benefits related to the development of the Tribe’s Travel Center/Convenience Store located on Indian lands within the City’s jurisdiction. The Tribe’s sovereign powers include the power to waive its immunity.

The Tribe hereby provides a limited waiver of its tribal sovereign immunity to the dispute resolution process at Section 18 of the MOA. This limited waiver of the Tribe’s sovereign immunity is a clear and express assent to the American Arbitration Association (“AAA”), Commercial Arbitration Rules and or Expedited Hearing procedures, if applicable, as a means of resolving disputes arising out of or related to the terms and conditions of the Tribe-City MOA.

The Arbitration shall be by a single arbitrator selected by AAA by traditional selection means. The Arbitration shall utilize California Code of Civil Procedure Section 1280 et seq. arbitration rules, including discovery and enforcement. The Arbitration shall issue any order, including injunctive relief. Each Party shall pay one-half of the arbitration fees. The Arbitrator may issue an order for Attorney’s fees and expenses only if a claim or defense is deemed frivolous.

This limited waiver of sovereign immunity is granted to the City, exclusively, and or its legal successor in interest and does not extend to any third party. Any monetary award or fine received by the City as a result of this limited waiver, via the arbitration process, shall not inure to the Tribe’s treasury, federal or grant funds, but is limited solely to the revenues of the Tribe’s Travel Center/Convenience Store. Nor shall any lien be placed on or attached to tribal assets. This limited waiver of sovereign immunity has been granted by the Tribe’s Executive Committee consistent with tribal law, custom and tradition and is irrevocable.

**Both parties hereby acknowledge and agree that by executing the MOA they forever waive their rights to a trial by judge or jury trial.**



**\*CERTIFICATION\***

**Whereby the Tribal Council, by a vote of \_\_\_\_, Yes,\_\_\_\_ No and \_\_\_\_ Abstain, hereby pass this resolution.**

**IN WITNESS WHEREOF**, the undersigned has affixed his/her signature on this \_\_\_\_day of \_\_\_\_\_, 2023\_.

\_\_\_\_\_  
Chairman, Agustine Garcia

\_\_\_\_\_  
Secretary, Sarah Garcia

**Ex. E**  
**City Letter of Support for Tribe’s Trust Acquisition**

**[City Letterhead]**

**SENT VIA CERTIFIED MAIL**

**[Date]**

United States Department  
Of the Interior, Bureau of  
Indian Affairs- Pacific Region  
2700 Cottage Way, W-2820  
Sacramento, CA 95825  
Attn: Amy Dutschke  
Pacific Regional Director

**RE: Support for Elem Indian Colony’s Fee to Trust Application**

The City of Clearlake, California, Lake County, hereby supports the Elem Indian Colony’s (“Elem” or “Elem Indian Colony”) Fee to Trust application to take two (2) parcels of land, comprising less than one (1) acre, within the jurisdiction of the City of Clearlake. The parcels, pursuant to the application, are to be used for tribal economic development, specifically a Travel Center and Convenience Store and or other related uses. The Elem are an area historical federally recognized Indian tribe with a rancheria located not far from the City boundaries. In 2017, the Tribe purchased lands within the City for purposes of economic development. The Tribe and City have entered into a Memorandum of Agreement (“MOA”) that addresses both parties concerns with the land development and potential impacts to City revenues and City jurisdictional concerns. The City looks forward to the Tribe’s development which represents a substantial financial investment and employment creator within the City or Clearlake. If you have any questions please contact my office at 14050 Olympic Drive Clearlake, CA 95422 Phone: 707-994-8201 Fax: 707-995-2653 Email: [aflora@clearlake.ca.us](mailto:aflora@clearlake.ca.us)

Sincerely,

Alan Flora  
City Manager

Cc: City of Clearlake, City Council  
City of Clearlake - City Attorney’s Office  
Elem Indian Colony, Tribal Council



## United States Department of the Interior

BUREAU OF INDIAN AFFAIRS  
Pacific Regional Office  
2800 Cottage Way, Room W-2820  
Sacramento, CA 95825

IN REPLY REFER TO:  
Real Estate Services  
TR-4609-P5

Case Number: 28624

CERTIFIED MAIL-RETURN RECEIPT REQUESTED – 7021 0950 0000 7170 5376

Honorable Agustin Garcia  
Chairman, Elem Indian Colony  
1400 North Dutton, Suite 7  
Santa Rosa, CA 95401

### NOTICE OF DECISION

Dear Chairman Garcia:

This is notice of our decision as a result of our analysis of the application filed by the Elem Indian Colony of Pomo Indians of the Sulphur Bank Rancheria, California (Elem Indian Colony or Tribe) to have the below described real property accepted by the United States of America in trust:

**Grant Deed recorded July 8, 2019 as Instrument No. 2019008158 of Official Records.**

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF CLEARLAKE, COUNTY OF LAKE, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:

BEGINNING at a ½ inch iron rod at the Northwest corner of Lot 16, Block 1, as shown on that certain map entitled "PLAT NO. 1 TRACT B, CLUB HOUSE ADDITION TO CLEAR LAKE HIGHLANDS," filed in the office of the County Recorder of said Lake County on July 2, 1924 in Book 3 of Town Maps at Pages 105 to 106; said point of beginning being also the Northeast corner of that certain tract as described in a Quit Claim Deed from the Clearlake Highlands Rod and Gun Club to Anthony Giosso and Thelma Giosso dated October 3, 1950, of record in Book 215 of Official Records of Lake County at Page 171, and running thence, from said point of beginning West, along the North line of lands so conveyed to Giosso, 128.74 feet to a ½ inch iron rod; thence, leaving said North line South 123.0 feet to a "T" iron that is due West of the Southwest corner of Lot 16 in said Block 1; thence East 128.74 feet to a ½ inch iron pipe at the Southwest corner of said Lot 16; thence North 123.00 feet to the point of beginning, said parcel being within the East one-half of the Northeast quarter of Section 28, Township 13 North, Range 7 West, M.D.M.

APN: 040-240-070



**Grant Deed recorded July 8, 2019 as Instrument No. 2019008132 of Official Records.**

REAL PROPERTY IN THE CITY OF CLEARLAKE, COUNTY OF LAKE, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

ALL THAT CERTAIN REAL PROPERTY DESCRIBED IN A DEED FROM GLORIA MARIGANIAN, AS ADMINISTRATRIX OF THE ESTATE OF FRANK DIGRANDE, DECEASED, TO MARIO LUCCHESI AND DAISY A. LUCCHESI, HIS WIFE, AS JOINT TENANTS, DATED JUNE 7, 1965 AND RECORDED FEBRUARY 28, 1966 IN BOOK 485 OF OFFICIAL RECORDS OF LAKE COUNTY, CALIFORNIA AT PAGE 265, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT 12.40 CHAINS NORTH AND 11.56 CHAINS WEST OF THE QUARTER SECTION CORNER BETWEEN SECTIONS 27 AND 28, TOWNSHIP 13 NORTH, RANGE 7 WEST M.D.M., AND RUNNING THENCE NORTH 1.85 CHAINS; THENCE WEST 5.41 CHAINS; THENCE SOUTH 1.85 CHAINS; AND THENCE EAST 5.41 CHAINS TO THE PLACE OF BEGINNING.

EXCEPTING THEREFROM THAT PORTION THEREOF CONVEYED TO JOHN C. MILLER, ET UX., BY DEED DATED AUGUST 28, 1959, RECORDED SEPTEMBER 13, 1959 IN BOOK 317 OF OFFICIAL RECORDS OF LAKE COUNTY, AT PAGE 334, DESCRIBED AS FOLLOWS:

BEGINNING AT A ½ INCH IRON ROD AT. THE NORTHWEST CORNER OF LOT 16, BLOCK 1, AS SHOWN ON THAT CERTAIN MAP ENTITLED "PLAT NO. 1 TRACT B, CLUB HOUSE ADDITION TO CLEAR LAKE HIGHLANDS," FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAID LAKE COUNTY ON JULY 2, 1924 IN BOOK 3 OF TOWN MAPS AT PAGES 105 TO 106; SAID POINT OF BEGINNING BEING ALSO THE NORTHEAST CORNER OF THAT CERTAIN TRACT AS DESCRIBED IN A QUIT CLAIM DEED FROM THE CLEARLAKE HIGHLANDS ROD AND GUN CLUB TO ANTHONY GIOSSO AND THELMA GIOSSO DATED OCTOBER 3, 1950, OF RECORD IN BOOK 215 OF OFFICIAL RECORDS OF LAKE COUNTY AT PAGE 171, AND RUNNING THENCE, FROM SAID POINT OF BEGINNING WEST, ALONG THE NORTH LINE OF LANDS SO CONVEYED TO GIOSSO, 128.74 FEET TO A ½ INCH IRON ROD; THENCE, LEAVING SAID NORTH LINE SOUTH 123.0 FEET TO A "T" IRON THAT IS DUE WEST OF THE SOUTHWEST CORNER OF LOT 16 IN SAID BLOCK 1; THENCE EAST 128.74 FEET TO A ½ INCH IRON PIPE AT THE SOUTHWEST CORNER OF SAID LOT 16; THENCE NORTH 123.00 FEET TO THE POINT OF BEGINNING, SAID PARCEL BEING WITHIN THE EAST ONE-HALF OF THE NORTHEAST QUARTER OF SECTION 28, TOWNSHIP 13 NORTH, RANGE 7 WEST, M.D.M.

ALSO EXCEPTING THEREFROM THAT PORTION THEREOF CONVEYED TO THE COUNTY OF LAKE, A POLITICAL SUBDIVISION OF THE STATE OF CALIFORNIA, BY DEED DATED APRIL 15, 1960, RECORDED APRIL 3, 1961 IN BOOK 348 OF OFFICIAL RECORDS OF LAKE COUNTY, AT PAGE 414, DESCRIBED AS FOLLOWS:

THE WEST 10 FEET OF THAT PARTICULAR TRACT OF LAND LYING IN THE NORTHEAST QUARTER OF SECTION 28, TOWNSHIP 13 NORTH, RANGE 7 WEST, M.D.M., AND ADJOINING THAT CERTAIN SUBDIVISION ENTITLED, "PLAT NO. 1 TRACT B, CLUB HOUSE ADDITION TO CLEAR LAKE HIGHLANDS," FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAID LAKE COUNTY ON JULY 2, 1924 IN BOOK 3 OF TOWN MAPS AT PAGES 105 TO 106, AS THE SAME IS DESCRIBED IN A QUIT CLAIM DEED FROM THE CLEARLAKE HIGHLANDS ROD AND GUN CLUB TO ANTHONY AND THELMA GIOSSO, DATED OCTOBER 3, 1950, OF RECORD IN BOOK 215 OF OFFICIAL RECORDS OF LAKE COUNTY, AT PAGE 171, SAID WEST 10 FEET BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTH LINE OF GOLF AVENUE, AS SHOWN ON THAT CERTAIN MAP ENTITLED, "PLAT NO. 1 TRACT B, CLUB HOUSE ADDITION TO CLEAR LAKE HIGHLANDS," FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAID LAKE COUNTY ON JULY 2, 1924 IN BOOK 3 OF TOWN MAPS AT PAGES 105 TO 106, SAID POINT OF BEGINNING BEING SITUATED 3.94 FEET EAST FROM THE SOUTHEAST CORNER OF BLOCK 40 OF SAID SUBDIVISION, AND FROM SAID POINT OF BEGINNING, RUNNING THENCE NORTH, ALONG THE WEST LINE OF SAID TRACT OF LAND SO CONVEYED TO ANTHONY AND THELMA GIOSSO, A DISTANCE OF 123 FEET TO THE NORTHWEST CORNER THEREOF; THENCE EAST, ALONG THE NORTH LINE OF SAID TRACT SO CONVEYED TO ANTHONY AND THELMA GIOSSO, AND ALONG THE SOUTH LINE OF CLUB DRIVE, A DISTANCE OF 10 FEET; THENCE SOUTH, PARALLEL TO THE WEST LINE OF SAID TRACT SO CONVEYED TO ANTHONY AND THELMA GIOSSO, A DISTANCE OF 123 FEET TO THE SOUTH LINE THEREOF; THENCE SOUTH 40 FEET; THENCE WEST 10 FEET; AND THENCE NORTH 40 FEET TO THE POINT OF BEGINNING.

APN: 040-240-080

The above-described real property is identified in Lake County records as Assessor's Parcel Numbers 040-240-070 and 040-240-080 (Travel Center), containing 0.97 acres, more or less. The Travel Center property is not contiguous to land currently held in trust for the Tribe.

Federal Law authorizes the Secretary of the Interior, or her authorized representative, to acquire title on behalf of the United States of America for the benefit of tribes when such acquisition is authorized by an Act of Congress and (1) when such lands are within the exterior boundaries of an Indian reservation, or adjacent thereto, or within a tribal consolidation area; or (2) when the tribe already owns an interest in the land; or (3) when the Secretary determines that the land is necessary to facilitate tribal self-determination, economic development, or tribal housing. In this particular instance, the authorizing Act of Congress is the Indian Reorganization Act (IRA) of June 18, 1934 (25 U.S.C §5108 (Formerly §465)). The applicable regulations are set forth in the Code of Federal Regulations (CFR), Title 25, INDIANS, Part 151, as amended.

The Tribe has also requested that certain lands be proclaimed "reservation" pursuant to Section 7 of the Indian Reorganization Act of June 18, 1934 (Stat. 984; 24 U.S.C. 5110 (Formerly §467)), which provides that the Secretary of the Interior may proclaim an Indian reservation or add lands

to existing reservations. A Proclamation is simply an administrative function that allows the Tribe to take advantage of special federal assistance programs. The Office of the Assistant Secretary – Indian Affairs review all requests for adding land to a reservation and prepares the proclamation and Federal Register notice.

The Bureau of Indian Affairs (BIA) has reviewed the Tribe’s Proclamation request and has determined that, immediately following the expiration of the 30-day administrative appeal period, if no appeal is filed, the BIA official will recommend that the Assistant Secretary – Indian Affairs issue the Proclamation. If an appeal is filed, a final decision is issued affirming the BIA official’s decision, BIA will immediately recommend that the Assistant Secretary – Indian Affairs issue the Proclamation. Reservation proclamations will only be issued after land is acquired in trust.

On August 31, 2022, by certified mail, return receipt requested, we issued notice of, and sought comments regarding the proposed fee to trust application from the Senior Advisor for Tribal Negotiations, Legal Affairs Secretary, Office of the Governor; Sara Drake, Deputy Attorney General, State of California, Department of Justice; U.S. Senator Diane Feinstein; U.S. Senator Alex Padilla; Congressman John Garamendi, U.S. House of Representatives-3<sup>rd</sup> District; Lake County Board of Supervisors; Lake County-Office of the Assessor; Lake County-Planning Department; Lake County Public Works; Lake County Treasurer & Tax Collector; Lake County Sheriff’s Department; Northshore Fire Protection District; City of Clearlake – City Council; Clearlake Police Department; Lake County Fire Protection District; Big Valley Rancheria; Elem Indian Colony; Hopland Rancheria; Middletown Rancheria; Robinson Rancheria; Scotts Valley Rancheria; and Upper Lake Rancheria. Regular Mail: Superintendent, Central California Agency.

In response to our notification, we received the following comment:

1. Letter dated October 18, 2022, from the City of Clearlake (City) that provided a response to information requested in the Notice of Application. Overall, the City supports the Tribe’s interest and need in economic sustainability and welcomes the investment in the community, however, they are concerned about the impacts the Travel Center will have on City resources, infrastructure, and the larger community. The City identified that the combined assessed value of the property currently is \$406,000, and the City’s share of the 1% property tax is approximately 13%. The City stated that the current property taxes are a very minimal amount but expressed concern over the loss of future potential earning based upon the development of a similarly sized project in fee ownership. Further, the City expressed concern related to the loss of potential future sales tax revenue after the travel center was built. The City stated that they are currently responsible for providing law enforcement, code enforcement, permitting (Community Development) services, roads, and the storm drainage network for the property. Further, the City identified that the water service is provided by Highlands Mutual Water Company, sewer by Lake County Special Districts, and fire service by the Lake County Fire Protection District. The City stated that without seeing a detail project description and site plan that it would be nearly impossible to determine whether the project would be consistent with current zoning or the general plan. However, generally speaking this type of use would be

allowed in the zoning district, subject to a conditional use permit, which would allow a thorough review of the projects impact to the City infrastructure and services and mitigation of these impacts. The City offered to provide a more detailed response upon the receipt and review of a detailed project description and site plan.

*By letter dated June 5, 2023, the Elem Indian Colony of Pomo Indians of the Sulphur Bank Rancheria, California's response was as follows:*

*The Elem Indian Colony has reviewed the City of Clearlake's response and disagrees that there will be as large as an alleged loss of sales tax due to the Tribe's trust acquisition. Although the City provided the Tribe its "rational" concerning the alleged development impact, the rational did not include any analysis or fiscal study of the alleged tax loss. Further, there were no assumptions provided to the Tribe that would have identified how the City arrived at its final alleged tax loss numbers. These assumptions would have included the number of similar businesses and sales tax source analyzed to arrive at the City's alleged tax losses. For example, as stated the alleged tax loss cited by the city purportedly represents 25-28% of the projected 2022 City tax revenue as reported on its budget analysis available on the City's website. Providing these assumptions is critical to understanding the City's position and how it arrived there.*

*The City also appears to have made its comment based on a fully "completed" project generating revenue, not the present state of the property being an empty lot with a sixty plus year old building in need of repair. The City's assumptions also did not consider the fact that City resources, such as its Planning or Code departments, etc., will not be utilized by the Tribe in its building process resulting in a savings to City resources.*

*The City's comment also did not take into consideration the millions of dollars of Tribal investment in the Community necessary to produce revenue which could be taxed or the benefit to the Community in the form of employment and employment spend within the Community. Again, these missing assumptions are vitally important to understanding the City's position. In short, the City basically receives millions of dollars in tribal investment, a future state of the art development, while minimally, if at all, impacting City resources to acquire it.*

*Despite the City's information short comings, the Tribe is committed to working with the City to arrive at a mutually beneficial agreement concerning both parties interests moving forward. In closing, please remember the Tribe has been in the region and in the community since before the existence of the City, it is a member of the community and desires to assist the City to continue being a success.*

Pursuant to 25 CFR §151.10 and 151.11, the Secretary will consider the following requirements in evaluating tribal requests for the acquisition of lands in trust status, when the land is located outside of and noncontiguous to the tribe's reservation, and the acquisition is not mandated: 151.10(a) existence of Statutory Authority for the acquisition and any limitations contained in such authority; 151.10(b) need of the tribe for additional land; 151.10(c) the purpose for which the land will be used; 151.10(e) impact on the State and its political subdivisions resulting from removal of the land from the tax rolls; 151.10(f) jurisdictional problems and potential conflict of land use which may arise; 151.10(g) whether the Bureau of Indian Affairs is equipped to

discharge the additional responsibilities resulting from the acquisition of the land in trust status, 151.10(h) and whether or not contaminants or hazardous substances may be present on the property; 151.11(a) criteria listed in §151.10(a) through (c) and (e) through (h); 151.11(b) the location of the land relative to state boundaries of the tribe's reservation; 151.11(c) where land is being acquired for business purposes, the tribe shall provide a plan which specifies the anticipated economic benefits associated with the proposed use; and 151.11(d) contact with state and local governments pursuant to §151.10(e) and (f). Accordingly, the following analysis of the application is provided.

Our review and analysis of the requirements to evaluate this Tribal request as set forth in 25 Code of Federal Regulations, §151.10(a) through (h), and 151.11(a) through (d) determined the following:

### **25 CFR §151.10(a) Statutory authority for the acquisition of the property**

25 U.S.C. §5108 INDIAN REORGANIZATION ACT (IRA) OF JUNE 18, 1934 (48 STAT. 984).

Section 5 of the IRA (Section 5)<sup>1</sup> authorizes the Secretary to acquire land in trust for “Indians.” Section 19 of the Act defines “Indian” to include several categories of persons.<sup>2</sup> As relevant here, the first definition includes all persons of Indian descent who are members of “any recognized Indian tribe now under federal jurisdiction.”<sup>3</sup> In 2009, the United States Supreme Court (Supreme Court) in *Carcieri v. Salazar*<sup>4</sup> (*Carcieri*) construed the term “now” in the IRA’s first definition to refer to 1934, the year of the IRA’s enactment. The Supreme Court did not consider the meaning of the phrases “under federal jurisdiction.”

The first definition of “Indian” applies to “all persons of Indian descent who are members of any recognized Indian tribe now under Federal jurisdiction.”<sup>5</sup> In *Carcieri*, the Supreme Court considered the ordinary meaning of the term “now,” its sense within the context of the IRA, as well as contemporaneous Departmental correspondence,<sup>6</sup> and concluded that the phrase “now under the federal jurisdiction” unambiguously referred to tribes “that were under the federal jurisdiction of the United States when the IRA was enacted in 1934.”<sup>7</sup> The majority did not, however, address the meaning of the phrase “under federal jurisdiction.”<sup>8</sup>

In 2014, the Department’s Solicitor issued Sol. Op. M-37029 (M-37029) interpreting the statutory phrase “under Federal jurisdiction” (UFJ) for purposes of determining whether an Indian tribe can demonstrate that it was UFJ in 1934 for purposes of Section 5 of the IRA.<sup>9</sup>

<sup>1</sup> IRA, § 5, codified at 25 U.S.C. § 5108.

<sup>2</sup> *Id.* at § 19, codified at 25 U.S.C. § 5129.

<sup>3</sup> *Id.*

<sup>4</sup> 555 U.S. 379 (2009) (“*Carcieri*”).

<sup>5</sup> IRA, § 19, codified at 25 U.S.C. § 5129.

<sup>6</sup> *Carcieri* at 388-90.

<sup>7</sup> *Id.* at 395.

<sup>8</sup> *Id.* at 382, 395.

<sup>9</sup> The Meaning of ‘Under Federal Jurisdiction’ for Purposes of the Indian Reorganization Act, Op. Sol. Interior M-37029 (Mar. 12, 2014) (“Sol. Op. M-37029”).

Multiple federal court decisions have held that the Department's interpretation of the IRA's first definition of "Indian" memorialized in M-37029 was reasonable.<sup>10</sup> Accordingly, we rely on M-37029 to guide our analysis here.

The IRA was a statute of general applicability but included an opt-out provision.<sup>11</sup> Section 18 directed the Secretary to conduct elections to allow Indians residing on a reservation to vote to accept or reject application of the Act.<sup>12</sup> In order for the Secretary to conclude that a reservation was eligible for an election, a determination had to be made that the residents satisfied one of the IRA's definitions of "Indian." Between 1934 and 1936, the Department conducted 258 Section 18 elections,<sup>13</sup> the results of which were compiled by the Department in what later became known as the Haas Report.<sup>14</sup>

The Department recognizes that the calling of a Section 18 election serves as unambiguous evidence demonstrating federal jurisdiction over a federally recognized tribe.<sup>15</sup> Federal courts and the Interior Board of Indian Appeals have repeatedly held that Section 18 elections constitute conclusive evidence that the Department considered a tribe or reservation to be under federal jurisdiction in 1934.<sup>16</sup> This is true irrespective of whether the Section 18 election resulted in the adoption or rejection of the IRA.<sup>17</sup>

In 1934, the United States understood that the Elem Indian Colony of Pomo Indians of the Sulphur Bank Rancheria, California was under the federal jurisdiction and supervision of the United States, and that the adult residents of the Tribe met the IRA's definition of "Indian." As

<sup>10</sup> See, e.g., *Confederated Tribes of the Grand Ronde Cmty. of Oreg. v. Jewell*, 75 F. Supp. 3d 387 (D.D.C. 2014), *aff'd*, 830 F. 3d 552 (D.C. Cir. 2016); *Stand Up for California! v. U.S. Dep't of the Interior*, 204 F. Supp. 3d 212, 278 (D.D.C. 2016), *aff'd*, 879 F. 3d 1177, 1183-86 (D.C. Cir. 2018), *cert. denied*, 139 S. Ct. 786 (2019); *No Casino in Plymouth v. Jewell*, 136 F. Supp. 3d 1166, 1184 (E.D. Cal. 2015), *vacated and remanded sub nom., No Casino in Plymouth v. Zinke*, 698 F. App'x 531 (9th Cir. 2017) (vacated on other grounds); *County of Amador v. U.S. Dep't of the Interior*, 136 F. Supp. 3d 1193, 1200, 1207-10 (E.D. Cal. 2015), *aff'd*, 872 F. 3d 1012 (9th Cir. 2017), *cert. denied*, 139 S. Ct. 64 (2018); *Cachil Dehe Band of Wintun Indians v. Zinke*, 889 F. 3d 584, 594-96 (9th Cir. 2018); *Cent. N.Y. Fair Bus. Ass'n v. Jewell*, 2015 WL 1400384 (N.D.N.Y. Mar. 26, 2015) (not reported), *aff'd*, 673 F. App'x 63 (2nd Cir. 2016) (not reported), *cert den.*, 137 S. Ct. 2134 (2017).

<sup>11</sup> IRA, § 18, codified at 25 U.S.C. § 5125.

<sup>12</sup> *Id.*

<sup>13</sup> Theodore H. Haas, *Ten Years of Tribal Government Under I.R.A.* (1947) (hereafter "Haas Report").

<sup>14</sup> *Id.*, Table A at 13-20 (listing Section 18 elections conducted).

<sup>15</sup> Sol. Op. M-37029 at 21.

<sup>16</sup> See, e.g., *Stand Up for California! v. U.S. Dept. of the Interior*, 919 F.Supp.2d 51, 67-68 (D.D.C. 2013) (Section 18 elections conclusive evidence of being under federal jurisdiction); *Stand Up for California! v. United States Dep't of Interior*, 879 F.3d 1177 (D.C. Cir. 2018), *cert den.*, 139 S.Ct. 786 (Jan. 7, 2019); *Cachil Dehe Band of Wintun Indians of Colusa Indian Cmty. v. Zinke*, 889 F.3d 584, 596 (9th Cir. 2018); *Village of Hobart, Wisc. v. Acting Midwest Reg. Dir., Bureau of Indian Affairs*, 57 IBIA 4, 21 (2013) (Sec. 18 election provides "brightline test" for determining UFI); *Shawano County, Wisc. v. Acting Midwest Reg. Dir., Bureau of Indian Affairs*, 53 IBIA 62, 74 (2011) (Sec. 18 vote necessarily recognized and determined that a tribe was under federal jurisdiction, "notwithstanding the Department of the Interior's admittedly inconsistent dealings with the Tribe in previous years.")).

<sup>17</sup> *Carcieri* at 394-95. The *Carcieri* majority confirmed that the Indian Land Consolidation Act's amendments to the IRA in 1983 allowed tribes that rejected the IRA pursuant to a Section 18 election to benefit from Section 5 of the IRA; see also Sol. Op. M-37029 at 21.

detailed in the Haas Report, on June 14, 1935, the Tribe (listed as “Sulphur Banks”) voted on the IRA.<sup>18</sup> Twenty members of the Tribe residing at the Reservation were eligible to vote, and seven members voted against accepting the IRA while eleven members voted in its favor.<sup>19</sup>

Based on the foregoing, we conclude that the Tribe was “under Federal jurisdiction” in 1934 and the Secretary is authorized to acquire land in trust for the Tribe under Section 5 of the IRA.

**25 C.F.R. §151.10(b) - The need of the individual Indian or a Tribe for additional land**

The Elem Indian Colony’s aboriginal territory included much of Lake County, including the area that is now the location of the City of Clearlake. However, the Tribe currently only has approximately 49.5 acres in held in trust, that is located less than five miles Northwest of the Travel Center property and not sufficient to support economic development. One of the long-range objectives of the Tribe is to reestablish its presence within its aboriginal area. Further, the Tribe has long sought to become self-sufficient, the acquisition and development of the Travel Center property will enable the Tribe to provide much needed support to tribal members directly through employment as well as through increased funding to support tribal programs and tribal members health and welfare.

**25 C.F.R. §151.10(c) – Purpose for which the property will be used**

The Travel Center property currently contains one office building. The Tribe plans to build a travel center/convenience store on the subject property.

**25 C.F.R. §151.10(d) – If the land is to be acquired for an individual Indian, the amount of trust or restricted land already owned by or for that individual and the degree to which he needs assistance in handling his affairs**

This regulatory requirement is not applicable to Tribal acquisitions.

**25 C.F.R. §151.10(e) – Impact on State and its political subdivisions resulting from the removal of this property from the tax rolls**

In the 2022-23 tax year, the total tax assessed on the Travel Center property was \$7,984.50. During the comment period, none of the solicited agencies indicated that any significant adverse impacts would result from the removal of the subject parcels from the tax rolls at this time.

The City of Clearlake raised concerns about the impact of the potential loss of tax revenue based upon the increased value of the subject property after the travel center is built and becomes fully operational. The Tribe is committed to working with the City to arrive at a mutually beneficial agreement moving forward.

It is our determination that no significant impact will result from the removal of this property from the Lake County tax rolls given the relatively small amount of tax revenue assessed on the subject property at this time. Additionally, the loss in taxes will be more than offset by the contribution to the community through employment, income taxes and employment spend within the community.

<sup>18</sup> Haas Report at 16.

<sup>19</sup> *Ibid.*

### **25 C.F.R. §151.10(f) – Jurisdictional problems and potential conflicts of land use**

The acceptance of the Travel Center property into federal trust status for the benefit of the Tribe will remove the property from State and local laws concerning real property taxation and other land use regulations. Tribal law will govern these activities after the property is accepted into trust, to much the same extent that it does now on existing trust lands. The City of Clearlake currently has jurisdiction over the land use zoning of the subject property, which is zoned as mixed use.

There will be no change in criminal jurisdiction as jurisdiction in California is subject to 18 U.S.C. §1162 and 28 U.S.C. §1360 (P.L. 83-280). The State of California would retain its jurisdiction to enforce its criminal/prohibitory laws against all persons and conduct occurring on the land.

It is our determination that there are no anticipated jurisdictional problems or potential conflicts regarding land use.

### **25 C.F.R. §151.10(g) – Whether the Bureau of Indian Affairs is equipped to discharge the additional responsibilities**

Additional responsibilities resulting from the transaction are foreseen to be minimal and acceptance of the Travel Center property in trust status will not impose any significant additional responsibilities or burdens upon the Agency beyond those already inherent in the Federal trusteeship over the existing trust lands. The Agency will be required to maintain trust title. The Agency would be able to discharge any additional responsibilities associated with the acceptance of the parcel into trust status. The Tribe will continue to manage the Travel Center property and will maintain accessibility for the BIA.

### **25 C.F.R. §151.10(h) – Environmental Compliance: The extent to which the applicant has provided information that allows the Secretary to comply with 516 DM 1-7, National Environmental Policy Act Revised Implementing Procedures, and 602 DM 2, Land Acquisitions: Hazardous Substances Determination**

#### **National Environmental Policy Act Compliance**

The BIA's guidelines for National Environmental Policy Act of 1969 (NEPA) compliance are set forth in the Bureau of Indian Affairs Manual (59 IAM). An Environmental Assessment ("EA") for the proposed action was completed in March 2021 and distributed for public review beginning January 10, 2022, for a period of 30 days. Public comments were received and addressed with a revised EA in March 2023. The EA documents and analyzes potential impacts to land resources, water resources, air quality, biological resources, cultural resources, socioeconomic conditions, resource use patterns (transportation, land use, and agricultural), public services, public health/hazardous materials, and other values (noise and visual resources).

Based on the analysis presented in the revised EA, our review and consideration of the public comments received during the review period, responses to the comments, and mitigation measures imposed, the BIA has determined that the proposed federal action is not a major federal



action significantly affecting the quality of the human environment, as defined by NEPA. A Finding of No Significant Impact (FONSI) was signed on May 10, 2023. Therefore, preparation of an Environmental Impact Statement is not required.

National Historic Preservation Act (NHPA) Compliance

Section 106 of the National Historic Preservation Act (NHPA) requires federal agencies to consider the effects of their land acquisition approvals with the potential to affect historic properties. The BIA has determined there is no adverse effects on historic properties on the subject property. The State Historic Preservation Officer concurred with this determination.

Endangered Species Act Compliance

The Endangered Species Act requires federal agencies to determine if its action may affect a threatened or endangered species. The BIA review concluded no affects to endangered or threatened species would result from the Tribe’s acquisition.

Hazardous Substances Determination

In accordance with Interior Department Policy (602 DM 2), we are charged with the responsibility of conducting a site assessment for the purposes of determining the potential of, and extent of liability from hazardous substances or other environmental remediation or injury.

A Phase I Environmental Site Assessment (ESA) and Phase II Site Assessment Report (SAR) was conducted for the Travel Center property in September 2019 and December 2020, respectively. During the Phase I ESA site visit it was concluded that there was one potential Recognized Environmental Condition (REC) and two historic RECs identified. It was recommended that a Phase II be completed to further investigate the sites identified. It was concluded no further investigation or remediation is required. A Phase I certification memo was completed on December 27, 2021. An updated Phase I ESA was completed and an updated Phase I certification was completed on November 11, 2022. An updated Phase I ESA will be conducted within six months of the acceptance of title to ensure there are no significant changes to conditions on the property.

**25 C.F.R. §151.11(a) - The criteria listed in § 151.10(a) through (c) and (e) through (h)**

The Regional Director has determined these criteria are complete as addressed above.

**25 C.F.R. §151.11(b) - The location of the land relative to the State boundaries, and its distance from the boundaries of the tribe’s reservation**

The subject property is located within the County of Lake, located approximately 4.33 miles from the nearest property held in trust for the Tribe, which does not constitute a distance requiring any additional consideration.

**25 C.F.R. §151.11(c) - Where land is being acquired for business purposes, the Tribe shall provide a plan which specifies the anticipated economic benefits associated with the proposed use**

The Tribe has prepared a business plan specifying the anticipated economic benefits associated with the Tribe's travel center/convenience store. The Tribe's travel center/convenience store is designed to provide additional revenue for existing and future tribal government programs, employment opportunities and convenience services to the surrounding area, which will in turn improve the general health and welfare of all tribal members.

Per the project description, the Tribe's travel center/convenience store will be appropriately sized and designed to be aesthetically compatible with the surrounding environment. The Tribe intends to provide the sale of general merchandise and fuel to customers in its targeted market located off Highway 20 in Clearlake, California. The proposed site is connected to existing water, wastewater and other utility services infrastructure. It is expected that the Tribe will work with local municipalities for services.

Through our analysis process we have taken into consideration the concerns of the City of Clearlake with regard to anticipated losses and determined the Tribe's benefit through the planned development will additionally benefit the local community with convenience products and services as well as employment opportunities. The Tribe is committed to working with the City of Clearlake to come to an agreement of mutual benefit from the proposed development.

**25 C.F.R. §151.11(d) - Contact with state and local governments pursuant to §151.10 (e) and (f)**

On August 31, 2022, by certified mail, return receipt requested, we issued notice of, and sought comments regarding the proposed fee to trust application from the Senior Advisor for Tribal Negotiations, Legal Affairs Secretary, Office of the Governor; Sara Drake, Deputy Attorney General, State of California, Department of Justice; U.S. Senator Diane Feinstein; U.S. Senator Alex Padilla; Congressman John Garamendi, U.S. House of Representatives-3<sup>rd</sup> District; Lake County Board of Supervisors; Lake County-Office of the Assessor; Lake County-Planning Department; Lake County Public Works; Lake County Treasurer & Tax Collector; Lake County Sheriff's Department; Northshore Fire Protection District; City of Clearlake – City Council; Clearlake Police Department; Lake County Fire Protection District; Big Valley Rancheria; Elem Indian Colony; Hopland Rancheria; Middletown Rancheria; Robinson Rancheria; Scotts Valley Rancheria; and Upper Lake Rancheria. Regular Mail: Superintendent, Central California Agency.

There was no further contact with state and local governments.

See discussion of 25 C.F.R. §151.10 (e) and (f) above.

**25 CFR 151.13 Title Examination**

Title review by the Office of the Solicitor, Pacific Southwest Region, was requested on July 21, 2022, and a favorable opinion of title was issued on August 1, 2022. The procedure for acquiring title to the subject property by the United States of America in trust for the Tribe is acknowledged and in accordance with the Department's procedures.

**Conclusion**

Based on the foregoing analysis, and a finding that all applicable legal requirements have been satisfied, the Regional Director, Pacific Region, is issuing this notice of our intent to approve the taking of the subject property into trust status for the benefit and welfare of the Elem Indian Colony of Pomo Indians of the Sulphur Bank Rancheria, California. The subject acquisition will vest title in the United States of America in trust for the Elem Indian Colony of Pomo Indians of the Sulphur Bank Rancheria, California in accordance with the Indian Reorganization Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. 5108).

Any party who wishes to seek judicial review of this decision must first exhaust administrative remedies. The Regional Director’s decision may be appealed to the Interior Board of Indian Appeals (IBIA) in accordance with the regulations in 43 C.F.R. 4.310-4.340.

If you choose to appeal this decision, your notice of appeal to the IBIA must be signed by you or your attorney and must be either postmarked and mailed (if you use mail) or delivered (if you use another means of physical delivery, such as FedEx or UPS) to the IBIA within 30 days from the date of receipt of this decision. The regulations do not authorize filings by facsimile/fax or by electronic means. Your notice of appeal should clearly identify the decision being appealed. You must send your original notice of appeal to the IBIA at the following address: Interior Board of Indian Appeals, Office of Hearings and Appeals, U.S. Department of the Interior, 801 North Quincy Street, Suite 300, Arlington, Virginia 22203. You must send copies of your notice of appeal to (1) the Assistant Secretary— Indian Affairs, U.S. Department of the Interior, MS-4141-MIB, 1849 C Street N.W., Washington, D.C. 20240; (2) each interested party known to you; and (3) the Regional Director. Your notice of appeal sent to the IBIA must include a statement certifying that you have sent copies to these officials and interested parties and should identify them by names or titles and addresses.

If you file a notice of appeal, the IBIA will notify you of further procedures. If no appeal is timely filed, this decision will become final for the Department of the Interior at the expiration of the appeal period. No extension of time may be granted for filing a notice of appeal.

Sincerely,  
AMY  
DUTSCHKE  
Regional Director

Digitally signed by  
AMY DUTSCHKE  
Date: 2023.07.26  
10:09:53 -07'00'

Enclosure:  
43 CFR 4.310, et seq.

cc: Distribution List

**DISTRIBUTION LIST**

cc:

**BY CERTIFIED MAIL:**

Senior Advisor for Tribal Negotiations  
 Deputy Legal Affairs Secretary  
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Congressman Mike Thompson  
 United States House of Representatives – 4<sup>th</sup> District  
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Lake County Board of Supervisors  
 255 North Forbes St.  
 Lakeport, CA 95453  
 Certified Mail ID: 7021 0950 0000 7170 5437

Lake County Office of the Assessor  
 255 North Forbes St.  
 Lakeport, CA 95453  
 Certified Mail ID: 7017 2680 0000 6243 8257

Lake County Planning Department  
255 North Forbes St.  
Lakeport, CA 95453  
Certified Mail ID: 7017 2680 0000 6243 8264

Lake County Public Works  
255 North Forbes St.  
Lakeport, CA 95453  
Certified Mail ID: 7017 2680 0000 6243 8271

Lake County Treasurer & Tax Collector  
255 North Forbes St.  
2<sup>nd</sup> Floor, Rm 215  
Lakeport, CA 95453  
Certified Mail ID: 7017 2680 0000 6243 8288

Lake County Sheriff's Department  
1220 Martin St.  
Lakeport, CA 95453  
Certified Mail ID: 7017 2680 0000 6243 8295

Lake County Fire Protection District  
14815 Olympic Drive  
Clearlake, CA 95422  
Certified Mail ID: 7017 2680 0000 6243 8301

City of Clearlake  
City Council  
14050 Olympic Drive  
Clearlake, CA 95422  
Certified Mail ID: 7017 2680 0000 6243 8318

Clearlake Police Department  
14050 Olympic Drive  
Clearlake, CA 95422  
Certified Mail ID: 7017 2680 0000 6243 8325

Big Valley Rancheria  
2726 Mission Rancheria Road  
Lakeport, CA 95453  
Certified Mail ID: 7017 2680 0000 6243 8332

Hopland Rancheria  
3000 Shanel Road  
Hopland, CA 95449  
Certified Mail ID: 7017 2680 0000 6243 8349

Middletown Rancheria  
P.O. Box 1035  
Middletown, CA 95461  
Certified Mail ID: 7017 2680 0000 6243 8356

Robinson Rancheria  
P.O. Box 4015  
Nice, CA 95464  
Certified Mail ID: 7017 2680 0000 6243 8363

Scotts Valley Rancheria  
1005 Parallel Drive  
Lakeport, CA 95453  
Certified Mail ID: 7017 2680 0000 6243 8370

Habematolel Pomo of Upper Lake, California  
P.O. Box 516  
Upper Lake, California 95485  
Certified Mail ID: 7017 2680 0000 6243 8387

BY FIRST CLASS MAIL:

Central California Agency  
Bureau of Indian Affairs  
650 Capitol Mall, Suite 8-500  
Sacramento, CA 95814

## Office of the Secretary, Interior

## § 4.310

state specifically and concisely the grounds upon which it is based.

(b) *Notice; burden of proof.* The OHA deciding official will, upon receipt of a demand for hearing, set a time and place therefor and must mail notice thereof to all parties in interest not less than 30 days in advance; provided, however, that such date must be set after the expiration of the 60-day period fixed for the filing of the demand for hearing as provided in § 4.305(a). At the hearing, each party challenging the tribe's claim to purchase the interests in question or the valuation of the interests as set forth in the valuation report will have the burden of proving his or her position.

(c) *Decision after hearing; appeal.* Upon conclusion of the hearing, the OHA deciding official will issue a decision which determines all of the issues including, but not limited to, a judgment establishing the fair market value of the interests purchased by the tribe, including any adjustment thereof made necessary by the surviving spouse's decision to reserve a life estate in one-half of the interests. The decision must specify the right of appeal to the Board of Indian Appeals within 60 days from the date of the decision in accordance with §§ 4.310 through 4.323. The OHA deciding official must lodge the complete record relating to the demand for hearing with the title plant as provided in § 4.236(b), furnish a duplicate record thereof to the Superintendent, and mail a notice of such action together with a copy of the decision to each party in interest.

**§ 4.306 Time for payment.**

A tribe must pay the full fair market value of the interests purchased, as set forth in the valuation report or as determined after hearing in accordance with § 4.305, whichever is applicable, within 2 years from the date of decedent's death or within 1 year from the date of notice of purchase, whichever comes later.

**§ 4.307 Title.**

Upon payment by the tribe of the interests purchased, the Superintendent must issue a certificate to the OHA deciding official that this has been done and file therewith such documents in

support thereof as the OHA deciding official may require. The OHA deciding official will then issue an order that the United States holds title to such interests in trust for the tribe, lodge the complete record, including the decision, with the title plant as provided in § 4.236(b), furnish a duplicate record thereof to the Superintendent, and mail a notice of such action together with a copy of the decision to each party in interest.

**§ 4.308 Disposition of income.**

During the pendency of the probate and up to the date of transfer of title to the United States in trust for the tribe in accordance with § 4.307, all income received or accrued from the land interests purchased by the tribe will be credited to the estate.

CROSS REFERENCE: See 25 CFR part 2 for procedures for appeals to Area Directors and to the Commissioner of the Bureau of Indian Affairs.

GENERAL RULES APPLICABLE TO PROCEEDINGS ON APPEAL BEFORE THE INTERIOR BOARD OF INDIAN APPEALS

SOURCE: 66 FR 67656, Dec. 31, 2001, unless otherwise noted.

**§ 4.310 Documents.**

(a) *Filing.* The effective date for filing a notice of appeal or other document with the Board during the course of an appeal is the date of mailing or the date of personal delivery, except that a motion for the Board to assume jurisdiction over an appeal under 25 CFR 2.20(e) will be effective the date it is received by the Board.

(b) *Service.* Notices of appeal and pleadings must be served on all parties in interest in any proceeding before the Interior Board of Indian Appeals by the party filing the notice or pleading with the Board. Service must be accomplished upon personal delivery or mailing. Where a party is represented in an appeal by an attorney or other representative authorized under 43 CFR 1.3, service of any document on the attorney or representative is service on the party. Where a party is represented by more than one attorney, service on any one attorney is sufficient. The certificate of service on an attorney or

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representative must include the name of the party whom the attorney or representative represents and indicate that service was made on the attorney or representative.

(c) *Computation of time for filing and service.* Except as otherwise provided by law, in computing any period of time prescribed for filing and serving a document, the day upon which the decision or document to be appealed or answered was served or the day of any other event after which a designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday, Federal legal holiday, or other nonbusiness day, in which event the period runs until the end of the next day which is not a Saturday, Sunday, Federal legal holiday, or other nonbusiness day. When the time prescribed or allowed is 7 days or less, intermediate Saturdays, Sundays, Federal legal holidays, and other nonbusiness days are excluded in the computation.

(d) *Extensions of time.* (1) The time for filing or serving any document except a notice of appeal may be extended by the Board.

(2) A request to the Board for an extension of time must be filed within the time originally allowed for filing.

(3) For good cause the Board may grant an extension of time on its own initiative.

(e) *Retention of documents.* All documents received in evidence at a hearing or submitted for the record in any proceeding before the Board will be retained with the official record of the proceeding. The Board, in its discretion, may permit the withdrawal of original documents while a case is pending or after a decision becomes final upon conditions as required by the Board.

**§4.311 Briefs on appeal.**

(a) The appellant may file an opening brief within 30 days after receipt of the notice of docketing. Appellant must serve copies of the opening brief upon all interested parties or counsel and file a certificate with the Board showing service upon the named parties. Opposing parties or counsel will have 30 days from receipt of appellant's brief

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to file answer briefs, copies of which must be served upon the appellant or counsel and all other parties in interest. A certificate showing service of the answer brief upon all parties or counsel must be attached to the answer filed with the Board.

(b) Appellant may reply to an answering brief within 15 days from its receipt. A certificate showing service of the reply brief upon all parties or counsel must be attached to the reply filed with the Board. Except by special permission of the Board, no other briefs will be allowed on appeal.

(c) The BIA is considered an interested party in any proceeding before the Board. The Board may request that the BIA submit a brief in any case before the Board.

(d) An original only of each document should be filed with the Board. Documents should not be bound along the side.

(e) The Board may also specify a date on or before which a brief is due. Unless expedited briefing has been granted, such date may not be less than the appropriate period of time established in this section.

**§4.312 Decisions.**

Decisions of the Board will be made in writing and will set forth findings of fact and conclusions of law. The decision may adopt, modify, reverse or set aside any proposed finding, conclusion, or order of a BIA official or an OHA deciding official. Distribution of decisions must be made by the Board to all parties concerned. Unless otherwise stated in the decision, rulings by the Board are final for the Department and must be given immediate effect.

**§4.313 Amicus Curiae; intervention; joinder motions.**

(a) Any interested person or Indian tribe desiring to intervene or to join other parties or to appear as amicus curiae or to obtain an order in an appeal before the Board must apply in writing to the Board stating the grounds for the action sought. Permission to intervene, to join parties, to appear, or for other relief, may be granted for purposes and subject to limitations established by the Board. This section will be liberally construed.



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(b) Motions to intervene, to appear as *amicus curiae*, to join additional parties, or to obtain an order in an appeal pending before the Board must be served in the same manner as appeal briefs.

## § 4.314 Exhaustion of administrative remedies.

(a) No decision of an OHA deciding official or a BIA official, which at the time of its rendition is subject to appeal to the Board, will be considered final so as to constitute agency action subject to judicial review under 5 U.S.C. 704, unless made effective pending decision on appeal by order of the Board.

(b) No further appeal will lie within the Department from a decision of the Board.

(c) The filing of a petition for reconsideration is not required to exhaust administrative remedies.

## § 4.315 Reconsideration.

(a) Reconsideration of a decision of the Board will be granted only in extraordinary circumstances. Any party to the decision may petition for reconsideration. The petition must be filed with the Board within 30 days from the date of the decision and must contain a detailed statement of the reasons why reconsideration should be granted.

(b) A party may file only one petition for reconsideration.

(c) The filing of a petition will not stay the effect of any decision or order and will not affect the finality of any decision or order for purposes of judicial review, unless so ordered by the Board.

## § 4.316 Remands from courts.

Whenever any matter is remanded from any federal court to the Board for further proceedings, the Board will either remand the matter to an OHA deciding official or to the BIA, or to the extent the court's directive and time limitations will permit, the parties will be allowed an opportunity to submit to the Board a report recommending procedures for it to follow to comply with the court's order. The Board will enter special orders governing matters on remand.

## § 4.317 Standards of conduct.

(a) *Inquiries about cases.* All inquiries with respect to any matter pending before the Board must be made to the Chief Administrative Judge of the Board or the administrative judge assigned the matter.

(b) *Disqualification.* An administrative judge may withdraw from a case in accordance with standards found in the recognized canons of judicial ethics if the judge deems such action appropriate. If, prior to a decision of the Board, a party files an affidavit of personal bias or disqualification with substantiating facts, and the administrative judge concerned does not withdraw, the Director of the Office of Hearings and Appeals will determine the matter of disqualification.

## § 4.318 Scope of review.

An appeal will be limited to those issues which were before the OHA deciding official upon the petition for rehearing, reopening, or regarding tribal purchase of interests, or before the BIA official on review. However, except as specifically limited in this part or in title 25 of the Code of Federal Regulations, the Board will not be limited in its scope of review and may exercise the inherent authority of the Secretary to correct a manifest injustice or error where appropriate.

APPEALS TO THE BOARD OF INDIAN  
APPEALS IN PROBATE MATTERS

SOURCE: 66 FR 67656, Dec. 31, 2001, unless otherwise noted.

## § 4.320 Who may appeal.

(a) A party in interest has a right to appeal to the Board from an order of an OHA deciding official on a petition for rehearing, a petition for reopening, or regarding tribal purchase of interests in a deceased Indian's trust estate.

(b) Notice of appeal. Within 60 days from the date of the decision, an appellant must file a written notice of appeal signed by appellant, appellant's attorney, or other qualified representative as provided in 43 CFR 1.3, with the Board of Indian Appeals, Office of Hearings and Appeals, U.S. Department of the Interior, 801 North Quincy Street, Arlington, Virginia 22203. A

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statement of the errors of fact and law upon which the appeal is based must be included in either the notice of appeal or in any brief filed. The notice of appeal must include the names and addresses of parties served. A notice of appeal not timely filed will be dismissed for lack of jurisdiction.

(c) Service of copies of notice of appeal. The appellant must personally deliver or mail the original notice of appeal to the Board of Indian Appeals. A copy must be served upon the OHA deciding official whose decision is appealed as well as all interested parties. The notice of appeal filed with the Board must include a certification that service was made as required by this section.

(d) Action by the OHA deciding official; record inspection. The OHA deciding official, upon receiving a copy of the notice of appeal, must notify the Superintendent concerned to return the duplicate record filed under §§4.236(b) and 4.241(d), or under §4.242(f) of this part, to the Land Titles and Records Office designated under §4.236(b) of this part. The duplicate record must be conformed to the original by the Land Titles and Records Office and will thereafter be available for inspection either at the Land Titles and Records Office or at the office of the Superintendent. In those cases in which a transcript of the hearing was not prepared, the OHA deciding official will have a transcript prepared which must be forwarded to the Board within 30 days from receipt of a copy of the notice of appeal.

[66 FR 67856, Dec. 31, 2001, as amended at 67 FR 4368, Jan. 30, 2002]

**§4.321 Notice of transmittal of record on appeal.**

The original record on appeal must be forwarded by the Land Titles and Records Office to the Board by certified mail. Any objection to the record as constituted must be filed with the Board within 15 days of receipt of the notice of docketing issued under §4.332 of this part.

**§4.322 Docketing.**

The appeal will be docketed by the Board upon receipt of the administrative record from the Land Titles and

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Records Office. All interested parties as shown by the record on appeal must be notified of the docketing. The docketing notice must specify the time within which briefs may be filed and must cite the procedural regulations governing the appeal.

**§4.323 Disposition of the record.**

Subsequent to a decision of the Board, other than remands, the record filed with the Board and all documents added during the appeal proceedings, including any transcripts prepared because of the appeal and the Board's decision, must be forwarded by the Board to the Land Titles and Records Office designated under §4.236(b) of this part. Upon receipt of the record by the Land Titles and Records Office, the duplicate record required by §4.320(c) of this part must be conformed to the original and forwarded to the Superintendent concerned.

**APPEALS TO THE BOARD OF INDIAN APPEALS FROM ADMINISTRATIVE ACTIONS OF OFFICIALS OF THE BUREAU OF INDIAN AFFAIRS: ADMINISTRATIVE REVIEW IN OTHER INDIAN MATTERS NOT RELATING TO PROBATE PROCEEDINGS**

SOURCE: 54 FR 6487, Feb. 10, 1989, unless otherwise noted.

**§4.330 Scope.**

(a) The definitions set forth in 25 CFR 2.2 apply also to these special rules. These regulations apply to the practice and procedure for: (1) Appeals to the Board of Indian Appeals from administrative actions or decisions of officials of the Bureau of Indian Affairs issued under regulations in 25 CFR chapter 1, and (2) administrative review by the Board of Indian Appeals of other matters pertaining to Indians which are referred to it for exercise of review authority of the Secretary or the Assistant Secretary—Indian Affairs.

(b) Except as otherwise permitted by the Secretary or the Assistant Secretary—Indian Affairs by special delegation or request, the Board shall not adjudicate:

- (1) Tribal enrollment disputes;

## Office of the Secretary, Interior

## § 4.333

(2) Matters decided by the Bureau of Indian Affairs through exercise of its discretionary authority; or

(3) Appeals from decisions pertaining to final recommendations or actions by officials of the Minerals Management Service, unless the decision is based on an interpretation of Federal Indian law (decisions not so based which arise from determinations of the Minerals Management Service, are appealable to the Interior Board of Land Appeals in accordance with 43 CFR 4.410).

## § 4.331 Who may appeal.

Any interested party affected by a final administrative action or decision of an official of the Bureau of Indian Affairs issued under regulations in title 25 of the Code of Federal Regulations may appeal to the Board of Indian Appeals, except—

(a) To the extent that decisions which are subject to appeal to a higher official within the Bureau of Indian Affairs must first be appealed to that official;

(b) Where the decision has been approved in writing by the Secretary or Assistant Secretary—Indian Affairs prior to promulgation; or

(c) Where otherwise provided by law or regulation.

## § 4.332 Appeal to the Board; how taken; mandatory time for filing; preparation assistance; requirement for bond.

(a) A notice of appeal shall be in writing, signed by the appellant or by his attorney of record or other qualified representative as provided by 43 CFR 1.3, and filed with the Board of Indian Appeals, Office of Hearings and Appeals, U.S. Department of the Interior, 801 North Quincy Street, Arlington, Virginia 22203, within 30 days after receipt by the appellant of the decision from which the appeal is taken. A copy of the notice of appeal shall simultaneously be filed with the Assistant Secretary—Indian Affairs. As required by § 4.333 of this part, the notice of appeal sent to the Board shall certify that a copy has been sent to the Assistant Secretary—Indian Affairs. A notice of appeal not timely filed shall be dismissed for lack of jurisdiction. A notice of appeal shall include:

(1) A full identification of the case;

(2) A statement of the reasons for the appeal and of the relief sought; and

(3) The names and addresses of all additional interested parties, Indian tribes, tribal corporations, or groups having rights or privileges which may be affected by a change in the decision, whether or not they participated as interested parties in the earlier proceedings.

(b) In accordance with 25 CFR 2.20(c) a notice of appeal shall not be effective for 20 days from receipt by the Board, during which time the Assistant Secretary—Indian Affairs may decide to review the appeal. If the Assistant Secretary—Indian Affairs properly notifies the Board that he has decided to review the appeal, any documents concerning the case filed with the Board shall be transmitted to the Assistant Secretary—Indian Affairs.

(c) When the appellant is an Indian or Indian tribe not represented by counsel, the official who issued the decision appealed shall, upon request of the appellant, render such assistance as is appropriate in the preparation of the appeal.

(d) At any time during the pendency of an appeal, an appropriate bond may be required to protect the interest of any Indian, Indian tribe, or other parties involved.

[54 FR 6487, Feb. 10, 1989, as amended at 67 FR 4368, Jan. 30, 2002]

## § 4.333 Service of notice of appeal.

(a) On or before the date of filing of the notice of appeal the appellant shall serve a copy of the notice upon each known interested party, upon the official of the Bureau of Indian Affairs from whose decision the appeal is taken, and upon the Assistant Secretary—Indian Affairs. The notice of appeal filed with the Board shall certify that service was made as required by this section and shall show the names and addresses of all parties served. If the appellant is an Indian or an Indian tribe not represented by counsel, the appellant may request the official of the Bureau whose decision is appealed to assist in service of copies of the notice of appeal and any supporting documents.

**§4.334**

(b) The notice of appeal will be considered to have been served upon the date of personal service or mailing.

**§4.334 Extensions of time.**

Requests for extensions of time to file documents may be granted upon a showing of good cause, except for the time fixed for filing a notice of appeal which, as specified in §4.332 of this part, may not be extended.

**§4.335 Preparation and transmittal of record by official of the Bureau of Indian Affairs.**

(a) Within 20 days after receipt of a notice of appeal, or upon notice from the Board, the official of the Bureau of Indian Affairs whose decision is appealed shall assemble and transmit the record to the Board. The record on appeal shall include, without limitation, copies of transcripts of testimony taken; all original documents, petitions, or applications by which the proceeding was initiated; all supplemental documents which set forth claims of interested parties; and all documents upon which all previous decisions were based.

(b) The administrative record shall include a Table of Contents noting, at a minimum, inclusion of the following:

- (1) The decision appealed from;
- (2) The notice of appeal or copy thereof; and
- (3) Certification that the record contains all information and documents utilized by the deciding official in rendering the decision appealed.

(c) If the deciding official receives notification that the Assistant Secretary—Indian Affairs has decided to review the appeal before the administrative record is transmitted to the Board, the administrative record shall be forwarded to the Assistant Secretary—Indian Affairs rather than to the Board.

**§4.336 Docketing.**

An appeal shall be assigned a docket number by the Board 20 days after receipt of the notice of appeal unless the Board has been properly notified that the Assistant Secretary—Indian Affairs has assumed jurisdiction over the appeal. A notice of docketing shall be sent to all interested parties as shown

**43 CFR Subtitle A (10-1-03 Edition)**

by the record on appeal upon receipt of the administrative record. Any objection to the record as constituted shall be filed with the Board within 15 days of receipt of the notice of docketing. The docketing notice shall specify the time within which briefs shall be filed, cite the procedural regulations governing the appeal and include a copy of the Table of Contents furnished by the deciding official.

**§4.337 Action by the Board.**

(a) The Board may make a final decision, or where the record indicates a need for further inquiry to resolve a genuine issue of material fact, the Board may require a hearing. All hearings shall be conducted by an administrative law judge of the Office of Hearings and Appeals. The Board may, in its discretion, grant oral argument before the Board.

(b) Where the Board finds that one or more issues involved in an appeal or a matter referred to it were decided by the Bureau of Indian Affairs based upon the exercise of discretionary authority committed to the Bureau, and the Board has not otherwise been permitted to adjudicate the issue(s) pursuant to §4.330(b) of this part, the Board shall dismiss the appeal as to the issue(s) or refer the issue(s) to the Assistant Secretary—Indian Affairs for further consideration.

**§4.338 Submission by administrative law judge of proposed findings, conclusions and recommended decision.**

(a) When an evidentiary hearing pursuant to §4.337(a) of this part is concluded, the administrative law judge shall recommend findings of fact and conclusions of law, stating the reasons for such recommendations. A copy of the recommended decision shall be sent to each party to the proceeding, the Bureau official involved, and the Board. Simultaneously, the entire record of the proceedings, including the transcript of the hearing before the administrative law judge, shall be forwarded to the Board.

(b) The administrative law judge shall advise the parties at the conclusion of the recommended decision of their right to file exceptions or other

**Office of the Secretary, Interior****§4.351**

comments regarding the recommended decision with the Board in accordance with §4.339 of this part.

**§4.339 Exceptions or comments regarding recommended decision by administrative law judge.**

Within 30 days after receipt of the recommended decision of the administrative law judge, any party may file exceptions to or other comments on the decision with the Board.

**§4.340 Disposition of the record.**

Subsequent to a decision by the Board, the record filed with the Board and all documents added during the appeal proceedings, including the Board's decision, shall be forwarded to the official of the Bureau of Indian Affairs whose decision was appealed for proper disposition in accordance with rules and regulations concerning treatment of Federal records.

**WHITE EARTH RESERVATION LAND SETTLEMENT ACT OF 1985; AUTHORITY OF ADMINISTRATIVE JUDGES; DETERMINATIONS OF THE HEIRS OF PERSONS WHO DIED ENTITLED TO COMPENSATION**

SOURCE: 56 FR 61383, Dec. 3, 1991, unless otherwise noted.

**§4.350 Authority and scope.**

(a) The rules and procedures set forth in §§4.350 through 4.357 apply only to the determination through intestate succession of the heirs of persons who died entitled to receive compensation under the White Earth Reservation Land Settlement Act of 1985, Public Law 99-264 (100 Stat. 61), amended by Public Law 100-153 (101 Stat. 886) and Public Law 100-212 (101 Stat. 1433).

(b) Whenever requested to do so by the Project Director, an administrative judge shall determine such heirs by applying inheritance laws in accordance with the White Earth Reservation Settlement Act of 1985 as amended, notwithstanding the decedent may have died testate.

(c) As used herein, the following terms shall have the following meanings:

(1) The term *Act* means the White Earth Reservation Land Settlement Act of 1985 as amended.

(2) The term *Board* means the Board of Indian Appeals in the Office of Hearings and Appeals, Office of the Secretary.

(3) The term *Project Director* means the Superintendent of the Minnesota Agency, Bureau of Indian Affairs, or other Bureau of Indian Affairs official with delegated authority from the Minneapolis Area Director to serve as the federal officer in charge of the White Earth Reservation Land Settlement Project.

(4) The term *party (parties) in interest* means the Project Director and any presumptive or actual heirs of the decedent, or of any issue of any subsequently deceased presumptive or actual heir of the decedent.

(5) The term *compensation* means a monetary sum, as determined by the Project Director, pursuant to section 8(c) of the Act.

(6) The term *administrative judge* means an administrative judge or an administrative law judge, attorney-advisor, or other appropriate official of the Office of Hearings and Appeals to whom the Director of the Office of Hearings and Appeals has redelegated his authority, as designee of the Secretary, for making heirship determinations as provided for in these regulations.

(7) The term *appellant* means a party aggrieved by a final order or final order upon reconsideration issued by an administrative judge who files an appeal with the Board.

[56 FR 61383, Dec. 3, 1991; 56 FR 65782, Dec. 18, 1991, as amended at 64 FR 13363, Mar. 18, 1999]

**§4.351 Commencement of the determination process.**

(a) Unless an heirship determination which is recognized by the Act already exists, the Project Director shall commence the determination of the heirs of those persons who died entitled to receive compensation by filing with the administrative judge all data, identifying the purpose for which they are being submitted, shown in the records relative to the family of the decedent.

(b) The data shall include but are not limited to:

ELEM INDIAN COLONY FEE-TO-TRUST AND TRAVEL  
CENTER PROJECT  
CITY OF CLEARLAKE, CALIFORNIA  
Environmental Assessment (Updated)

Federal Lead Agency  
Department of Interior

February 2023

Bureau of Indian Affairs, Pacific Region



ELEM INDIAN COLONY FEE-TO-TRUST AND TRAVEL  
CENTER PROJECT  
CITY OF CLEARLAKE, CALIFORNIA  
Environmental Assessment (Updated)

Federal Lead Agency  
Department of Interior  
Bureau of Indian Affairs, Pacific Region

February 2023

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**Attachment**

1. Mitigation, Monitoring and Reporting Program

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- A. Regulatory Setting
- B. CalEEMod Output & Emissions Calculations
- C. Phase I and II Environmental Site Assessments
- D. Cultural Resources Inventory Report
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# CHAPTER 1

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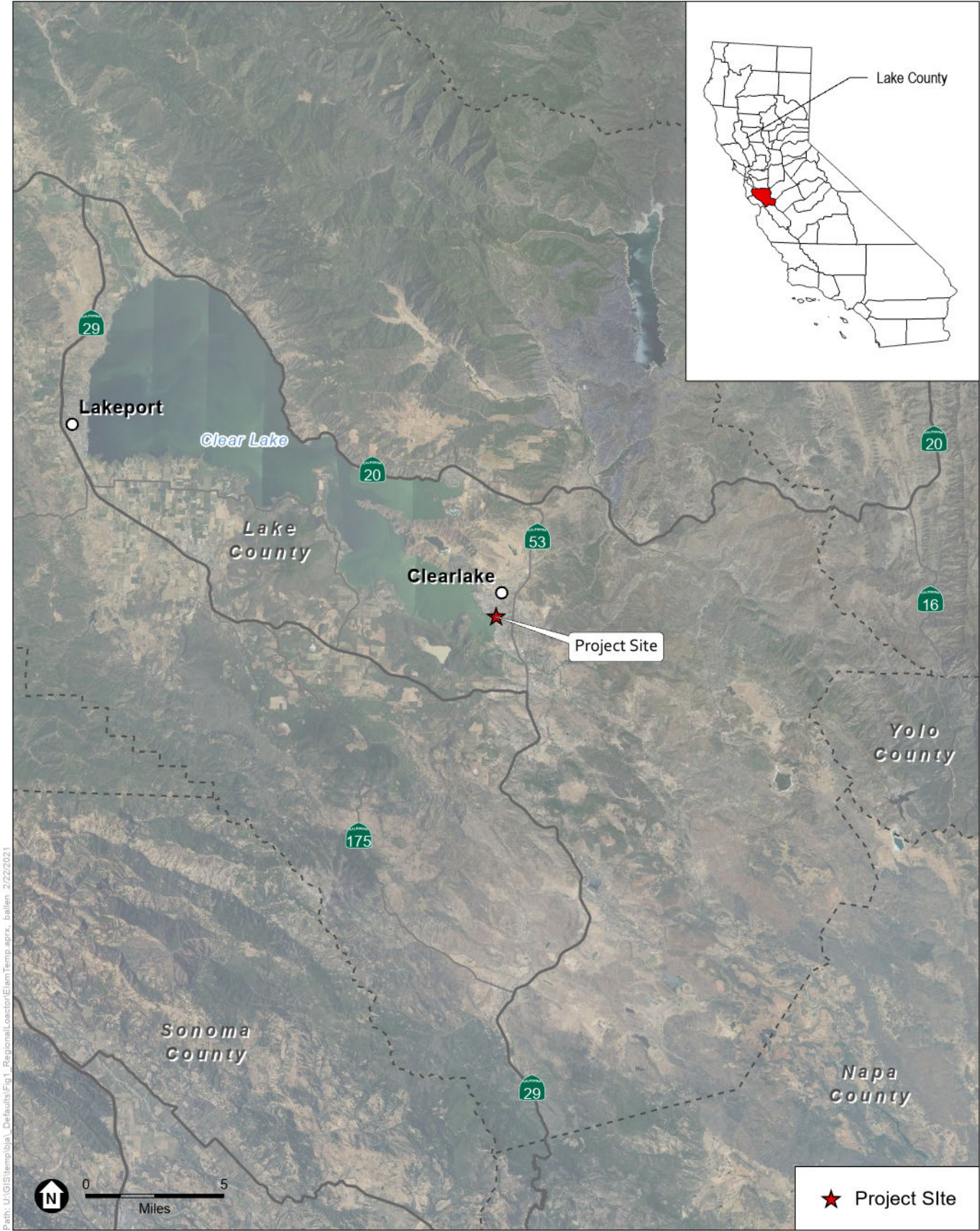
## Proposal and Need for Proposal

### 1.1 Introduction

This Environmental Assessment (EA) has been prepared on behalf of the U.S. Department of Interior (DOI), Bureau of Indian Affairs (BIA), Pacific Region for a Fee-To-Trust (FTT) land conveyance proposal by the Elem Indian Colony of Pomo Indians (Tribe) to transfer approximately one acre of land in the City of Clearlake, California (Proposed Action). The BIA, Pacific Region is the lead federal agency to review and approve the Tribal FTT actions pursuant to 25 Code of Federal Regulations (C.F.R) Part 151. This document has been completed in accordance with the requirements of the National Environmental Policy Act (NEPA) of 1969 (42 United States Code [U.S.C.] § 4321 et seq.); the Council on Environmental Quality (CEQ) Guidelines for Implementing NEPA (40 CFR Parts 1500–1508); and the BIA’s NEPA Guidebook (59 IAM 3-H). NEPA requires federal agencies to review and analyze the environmental consequences associated with proposed federal actions. This document provides a detailed description of the Proposed Action and analysis of the potential consequences associated with the Proposed Action. This document also includes a discussion of the proposed No Action Alternative, along with impact avoidance and minimization efforts to mitigate impacts.

### 1.2 Project Site and Vicinity

The approximately one-acre project site is located in the City of Clearlake (City), in south-central Lake County, California, adjacent to Lakeshore Drive. **Figure 1** depicts the regional setting of the project site. The project site is located near the southern shore of Clear Lake, the largest natural freshwater lake within California (City of Clearlake, 2016). Clear Lake, the largest freshwater lake in California, is located 0.15 miles to the west of the project site. The project site is approximately 1,350 feet above mean sea level. The project site is located in Township 13 North, Range 7 West, Mount Diablo Meridian. The project site consists of two contiguous parcels of land as shown on **Figure 2**. The project site is bounded by: Lakeshore Drive to the north; commercial buildings to the east; the Clearlake Youth Center and a baseball field and park to the south; and Golf Avenue to the west.



SOURCE: NAIP, 2016; ESRI, 2012; ESA, 2020

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**Figure 1**  
Regional Location





SOURCE: Esri, 2018; SSURGO, 2019; Lake County, 2020; ESA, 2020.

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**Figure 2**  
Project Site Aerial

## 1.3 Purpose and Need

The statutory authority for acquiring lands in trust status for Indian tribes is provided in the Indian Reorganization Act of 1934 (IRA), with regulations under 25 U.S.C. § 465 and codified as 25 CFR Part 151. The Land Acquisition Policy presented in 25 CFR § 151.3 states that, “land may be acquired for a tribe in trust status when that land is within the tribe’s reservation boundaries; or is already owned by the tribe; or the Secretary of the Interior determines that land acquisition is necessary to facilitate tribal self-determination, economic development or Indian housing.” The BIA is the lead federal agency to review and approve the FTT action pursuant to 25 CFR Part 151.3. The Tribe has submitted an application to BIA for land conveyance of approximately one acre into federal trust for tribal economic development.

One of the Tribe’s objectives is to generate income that will enable the Tribal government to better address the needs of the Tribal membership and those of future generations. A sustained revenue base would provide funding for Tribal government operations and programs, thereby strengthening the self-sufficiency of the Tribe. Additionally, increased revenue would improve the socioeconomic condition of Tribal members and reduce dependence on public assistance programs. As such, implementation of the Proposed Action would assist the Tribe in meeting the following objectives:

- Achieving economic self sufficiency
- Providing employment opportunities for Tribal members
- Providing funding for administrative, health and welfare, housing, educational, social, and other Tribal services

## 1.4 Overview of the Environmental Review Process

This EA has been prepared to analyze and document the environmental consequences associated with the Proposed Action. The BIA will use this EA to determine (1) if the Proposed Action would result in significant impacts to the environment and (2) whether a Finding of No Significant Impact (FONSI) or an Environmental Impact Statement should be prepared. The BIA published a newspaper notice and circulated the EA for a 30-day public review period in January 2022 and a draft FONSI was also circulated for public review. The BIA received three comment letters on the EA for the Proposed Action. This revised EA addresses the commenters concerns and provides updates to clarify specific resource topics and issue areas, i.e., Socioeconomic and Environmental Justice. Based on this revised and updated EA, the BIA has determined that a FONSI is applicable, the BIA will publish a newspaper notice and circulate the EA/FONSI. This revised EA, the public review EA and all review documents will be made available online.

# CHAPTER 2

---

## Alternatives

This EA analyzes the Proposed Action and a No Action Alternative. These alternatives are described below.

### 2.1 Proposed Action

#### 2.1.1 Commercial Development

In addition to the aforementioned FTT action, the Proposed Action includes the redevelopment of two parcels (Assessor Parcel Numbers [APNs] 040-240-07 and 040-240-08), comprising approximately one acre. The parcel with APN-040-240-08 is undeveloped with a gravel parking lot and mixed non-native vegetation. The parcel with APN-040-240-07 contains a First Loan commercial building and associated paved parking lot. The existing First Loan building and parking lot would be demolished, removed, and disposed of in accordance with federal, State, and local regulations, and the redevelopment of the project site with construction and operation of a multi-use travel center owned and operated by the Tribe including fueling station, electric vehicle (EC) charging stations, and associated infrastructure and landscaping improvements (**Figures 3a, 3b, and 3c**).

#### Travel Center

The proposed multi-use travel center would consist of a one-story, approximately 8,000 square foot structure containing a 6,000 square foot convenience center and a 2,000 square foot office space. The 2,000 square foot office space is anticipated to accommodate the existing First Loan office and its employees. The exterior of the proposed building would be finished using natural tones to the extent feasible, in keeping with the visual setting provided by the adjacent Redbud Park. The project site would be improved to include a paved parking lot with up to 28 parking spaces. Eight to ten parking spaces along the backside of the project site (adjacent to Redbud Park) would include electric vehicle (EV) charging stations, further discussed below.

There are existing paved access connections from the project site onto Lakeshore Drive and Golf Avenue. The existing right of ways and ingress and egress routes are sufficient for the Proposed Action and no road realignments or alterations of existing access points are necessary to implement the Proposed Action.

The wider paved connection from Lakeshore Drive would be maintained and improved as a joint ingress/egress route while the paved connection from Golf Avenue would be maintained and improved as an ingress route onto the project site. Curbs and sidewalks adjacent to the entire project site would be upgraded to current City standards along Lakeshore Drive and Golf Avenue.



SOURCE: Paragon Solutions, 2022

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**Figure 3a**  
Conceptual Site Design – Overview





2019.D190986.00 - Elem Indian Colony05 Graphics-GIS-Modeling/Illustrator

SOURCE: Paragon Solutions, 2022

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2019.D190986.00 - Elem Indian Colony05 Graphics-GIS-Modeling/Illustrator

SOURCE: Paragon Solutions, 2022

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**Figure 3c**  
Conceptual Site Design – View from Golf Avenue

## Fueling Station and Electric Vehicle (EV) Charging Stations

The fueling station would consist of a fuel island with up to ten dispensers and associated new underground fuel storage tanks. Each dispenser would require three underground double-walled fuel storage tanks (UST) for different grades of fuel including regular gas and diesel, each with capacity to store up to 10,000 gallons of fuel. As further discussed in Section 3.11.1.1, the fueling station would conform to federal regulations (40 CFR Part 280) for new underground storage tank systems including requirements for tank design, the installation and maintenance of leak detection and prevention systems, and spill and overfill controls to minimize the risk of release of petroleum into the environment. Leak prevention measures required under 40 CFR Part 280 include corrosion resistant and double-walled tanks and piping, inclusion of spill and overflow prevention equipment, and use of leak detection equipment. 40 CFR 280 also includes requirements for tank installation, monitoring and reporting, corrective action, remediation and site cleanup, and tank closure and removal. Standard vapor recovery systems would be installed, as required by Lake County Air Quality Management District (LCAQMD), to prevent dissipation of petroleum fumes during fueling.

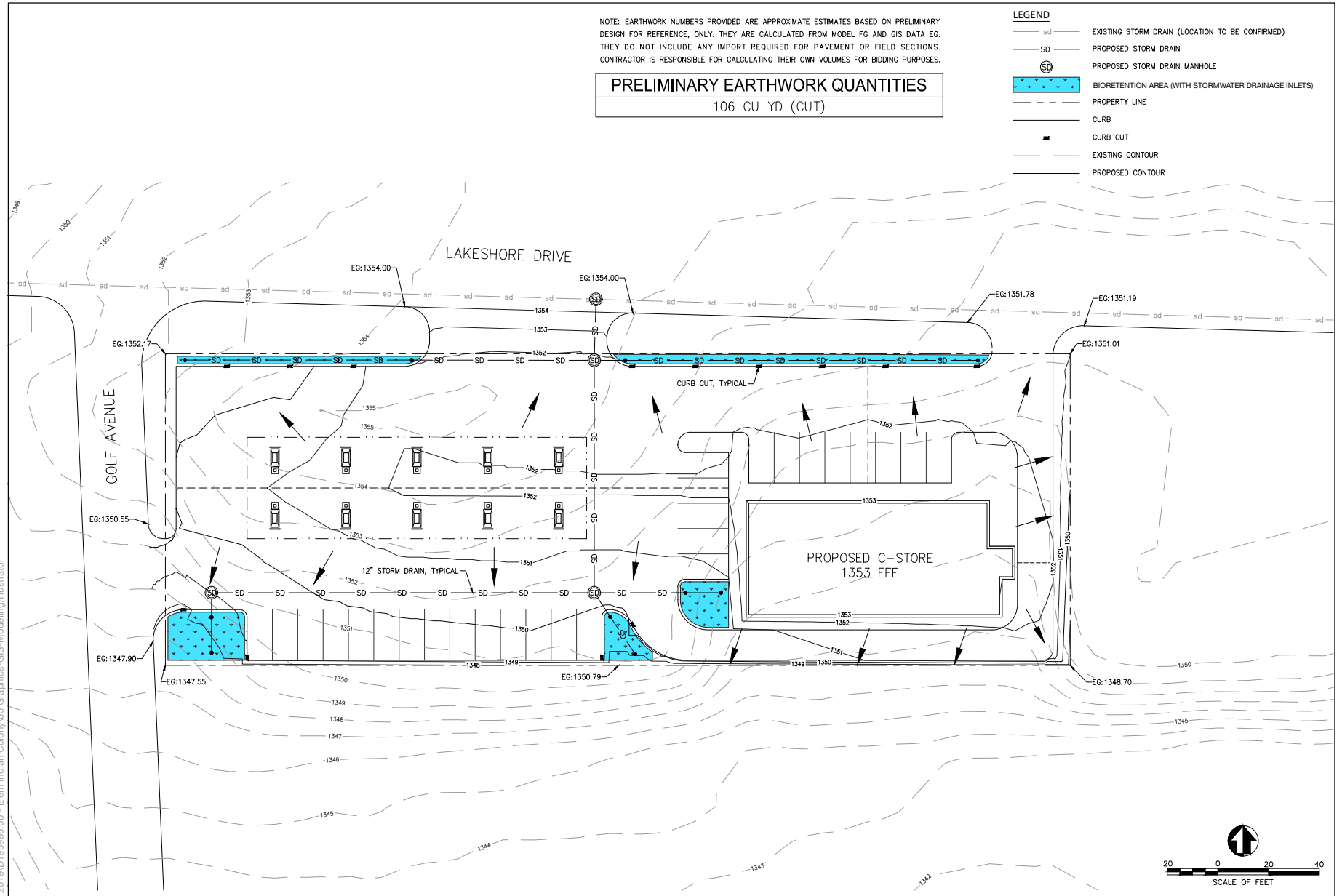
As proposed, the travel center would generally operate from 6 a.m. to 11 p.m. daily and would employ 20-25 persons. Daily staffing would vary depending on local market conditions, time of day, weekdays versus weekends, as such, it is expected that employees would work various shifts and would not all be on-site every day. The First Loan would operate during normal business hours and may have up to two employees on-site based on local conditions, such as, workload, use of office equipment and need for in-person meetings. Staffing needs for First Loan business is currently unknown at this time. The Proposed Action also includes installation and occasional operation of an emergency generator to during regional power outages.

### 2.1.3 Grading, Drainage, and Stormwater Management

The Proposed Action would import up to 1,600 cubic yards of fill for backfilling and compaction around the new fuel storage tanks, convenience store foundation base, aggregate base (Type 2 Roadbase) for grading and compaction, to level and prepare the ground surface for construction and finishing with asphalt pavement. Approximately 106 cubic yards of overburden (spoils) material would be removed from the project site for the installation of storm drains, curb cuts, and related stormwater infrastructure (**Figure 4**). Spoils and overburden materials would be off-hauled and disposed of in accordance with federal State, and local regulations. The project site would be re-graded to direct and convey stormwater flows towards new curbs, new on-site stormwater bioretention areas equipped with drainage inlets and/or gutters. New stormwater drop-inlets and stormwater drains would be routed to City-managed stormwater facilities.

Several bioretention areas would be developed on the project site to allow for stormwater retention and water quality improvements prior to discharge to City-managed stormwater systems and facilities. These bioretention areas include curb cuts to collect on-site stormwater runoff and stormwater drainage inlets to capture excessive runoff during storm events. The bioretention areas would be installed along the improved sidewalk adjacent to Lakeshore Drive, surrounding the travel center building, and along the backside of the parking lot, adjacent to Redbud Park. Refer to Figure 4 for preliminary grading, drainage, and stormwater management plans.





SOURCE: PSOMAS, 2022

Elem Indian Colony Fee-to-Trust and Travel Center Project EA

## 2.1.4 Construction

Construction of the travel center, fueling station and associated infrastructure improvements would begin after the one-acre project site has been placed into federal trust. Construction of the travel center would involve demolition of the existing on-site building, earthwork, placement of concrete foundations, steel and wood structural framing, masonry, electrical and mechanical work, and building finishing, among other construction trades. The aforementioned construction activities are anticipated to occur in 2024. Construction of the Proposed Action is anticipated to occur six days a week and would comply with applicable construction standards identified and discussed in this NEPA EA.

All proposed development would adhere to the building standards of the California Building Code (CBC). As further discussed in Section 3.11.1.1, a Phase I Environmental Site Assessment (ESA) and Phase II ESA were completed for the project site, with the Phase I ESA completed in 2019 and the Phase II ESA completed in 2020. The Phase I and II ESAs identified and evaluated one potential onsite recognized environmental condition (REC): a former structure containing asbestos materials was demolished and the demolished materials were removed from the property in 2018. The Phase I and II ESAs concluded that the threat to human health from historic and potential RECs is considered low. Nevertheless, an updated Phase I ESA will be prepared to address the existing commercial building onsite. During demolition and construction of the Proposed Action, the Tribe will follow applicable federal, State and local guidelines for waste containment and disposal, and any hazardous materials identified during demolition would be disposed of in a landfill capable of receiving those materials.

To avoid and minimize effects of the Proposed Action, Best Management Practices (BMPs) have been incorporated into the Proposed Action. BMPs included as part of the Proposed Action are relatively standardized and compulsory; and they represent sound and proven methods to reduce the potential effects of an action. The rationale behind including BMPs is that the project applicant commits to undertake and implement these measures in advance of impact findings and determinations in good faith to improve the quality and integrity of the Proposed Action, streamline the environmental analysis, and demonstrate responsiveness and sensitivity to environmental quality. BMPs include but are not limited to the following:

- A worksite safety plan would be prepared prior to construction
- Preparation and implementation of the Stormwater Pollution Prevention Plan
- Water would be applied to the site during construction in sufficient quantities to prevent the generation of visible dust plumes
- Soil binders would be applied to uncovered areas/exposed soils, as needed
- On-site vehicle speeds would be limited to 15 miles per hour or less

## 2.1.5 Public Services and Utilities

The new development associated with the Proposed Action would connect to existing or upgraded water, wastewater, and energy utility lines at the project site. Potable water at the project

site is provided by the Highlands Mutual Water Company through its appropriate water rights to surface water diversions from Clear Lake. The Southeast Regional Wastewater System provides wastewater service to the City, including the project site. The Tribe will coordinate with Pacific Gas and Electricity (PG&E) for electrical service to be extended to the project site.

Law enforcement services would be provided by the City's Police Department or the Lake County Sheriff's Office. Fire protection services would be provided by the Lake County Fire Protection District.

## 2.2 No Action Alternative

Under the No Action Alternative, the project site would not be placed into federal trust for the benefit of the Tribe. For purposes of environmental analysis of the No Action Alternative in this EA, it is assumed that the existing commercial/office use (First Loan building) would continue as is. The No Action Alternative would not meet the purpose and need of the Tribe or meet its objectives, specifically:

- Achieve economic self sufficiency
- Provide employment opportunities for Tribal members
- Provide funding for administrative, health and welfare, housing, educational, social, and other Tribal services.

# CHAPTER 3

## Environmental Impacts

---

### Introduction

This chapter includes an analysis of the environmental impacts for the following issues:

- Land Resources
- Water Resources
- Air Quality
- Biological Resources
- Cultural Resources
- Socioeconomic Conditions and Environmental Justice
- Land Use
- Transportation
- Public Services and Utilities
- Noise
- Hazards
- Visual Resources

For each issue area, a brief environmental setting is provided and followed by a discussion of environmental impacts that would result from the development of the Proposed Action Alternative and No Action Alternative. The CEQ's Regulations for Implementing NEPA (40 CFR § 1508.27) define significance of effects in terms of context and intensity. Context refers to society as a whole, the affected region or interests, and the locality. The significance of effects varies depending on the setting of a proposed action. Intensity refers to the severity of effect. The following issues were considered in evaluating intensity:

- Effects may be both beneficial and adverse
- Degree of public health or safety effects
- Unique resource characteristics of the geographic area
- Degree of controversy over environmental effects
- Uncertainty and unknown risks of effects
- Degree to which the action may set a precedent
- Cumulative effects
- Effects on scientific, cultural, or historic resources
- Effects to endangered or threatened species or its habitat
- Violation of federal, state, or local environmental regulations

## Cumulative Impacts

Cumulative effects analysis broadens the scope of analysis to include effects beyond those directly attributable to the implementation of the Proposed Action and the alternatives. Cumulative effects are defined in 40 CFR § 1508.7 as the impacts “...on the environment which result from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless what agency (federal or non-federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.”

The cumulative analysis in **Sections 3.1 through 3.12**, expands the geographic and temporal borders to include the effects on specific resources, ecosystems, and human communities that occur incrementally when combined with other actions, projects and trends. The purpose of the cumulative effects analysis, as stated by CEQ “is to ensure that federal decisions consider the full range of consequences” (1997). Unless otherwise specified, the cumulative analysis in **Sections 3.1 through 3.12** considers the Proposed Action and build-out of the City’s General Plan (2017). The No Action Alternative would not alter existing site uses and is not anticipated to result in new significant cumulative impacts; as such, cumulative impacts from the No Action Alternative are not discussed further in this EA.

## Indirect Impacts

Under NEPA, indirect and growth-inducing effects of a Proposed Action must be analyzed (40 CFR § 1508.8(b)). The CEQ Regulations define indirect effects as effects that are caused by the action and are later in time or further removed in distance, but are still reasonably foreseeable. Growth-inducing effects are defined as effects that foster economic or population growth, either directly or indirectly. Direct growth inducement could result, for example, if a Proposed Action includes the construction of a new residential development. Indirect growth inducement could result if a project establishes substantial new permanent employment opportunities or if it removes obstacles to population growth (e.g., expansion of public utilities or roadway capacity).

Although the Proposed Action would establish new permanent employment opportunities, it is not expected to have an impact on indirect growth because of the small number of employment opportunities generated (20-25 employees) needed to staff the convenience store. Moreover, it is anticipated that new employees will largely be Tribal members or other people already residing in the City or vicinity of the Proposed Action. Additionally, the Proposed Action is not expected to be directly growth-inducing as it would not provide new residential housing on the project site.



## 3.1 Land Resources

The following section describes the existing setting and analyzes impacts related to topography, geology, soils, mineral resources, and seismicity.

### 3.1.1 Setting

#### 3.1.1.1 Environmental Setting

##### ***Topography and Geology***

The project site is located on the United States Geological Survey (USGS) 7.5 Minute, Clearlake Highlands, California Quadrangle map. The elevation of the project site is approximately 1,350 feet above mean sea level. The City is located within the San Andreas Fault system. However, according to the City's General Plan Local Seismic Hazard Area map, the project site is not situated within a fault zone (City of Clearlake, 2016).

The City lies atop a geologic setting of tectonic activity within the San Andreas Fault system. The Clear Lake volcanic field contains lava dome complexes, cinder cones and maars of basaltic-to-rhyolitic composition (City of Clearlake, 2016).

##### ***Soils***

The project site is underlain by the Late Pleistocene-aged Lower Lake Formation (QII). The Lower Lake Formation is composed of siltstone, claystone, tuff and conglomerate. Soils on the project site are shown in **Figure 5**. The soil beneath the project site consists of Asbill Clay Loam, 5 to 8 percent slopes, and Manzanita Loam, 2 to 5 percent slopes.

##### ***Mineral Resources***

Mineral resources in the City include mercury, borax, manganese, sand and gravel, and naturally occurring asbestos. The Sulphur Bank Mine, located just outside the City limits was in operation until 1957 and contains hazardous materials (City of Clearlake, 2016). No known active mines are located within the project site.

Classification of land within California takes place according to a priority list that was established by the State Mining and Geology Board (SMGB) in 1982, or when the SMGB is petitioned to classify a specific area. The SMGB has also established Mineral Resources Zones (MRZ) to designate lands that contain mineral deposits. Clearlake County and the project site are not located within a mapped MRZ (California Department of Conservation, 2015).

##### ***Seismicity***

The Uniform Building Code (UBC) Seismic Zone Map divides the United States into zones of potential earthquake damage. The four UBC Seismic Zones are Zone 0 (no damage), Zone 1 (minor damage), Zone 2 (moderate damage), Zone 3 (major damage), and Zone 4 (major damage caused by near-by fault movements). The City, including the project site, is located in Seismic Zone 4 (NRC, 2015).



SOURCE: Esri, 2018; SSURGO, 2019; Lake County, 2020; ESA, 2020.

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**Figure 5**  
Soils Map

The nearest fault zone to the project site is the San Andreas Fault, located 55 miles to the west. Motion along the San Andreas Fault zone is primarily lateral (i.e., strike-slip faulting), although a vertical component is likely present. The San Andreas Fault zone is considered active, with major ruptures occurring between 20 and 300 year intervals, at magnitudes of 6.8-8.0 (SCEDC, 2020).

Liquefaction is a phenomenon in which loose, water-saturated, granular soils temporarily behave like a fluid when subjected to high-intensity ground shaking such as seismic events. Liquefaction occurs when three general conditions exist: 1) shallow groundwater, 2) low-density silty or fine sandy soils, and 3) high-intensity ground motion. According to the City's General Plan, the City could experience liquefaction during an earthquake (City of Clearlake, 2016).

### 3.1.1.2 Regulatory Setting

Relevant regulatory setting information is included in Appendix A.

## 3.1.2 Impact Analysis

### 3.1.2.1 Proposed Action

#### ***Topography and Geology***

Construction of the Proposed Action would require clearing and grading within the project site. The proposed development is located in a developed and disturbed area with minor topographic variation and thus would require only minor alterations to site topography. As such, impacts would be less than significant.

#### ***Soils***

Construction would likely expose soil and has the potential to increase the risk of erosion and sedimentation, which is a potentially significant impact. A Stormwater Pollution Prevention Plan (SWPPP) is included as **Mitigation Measure 3.2-1** in Section 3.2, Water Resources. Preparation of a SWPPP, would outline BMPs and other measures that would be taken to reduce or eliminate impacts arising from erosion and sedimentation. With implementation of the SWPPP, impacts to soils and erosion would be less than significant.

#### ***Mineral Resources***

No known mineral resources are located within the project site boundaries; therefore, no impact to mineral resources would occur.

#### ***Seismicity***

The project site is located 55 miles east of the active San Andreas Fault Zone. The potential seismic hazards as discussed above include ground shaking, liquefaction, and earthquake-induced settlement. As discussed in the project description in Chapter 2, construction would adhere to the building standards of the California Building Code (CBC) in Seismic Zone 4. Construction to these standards would reduce the risk of seismic hazards to a less-than-significant level.

### 3.1.2.2 No Action Alternative

Under the No Action Alternative, the project site would not be placed into federal trust for the benefit of the Tribe. Under the No Action Alternative, the existing commercial/office use (First Loan building) would continue as is. Operations and maintenance of the existing commercial office use on the project site would not result in significant impacts with respect to land resources. Any new development must be consistent with the CBC Seismic Zone 4 requirements, the Clean Water Act and City development regulations.

### 3.1.3 Cumulative Impact Analysis

Impacts associated with land resources would be limited geographically to the site itself and temporally to the construction phase. If concurrent construction activities are underway or planned in the immediate vicinity of the project site, those project sites would be implemented under similar or more rigorous regulations and building codes. In addition, all new construction and land uses would be consistent with City's construction standards, zoning codes and land resources policies outlined in its Municipal Code and/or General Plan. As such, the Proposed Action is not anticipated to contribute to cumulative impacts. The potential for stormwater runoff from construction is addressed in Section 3.2., Water Resources.

## 3.2 Water Resources

This section describes the existing setting and analyzes impacts related to surface water and drainage, flooding, groundwater hydrology, and water quality.

### 3.2.1 Setting

#### 3.2.1.1 Environmental Setting

Section 1.2, “Project Site and Vicinity” provides a discussion on the location and elevation of the project site. Annual precipitation in the vicinity averages about 27 inches. Precipitation in the project site primarily falls as rainfall between October and April (Lake County Watershed Protection District, 2006a).

##### ***Surface Water and Drainage***

The project site is located within the Cache Creek/Lower Arm watershed drainage basin. Main tributaries to the Lower Arm include Burns Creek and Siegler Canyon-Copsey Creeks and the main source of inflow is Clear Lake (City of Clearlake, 2016). Surface water within the project site flows overland to the south toward a drainage swale along the southern boundary of the project site (LACO, 2019). Flows in this drainage are routed to City-managed stormwater facilities.

##### ***Flooding***

The Federal Emergency Management Agency (FEMA) is responsible for delineating areas that are expected to be subject to flooding during a 100-year flood event. A 100-year flood event is defined as the area that is expected to be inundated by flood flows during a rainfall event that would have an annual probability of occurrence of one percent. FEMA creates and maintains Flood Insurance Rate Maps that identify areas located within the 100-year floodplain. Based on a review of FEMA maps, the project site is not within a 100-year floodplain (**Figure 6**).

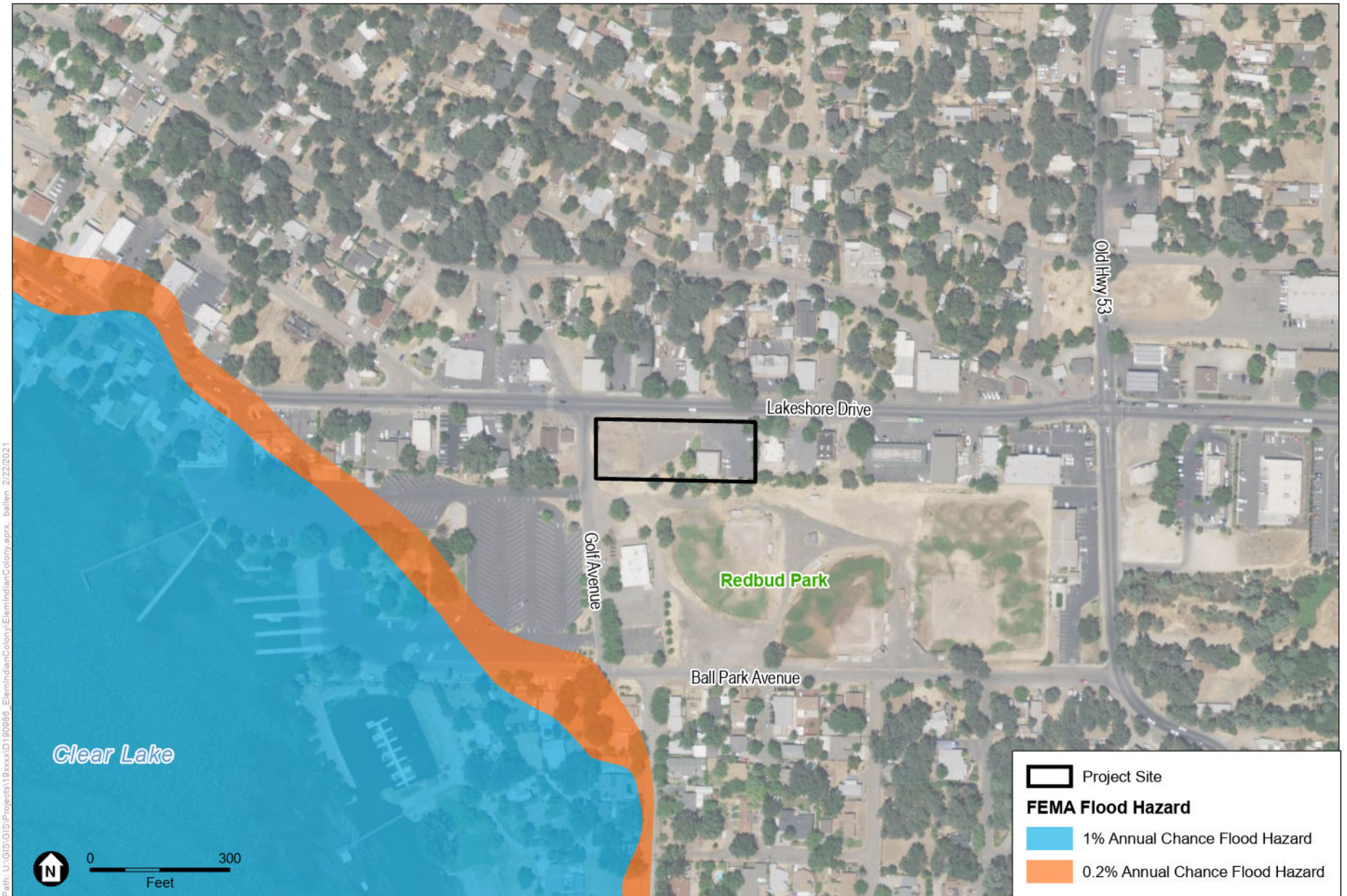
##### ***Groundwater***

The project site overlays the Clear Lake Cache Formation Groundwater Basin. The Clear Lake Cache Formation Groundwater Basin is located east of Clear Lake and shares a boundary with the Burns Valley Groundwater Basin in the southwest. Groundwater in the vicinity of the project site is used primarily for agricultural, with average-year demand of approximately 85 acre-feet per year (Lake County Watershed Protection District, 2006b). There are no groundwater wells located within the project site.

#### 3.2.1.2 Regulatory Setting

Relevant regulatory setting information is included in Appendix A.





SOURCE: USDA, 2018; FEMA, 2005; Lake County, 2020; ESA, 2020.

Elem Indian Colony Fee-to-Trust and Travel Center Project EA

**Figure 6**  
FEMA Flood Hazard Map

## 3.2.2 Impact Analysis

### 3.2.2.1 Proposed Action

#### ***Surface Water, Drainage and Flooding***

Construction of the Proposed Action would involve grading, which would temporarily disturb surface sediments, which could become entrained in stormwater during a storm event. Additionally, oils, greases, fuels, and other construction-related fluids could be released during construction, become entrained in stormwater flows, and contribute to water quality degradation. These impacts during construction are considered potentially significant. **Mitigation Measure 3.2-1** includes the development of a SWPPP, which will include BMPs for erosion and sediment control to protect water quality and meet local water quality objectives. Implementation and adherence to these BMPs would substantially reduce or prevent soil or chemicals from entering local waters and downstream water bodies. With **Mitigation Measure 3.2-1**, impacts related to water quality degradation would be reduced to a less-than-significant level.

The Proposed Action could increase the amount of impervious surfaces on site, primarily through the conversion of the graveled surfaces to paved surfaces. As the project site has been previously developed with hardscape materials, on existing building and demolished structure as noted in Section 3.11 Hazardous. The increase in new impervious surface is minor, particularly since the graveled area is largely impervious under existing conditions due to previous development and paved and impervious areas underneath the gravel surfaces. Surface waters within the project site currently flow overland and drain into the City-managed stormwater system. The Proposed Action would include several bioretention areas throughout the project site to allow for stormwater retention and water quality improvements prior to discharge into the City-managed stormwater system. These bioretention areas would include curb cuts to collect on-site stormwater and several stormwater drainage inlets to capture excessive runoff during storm events. Consistent with existing conditions, stormwater flows from the project site would be routed to existing City-managed stormwater facilities. The bioretention areas would reduce, minimize and/or eliminate additional stormwater runoff from new impervious surfaces installed through development of the Proposed Action. Furthermore, the City-managed stormwater system is designed to manage and convey similar flow rates and volumes from the project site, as well as flows from adjacent properties and parcel throughout the City. The additional impervious surfaces, if any, associated with the Proposed Action is a very small portion of the larger watershed, which is characterized by this type of urban development. As shown in Figure 6, the development of the Proposed Action is located outside of the 100-year floodplain. Thus, the Proposed Action would not result in significant impacts related to increased stormwater runoff or flooding during operations.

#### ***Groundwater***

The Proposed Action would not involve pumping or use of groundwater as supply source. The increase in impervious surface is minor, particularly since the graveled area is largely impervious under existing conditions due to previous development and paved and impervious areas underneath the gravel surfaces. The minor addition of impervious surfaces represents a very small portion of the larger groundwater basin and thus would not substantially interfere with

groundwater recharge. Therefore, impacts to groundwater from the Proposed Action would be less than significant.

**Mitigation Measure 3.2-1:** Prior to the initiation of construction activities on site disturbing an acre or more, the Tribe shall prepare a SWPPP, and shall implement the SWPPP during construction on site. BMPs shall target minimization of erosion, minimization of sedimentation, and minimization of the release of stormwater pollutants from construction equipment and activities. BMPs may include, but are not limited to the following:

- Prepare a spill prevention and control plan;
- Inspect work area and surrounding area, identify existing pollutants, keep the worksite clean to prevent loss of accumulated debris into stormwater channels.
- Any material stored outside that is susceptible to "wash-off" when it rains shall be protected from the effects of wash off through the use of covers and/or secondary containment as necessary.
- All material will be stored in specified lay down areas and secured after every work shift.
- Any construction debris and/or waste will be cleaned up after every work shift.
- Stockpile soil under cover in a manner that minimizes contact with process water or storm water. Keep covered end secured at all times except when adding or removing soil. Store in containers or in the following manner:
  - Underlay the soil with a continuous impervious sheet of plastic with a thickness sufficient to contain the soil with a minimum thickness of 0.254 millimeters (10 mils). Thicker or reinforced plastic or other measures to protect the integrity of the plastic underlayment may be required if there is a danger that the plastic will be punctured or torn during accumulation. Weld, heat seal or continuously tape (on both sides) all seams. Protect the plastic from perforation during loading and handling operations.
  - Install an impervious continuous sheet of plastic of 0.254 millimeters (10 mils) thickness, over the pile. Weld, heat seal or continuously tape (on both sides) all seams.
  - Secure the top cover to ensure that wind will not balloon the cover or blow it aside leaving the pile exposed to weather.
- Street sweep as necessary.
- Install physical barriers (e.g. setbacks/buffers, silt fencing and/or straw wattles) to prevent erosion and sedimentation.
- Establish protocols for vehicle refueling and maintenance.
- Minimize work during the storm season.
- Stabilize construction equipment entrance/exit.



- Revegetate disturbed soils.

### 3.2.2.2 No Action Alternative

Maintenance of the existing commercial office use on the site would not result in significant impacts with respect to water resources. Any future development would need to be consistent with the federal Clean Water Act and City development regulations.

### 3.2.3 Cumulative Impact Analysis

Impacts associated with water resources would be limited geographically to the drainage and groundwater basins which capture water from the project site and temporally to construction and operational phases. The Proposed Action is not located within a designated floodplain and thus would not contribute to cumulative flooding impacts. The Proposed Action would represent a negligible increase in impervious surfaces within the larger, developed drainage and groundwater basins and thus is not anticipated to significantly increase runoff or reduce groundwater recharge. Mitigation Measure 3.2-1 is proposed to reduce potential impacts to water quality during construction. If concurrent construction activities are underway or planned in the immediate vicinity, those project sites would likely have similar BMPs, and/or more rigorous mitigation measures to protect water quality objectives. Furthermore, projects in the vicinity are likely to be developed on previously developed parcels with similar urbanized and impervious surfaces and similar to existing conditions would also convey stormwater runoff to the City-managed stormwater system for attenuation and discharge. The City-managed stormwater system currently collects and manages stormwater flows throughout the City and as previously discussed, additional stormwater flows from the Proposed Action would be minor or negligible, for these reasons, the Proposed Action is not anticipated to contribute to cumulative impacts.

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## 3.3 Air Quality

This section describes the air quality of the project site and addresses the impacts of the alternatives on ambient air quality and the exposure of people, especially sensitive individuals, to unhealthy pollutant concentrations.

### 3.3.1 Setting

#### 3.3.1.1 Environmental Setting

##### ***Regional Topography, Climate and Meteorology***

The project site is located in Clearlake, California within the boundaries of the Lake County Air Basin (LCAB). The 1,200 square mile air basin is surrounded by mountains and is characterized by hot, dry summers and cool, wet winters. Temperatures range from about 90 degrees Fahrenheit in the summer to mid-50s in the winter months. The LCAB is dominated by synoptic weather patterns typical of the northern California intermountain coastal climate (LCAQMD, 2002). The Lake County Air Quality Management District (LCAQMD) is the regional agency responsible for protecting public health from air pollution within the LCAB.

##### ***Existing Ambient Air Quality***

The ambient concentrations of air pollutants are determined by the volume of emissions released by sources and the atmosphere's ability to transport and dilute such emissions. Natural factors that affect transport and dilution include terrain, wind, atmospheric stability, and sunlight. Therefore, existing air quality conditions in the area are determined by topography, meteorology, and climate, and the volume of emissions released by existing air pollutant sources.

The California Air Resources Board (CARB) collects ambient air quality data locally through a network of air monitoring stations throughout the State. The closest monitoring station to the project site is located at 2617 South Main Street in Lakeport, CA, approximately 15 miles northwest of the project site. This station monitors ambient concentrations of 8-hour ozone, 1-hour ozone, PM<sub>2.5</sub>, and PM<sub>10</sub>. There are no monitoring stations within the LCAB that measure concentrations of NO<sub>2</sub> or CO, and measurements of these pollutants outside of the air basin would not be representative of ambient air quality in the vicinity of the project site. **Table 3.3-1** identifies the most recent available data for federal and State ambient air quality standards for the relevant air pollutants, along with the ambient pollutant concentrations that were measured between 2017 and 2019.

##### ***Sensitive Receptors***

Some receptors are considered more sensitive than others to air pollutants. Reasons for greater sensitivity include pre-existing health problems, proximity to emissions source, or duration of exposure to air pollutants. Sensitive receptors nearest to the project site include the existing residential homes to the north and the south of the project site, and Redbud Park to the west of the project site. In addition, there is a baseball diamond adjacent to the southern boundary of the project site, as well as the Clearlake Youth Center, located approximately 140 feet south of the project site. Children would likely use these facilities and are typically considered to be more

sensitive to air pollutants due to their higher breathing rate and their higher sensitivity to the effects of TACs due to their age of development. However, they would not be spending significant amounts of time at the locations and their exposure duration would be limited. Potential operational impacts of the project on air quality are addressed in Section 3.3.2.1 of this chapter.

**TABLE 3.3-1  
AIR QUALITY DATA SUMMARY (2017-2019) FOR THE PROJECT SITE VICINITY**

Pollutant		National/ State Standard	Monitoring Data 2017	Monitoring Data 2018	Monitoring Data 2019
Ozone	Highest 1 Hour Average (ppm) <sup>b</sup>	0.09 <sup>d</sup>	<b>0.103</b>	0.080	0.060
	Days over State Standard <sup>a</sup>		1	0	0
	Highest 8 Hour Average (ppm) <sup>b</sup>	0.070 <sup>e</sup> /0.070 <sup>d</sup>	0.069	0.064	0.055
	Days over National Standard <sup>a</sup>		0	0	0
	Days over State Standard <sup>a</sup>		0	0	0
Particulate Matter (PM10)	Highest 24 Hour Average – State/ National (µg/m <sup>3</sup> ) <sup>b</sup>	150.0 <sup>e</sup> /50.0 <sup>d</sup>	<b>118.9/120.0</b>	<b>180.1/176.7</b>	21.9/21.8
	Estimated Days over National Standard <sup>a,c</sup>		0	1	0
	Estimated Days over State Standard <sup>a,c</sup>		1	2	0
	State Annual Average (µg/m <sup>3</sup> ) <sup>a,b</sup>	20 <sup>d</sup>	--	--	10.1
Particulate Matter (PM2.5)	Highest 24 Hour Average (µg/m <sup>3</sup> ) <sup>b</sup> – National Measurement	35 <sup>e</sup>	<b>85.3</b>	<b>157.9</b>	8.3
	Estimated Days over National Standard <sup>a,c</sup>		2	3	0
	State Annual Average (µg/m <sup>3</sup> ) <sup>b</sup>	12.0 <sup>d</sup>	--	--	3.1

NOTES:

<sup>a</sup> Generally, state standards and national standards are not to be exceeded more than once per year.

<sup>b</sup> ppm = parts per million; µg/m<sup>3</sup> = micrograms per cubic meter.

<sup>c</sup> PM10 and PM2.5 is not measured every day of the year. Number of estimated days over the standard is based on 365 days per year.

<sup>d</sup> State standard

<sup>e</sup> National standard

Values in Bold exceed the respective air quality standard.

-- indicates that information was unavailable.

SOURCE: CARB, 2020a; CARB, 2020b; CARB, 2020c; CARB, 2020d.

## Greenhouse Gases

Gases that trap heat in the atmosphere are called greenhouse gases (GHGs). The accumulation of GHGs in the atmosphere has been linked to global climate change. Global climate change is the acceleration of change in weather conditions on earth that can be measured by wind patterns, storms, precipitation, and temperature. Potential climate change impacts include seasonal shifts in vegetation which could affect the distribution of flora and fauna species. Forest dieback poses risks to carbon storage (known as carbon sinks), biodiversity, wood production, water quality, and economic activity. Wildfires, which are an important control mechanism in many ecosystems, are becoming more severe and more frequent, making it difficult for native plant

species to repeatedly re-germinate. Continued emissions of GHGs will cause further warming and long-lasting changes in all components of the climate system, increasing the likelihood of severe, pervasive, and irreversible impacts for people and ecosystems (IPCC, 2014b).

Carbon dioxide (CO<sub>2</sub>), methane (CH<sub>4</sub>), nitrous oxide (N<sub>2</sub>O), sulfur hexafluoride (SF<sub>6</sub>), perfluorocarbons (PFCs), hydrofluorocarbons (HFCs), and nitrogen trifluoride (NF<sub>3</sub>) are the principal GHGs. CO<sub>2</sub> is the reference gas for climate change, as it is the GHG emitted in the highest volume. The effect that each of the GHGs have on global warming is the product of the mass of their emissions and their global warming potential (GWP). GWP indicates how much warming would be predicted to be caused by the same mass of CO<sub>2</sub>. For example, CH<sub>4</sub> and N<sub>2</sub>O are substantially more potent GHGs than CO<sub>2</sub>, with GWPs of approximately 30 and approximately 275 times that of CO<sub>2</sub>, which has a GWP of 1 (U.S. EPA, 2020b). To account for the warming potential of GHGs, and to combine emissions of gases with differing properties, GHG emissions are typically quantified and reported as CO<sub>2</sub> equivalents (CO<sub>2</sub>e). A GHG analysis is included in Section 3.3.3, Cumulative Impact Analysis.

### 3.3.1.2 Regulatory Setting

Relevant regulatory setting information is included in Appendix A.

## 3.3.2 Impact Analysis

### 3.3.2.1 Proposed Action

#### ***Construction Criteria Pollutant Emissions***

The LCAB is designated as an attainment area for both the State and national ambient air quality standards (see Appendix A, Table A-2). Because there are no de minimis thresholds that are applicable to attainment areas, the de minimis thresholds for nonattainment areas were used for a conservative analysis of air quality impacts. Therefore, the applicable General Conformity de minimis thresholds are 50 tons per year of reactive organic gases (ROG), 100 tons per year of NO<sub>x</sub>, 100 tons per year of PM<sub>10</sub>, and 100 tons per year of PM<sub>2.5</sub> (U.S. EPA, 2020a). If the Proposed Action would result in total direct and indirect emissions in excess of the de minimis emission rates, it must be demonstrated through conformity determination procedures that the emissions conform to the applicable State Implementation Plan for each affected pollutant.

Construction activities associated with the Proposed Action would generate emissions of ROG, NO<sub>x</sub>, PM<sub>2.5</sub>, and PM<sub>10</sub> from operation of heavy equipment, use of employee vehicles, excavation for infrastructure and building foundations, paving, and application of architectural coatings. The analysis of daily construction emissions has been prepared using the California Emissions Estimator Model (CalEEMod) version 2016.3.2. CalEEMod was used to determine whether short-term construction-related emissions of criteria pollutants associated with the Proposed Action would exceed the General Conformity de minimis thresholds. Modeling inputs used project-specific information, where available. When project-specific information was not available, CalEEMod defaults were used. Detailed modeling assumptions are included in Appendix B. Estimated annual emissions that would be generated from construction of the Proposed Action are presented in **Table 3.3-2**.

**TABLE 3.3-2  
ANNUAL CONSTRUCTION EMISSIONS (TONS PER YEAR)**

Construction	ROG	NO <sub>x</sub>	PM <sub>10</sub>	PM <sub>2.5</sub>
2022 Construction Emissions	0.26	1.14	0.07	0.06
De minimis Threshold	50	100	100	100
Exceeds Threshold?	No	No	No	No

SOURCE: U.S. EPA, 2020a; Appendix B.

These calculations assume the use of the standard dust control measures incorporated into Section 2.1.4, Construction. Standard dust control measures may include but are not limited to applying water in sufficient quantities to prevent the generation of visible dust plumes, applying soil binders to uncovered areas, reestablishing ground cover as quickly as possible to maintain effective cover over exposed areas, and limiting vehicle speeds onsite to 15 miles per hour or less. As depicted in Table 3.3-2, construction of the Proposed Action would result in emissions below the General Conformity de minimis thresholds; therefore, emissions from construction of the Proposed Action would be less than significant.

### **Construction Health Risks**

Toxic air contaminants (TACs) are State of California designated airborne substances that are capable of causing short-term (acute) and/or long-term (chronic or carcinogenic) adverse human health effects. TACs include both organic and inorganic chemical substances and may be emitted from a variety of common sources including gas stations, automobiles, diesel engines, painting operations, and more. The primary TAC of concern from construction of the Proposed Action is diesel particulate matter (DPM), which is generated from diesel engines such as those that would be used during construction of the Proposed Action. As discussed under the Environmental Setting section, above, the nearest sensitive receptor is the Clearlake Youth Center located approximately 140 feet south of the project site. Due to the short-term duration of the project construction, approximately eight months, residents would not be exposed to significant amounts of TACs during construction of the Proposed Action. Construction health risks would not be significant. Similarly, exposure of individuals at the nearby park to DPM emissions from the construction of the Proposed Action, would be negligible due to the short-term duration of construction and, additionally, because individuals visiting the nearby park would not be continuously present for a long-periods of time.

### **Operational Criteria Pollutant Emissions**

Table 3.3-3 shows that operational emissions resulting from the Proposed Action would be below General Conformity de minimis thresholds. Thus, the Proposed Action would have a less than significant impact from operational emissions.

**TABLE 3.3-3  
OPERATIONAL EMISSIONS (TONS PER YEAR)**

<b>Operational</b>	<b>ROG</b>	<b>NO<sub>x</sub></b>	<b>PM<sub>10</sub></b>	<b>PM<sub>2.5</sub></b>
Annual Operational Emissions	1.56	2.97	0.74	0.21
De minimis Thresholds	50	100	100	100
Exceeds threshold?	No	No	No	No

SOURCE: U.S. EPA, 2020a; Appendix B.

### **Operational Health Risks**

Operation of the Proposed Action would generate TAC emissions from mobile sources as well as from operation of the eight fueling dispensers. Mobile sources such as diesel fueled trucks would emit DPM and the main concern from DPM is from cancer risk due to long-term exposure. The majority of trips generated by the Proposed Action would be made by passenger vehicles, most of which are gasoline fueled and would not generate DPM emissions. Therefore, DPM emissions associated with mobile sources would be minimal. Furthermore, individuals visiting the nearby park and youth center would not be continuously present for a long-term period, so this risk would be minimized and operational DPM emissions are not likely to generate a significant adverse health risk.

Gasoline stations emit TACs that can be a contributor to adverse health impacts for people residing near gas stations. Of the TACs in gasoline, benzene is a TAC of concern emitted during gas station operation, due to its short-term (acute) health effects. CARB's Air Quality and Land Use Handbook: A Community Health Perspective recommends siting sensitive land uses at least 50 feet from a typical dispensing facility, which is a gas station with a throughput of less than 3.6 million gallons per year (CARB, 2005). This recommended distance is based primarily on data showing that the air pollution exposures can be reduced as much as 80 percent with the recommended separation. (CARB, 2005). The fueling station that would be developed as part of the Proposed Action would have eight to ten fueling dispensers and, based on an analysis of other similarly sized fueling stations, would not have a throughput that would exceed 3.6 million gallons per year (Blue Stone Strategy Group, 2020). The nearest residential receptor is located approximately 120 feet north of the project site boundary, farther than the distance recommended by CARB to protect receptors from TAC emissions from gas stations. Therefore, the Proposed Action would be consistent with CARB's recommendation of a separation of 50 feet between a typical fuel station and sensitive uses. In addition, the baseball diamond at Redbud Park just south of the site is located greater than 50 feet from the project boundary and at this time eight to ten EV stations could be installed along the southern boundary of the project site; therefore, children at the baseball diamond would be located at least 80 feet from the fueling area. Thus, the gasoline fueling dispensers would be located beyond the recommended siting distance between large gasoline dispensing facilities and sensitive receptors.

The new facility would also be required to obtain an Authority to Construct (ATC) and permit to operate (PTO) approval from the LCAQMD, which will review the facility for compliance with leak testing requirements and implementation of certified vapor recovery equipment (Phase I and

Phase II), as required by LCAQMD Rule II Section 439.5 (LCAQMD, 2006). Phase I vapor recovery refers to the collection of gasoline vapors displaced from storage tanks when fuel tanker trucks make gas deliveries. Phase II vapor recovery systems control the vapors displaced from vehicle fuel tanks during fueling. CARB-certified Phase I systems collect 95 to 98 percent of displaced vapors for return to the delivery truck, while Phase II systems capture 90 to 95 percent of vapors resulting from fueling (CARB, 2022). Therefore, the TAC emissions resulting from operation of the fueling station that would be developed under the Proposed Action would be minimized.

The CARB and CAPCOA have developed their Gasoline Service Station Industrywide Risk Assessment Technical Guidance (Technical Guidance) to provide a uniform methodology for preparing gas station emissions inventories and risk assessments. Using information from gas stations in the 35 air districts, CARB and CAPCOA gathered information that was used to develop source parameters for modeling that could be applied to a wide range of gas station configurations. The results of the modeling efforts were used to calculate the risk tables contained in the Technical Guidance that can be used to identify potential risk from gas stations with underground storage tanks (CARB, 2022). The risk from individual gas stations is determined based on the throughput of the facility, the control scenario used by the gas station, whether the station is located in an urban or rural environment, and the location of the nearest receptor. Although the LCAQMD does not have a threshold of significance for cancer risk, the Yolo-Solano Air Quality Management District (YSAQMD) recommends a TAC threshold of 10 in 1 million. A conservative estimate of the facility throughput was based on the throughput of other, similarly sized gas station facilities within the vicinity of the Proposed Action (Blue Stone Strategy Group, 2020). Based on the throughput of the facility (less than 3.6 million gallons per year), the required Phase I and Phase II controls that would be required, and the distance to the nearest sensitive receptor 120 feet north of the project site, the cancer risk that would be associated with the operation of the gas station would be approximately 4 in 1 million. This resulting cancer risk would not exceed the applicable YSAQMD threshold of significance of 10 in 1 million.

Operation of the Proposed Action would not lead to significant adverse health risks from DPM mobile source emissions. Furthermore, based on the distance of the proposed fueling stations from nearby sensitive receptor locations, as well as the project's compliance with LCAQMD retail gasoline transfer and storage (Phase I) requirements and retail dispensing (Phase II) requirements for vapor recovery, health effects from operational TAC emissions generated during operation of the gasoline fueling station would be minimized and would not exceed the thresholds of significance for cancer risk. Therefore, TAC emissions and associated health risks from operation of the Proposed Action would be less than significant.

### **3.3.2.2 No Action Alternative**

Under the No Action Alternative, it is assumed that the existing commercial office use on the site would remain and would therefore not generate new sources of criteria air pollutants or GHGs. Any future development would be required to be consistent with federal, State and local air quality regulations discussed in Appendix A, as well as City development requirements.



### 3.3.3 Cumulative Impact Analysis

#### 3.3.3.1 Criteria Pollutant Emissions

Impacts associated with criteria pollutant emissions would be limited geographically to the air basin and temporally to construction and operational phases. As discussed above, construction of the Proposed Action would result in direct, short-term effects on air quality due to use of construction equipment, while operation would result in emissions from energy use, water use, waste generation, stationary sources, and mobile sources. As shown in Table 3.3-2 and Table 3.3-3, criteria pollutant emissions from construction and operation would not exceed the de minimis thresholds of significance. These thresholds are cumulative in nature in that they consider development throughout the air basin. If concurrent construction activities are underway or planned in the immediate vicinity of the project site, those project sites would be implemented under similar air quality regulations. In addition, all new construction would be consistent with City's construction regulations and LCAQMD policies outlined for construction activities. Therefore, the Proposed Action would not result in a cumulatively considerable air quality impact.

#### 3.3.3.2 Greenhouse Gas Emissions

While the emissions of one single project will not cause global climate change, GHG emissions from multiple projects throughout the world could result in a cumulative effect with respect to global climate change. Construction and operation of the development would generate emissions of GHGs that contribute to climate change. During construction, GHGs would be emitted from fuel combustion of off-road equipment, haul trucks, vendor vehicles, and worker vehicles. After construction activities have been completed, the Proposed Action would generate GHG emissions during operation from water use, energy use, waste generation, area sources (i.e., use of consumer products, application of architectural coatings, and landscaping activity), and mobile sources (i.e., vehicles and delivery trucks traveling to and from the project site). There is no adopted quantitative threshold for determining the significance of climate change impacts under the NEPA. The CEQ has issued guidance to assist federal agencies in their assessment of the effects of GHG emissions and climate change (Final Guidance for Federal Departments and Agencies on Consideration of Greenhouse Gas Emissions and the Effects of Climate Change in National Environmental Policy Act Reviews [The Final Guidance]). The Final Guidance recommends that GHG emissions resulting from projects are quantified using available data and quantification tools. Therefore, GHG emissions that would result from construction and operation of the Proposed Action were estimated using CalEEMod.

GHG emissions that would result from construction were amortized over the life of the project (assumed to be 30 years). Total construction-related GHG emissions were calculated to be approximately 174 MT CO<sub>2</sub>e per year. Amortized over 30 years, construction-related GHG emissions resulting from the Proposed Action would be approximately 5.8 CO<sub>2</sub>e MT CO<sub>2</sub>e per year. As shown in **Table 3.3-4**, the total annual GHG emissions resulting from amortized construction and operational activities associated with the Proposed Action, would be approximately 975 MT CO<sub>2</sub>e per year.

As shown in Table 3.3-4, the majority of GHG emissions associated with the Proposed Action would be generated from mobile sources including employees and customers traveling to and from the project site. Transportation-related GHG emissions would be reduced as regulations become increasingly more stringent and fuel efficiency is improved as newer models become available. The Proposed Action represents a negligible portion of global GHG emissions and thus would not result in a cumulatively considerable impact.

**TABLE 3.3-4  
ESTIMATED ANNUAL GHG EMISSIONS**

<b>Emission Source</b>	<b>CO<sub>2</sub>e (MT/year)</b>
Annual Proposed Action Construction (Amortized over 30 years)	5.78
<i>Area</i>	<0.01
<i>Energy</i>	14.14
<i>Mobile</i>	921.71
<i>Stationary</i>	31.77
<i>Waste</i>	0.94
<i>Water</i>	0.92
Total Annual Operational Emissions	969.48
<b>Total Annual Emissions (Amortized Construction + Operation)</b>	<b>975.26</b>

NOTES: CO<sub>2</sub>e= carbon dioxide equivalent; MT/yea = metric tons per year; see Appendix B for CalEEMod model outputs.

SOURCE: Appendix B

## 3.4 Biological Resources

This section describes the existing setting and analyzes impacts related to biological resources.

### 3.4.1 Setting

#### 3.4.1.1 Environmental Setting

##### ***Study Methods***

Biological resources within the vicinity of the project site were identified through a field reconnaissance visit, a review of pertinent literature, and database queries. A reconnaissance-level field survey was conducted by ESA biologist Laura Dodson on October 16, 2020. The field reconnaissance visit focused on identifying and characterizing jurisdictional aquatic resources or potential habitat for special-status plant and wildlife species. The primary sources of data referenced for this report included the following:

- California Native Plant Society List (CNPS, 2020).
- Official Species List for the Project Site (U.S. Fish and Wildlife Service [USFWS], 2020).
- California Natural Diversity Database (CNDDB), (CDFW, 2020).

##### ***Regional and Project Site Setting***

The City is situated in rural Lake County and sits on the on southern shore of Clear Lake, the largest natural freshwater lake within the State (City of Clearlake, 2016). The elevation of the project site is approximately 1,350 feet above mean sea level. The project site is surrounded by urban development and park and recreational space for at least one mile.

##### ***Vegetation Communities and Wildlife Habitats***

Vegetation communities are assemblages of plant species that occur together in the same area. The project site lacks natural vegetation communities and consists of approximately 0.6 acre of developed area and 0.4 acre of ruderal/disturbed area.

##### ***Ruderal/Disturbed***

Ruderal and disturbed habitat is located along the western and southern portions of the project site. Vegetation observed in the ruderal landscape includes ornamental (non-native) trees and shrubs and non-native grasses. The entire understory consists of bare compacted ground or gravel surfaces.

##### ***Developed***

The central and eastern portions of the project site are developed. Developed areas are characterized by impermeable surfaces associated with the existing structure and the paved parking lot and gravel surfaces.

##### ***Common Wildlife***

During the reconnaissance-level field survey on the project site, no native wildlife species were observed.

### ***Wetlands and Other Waters of the U.S.***

Regulated wetlands and other waters of the United States are subject to jurisdiction under Section 404 of the Clean Water Act. Wetlands are ecologically complex habitats that support a variety of both plant and animal life. In a jurisdictional sense, the federal government defines wetlands in Section 404 of the Clean Water Act as “areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support (and do support, under normal circumstances) a prevalence of vegetation typically adapted for life in saturated soil conditions” (33 CFR §328.3[b] and 40 CFR §230.3). “Other waters of the U.S.” refers to those hydric features that are regulated by the Clean Water Act but are not wetlands (33 CFR §328.4). Examples of other waters of the U.S. include rivers, creeks, intermittent and ephemeral channels, ponds, and lakes.

There are no wetlands or waterways within or in the immediate vicinity of the project site.

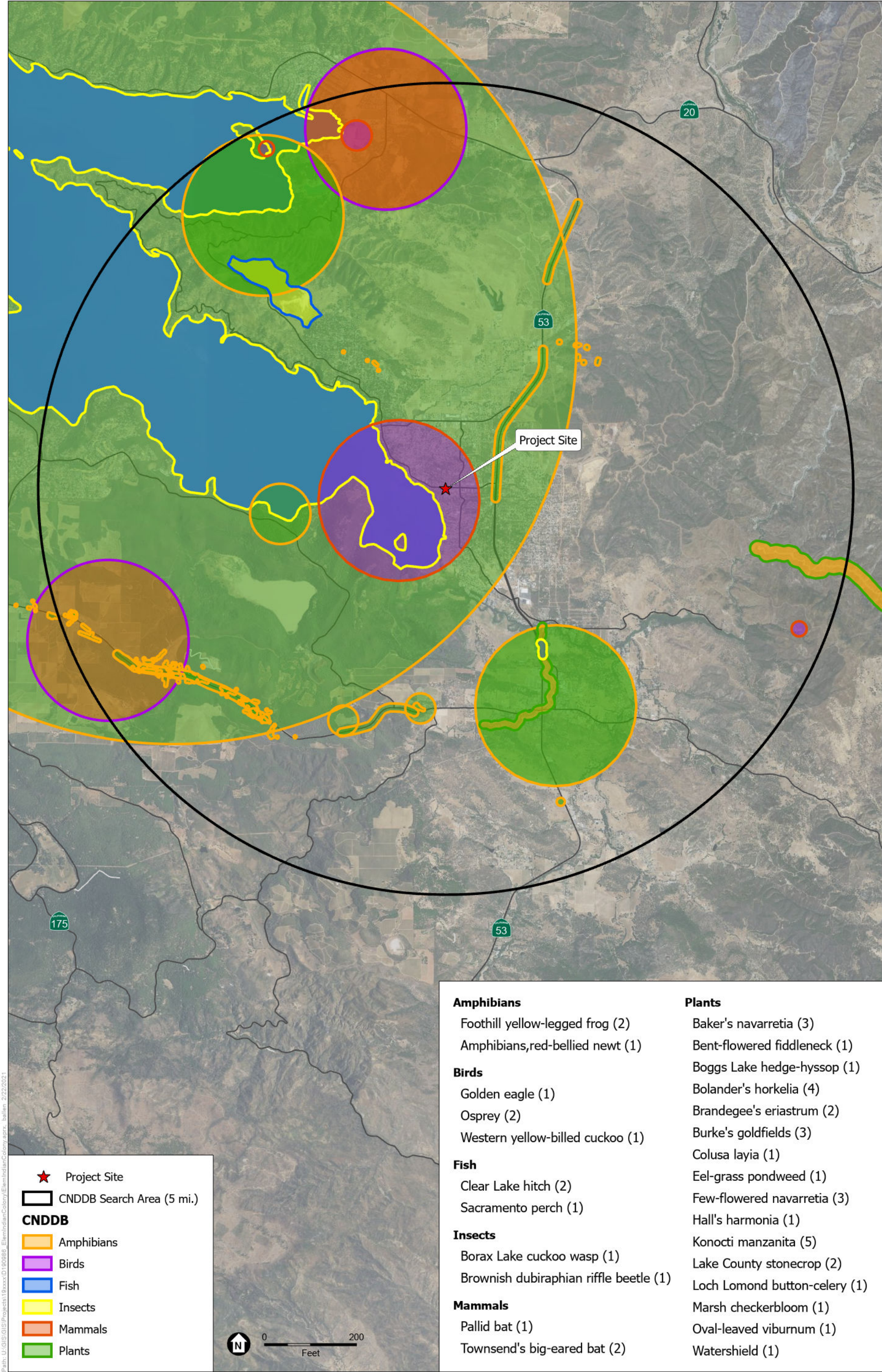
### ***Potentially Affected Species***

**Table 3.4-1** identifies the regionally occurring federally listed species based on the CDFW California Natural Diversity Database (CDFW, 2020), the CNPS Society List (2020), and the USFWS Official Species List for the Project Site (USFWS, 2020). The table identifies the protective status of each species, their preferred habitat, and the quality of habitat located within the project site. Also indicated is the probability of the species to occur within the project site. The “Potential for Occurrence” category is defined as follows:

- **None:** No suitable habitat is present within or immediately adjacent to the project site.
- **Low Potential:** The project site and/or immediate vicinity provides low-quality habitat for a particular species, such as improper soils, disturbed or otherwise degraded habitat, improper assemblage of desired vegetation, and/or the site is outside of the known elevation range of the species.
- **Medium Potential:** The project site and/or immediate vicinity provides marginal habitat for a particular species. For example, proper soils may be present, but the desired vegetation assemblage or density is less than ideal; or soils and vegetation are suitable, but the site is outside of the known elevation range of the species.
- **High Potential:** The project site and/or immediate vicinity provide high-quality or ideal habitat (i.e., soils, vegetation assemblage, and topography) for a particular species and/or there are known occurrences in the general vicinity of the project site.
- **Present:** The species or vegetation community/habitat was observed within the project site and/or immediate vicinity during surveys or the species has been previously reported within the project site in the recent past.

Known occurrences of federally-listed species recorded within 5 miles of the project site are depicted in **Figure 7**.





SOURCE: USDA, 2018; CNDDDB, 2020; Esri, 2020; Lake County, 2020; ESA, 2020

Elem Indian Colony Fee-to-Trust and Travel Center Project EA



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**TABLE 3.4-1  
FEDERALLY-LISTED SPECIES RECORDED IN THE REGION OF THE PROJECT SITE**

Organism	Common Name	Scientific Name	Status (Federal)	Habitat	Potential to Occur
Plants	Burke's goldfields	<i>Lasthenia burkei</i>	Endangered	Dicot found in meadows and seeps, vernal pools, and wetlands.	None. No suitable habitat for this species occurs on the project site.
	Few-flowered navarretia	<i>Navarretia leucocephala</i> ssp. <i>pauciflora</i> (=N. <i>pauciflora</i> )	Endangered	Dicot found in vernal pools and wetlands.	None. No suitable habitat for this species occurs on the project site.
	Lake County stonecrop	<i>Parvisedum leiocarpum</i>	Endangered	Dicot found in cismontane woodland, valley and foothill grasslands, vernal pools, and wetlands.	None. No suitable habitat for this species occurs on the project site.
	Loch Lomond button-celery	<i>Eryngium constancei</i>	Endangered	Dicot found in vernal pools and wetlands.	None. No suitable habitat for this species occurs on the project site.
	Many-flowered navarretia	<i>Navarretia leucocephala</i> ssp. <i>plieantha</i>	Endangered	Dicot found in vernal pools and wetlands.	None. No suitable habitat for this species occurs on the project site.
	Slender Orcutt grass	<i>Orcuttia tenuis</i>	Threatened	Annual grass found in vernal pools, often in gravelly soil, from 100–5,800 feet. Blooms May through September, and occasionally into October.	None. No suitable habitat for this species occurs on the project site.
Fish	Delta smelt	<i>Hypomesus transpacificus</i>	Threatened	Euryhaline (tolerant of a wide salinity range) species that is confined to the San Francisco Estuary, principally in the Delta and Suisun Bay.	None. No suitable habitat for this species occurs on the project site.
	Central California coast steelhead	<i>Oncorhynchus mykiss</i>	Threatened	Russian River to and including Aptos Creek, and all drainages of San Francisco and San Pablo Bays eastward to Chipps Island at the confluence of the Sacramento and San Joaquin Rivers.	None. No suitable habitat for this species occurs on the project site.
Amphibians	California red-legged frog	<i>Rana draytonii</i>	Threatened	Aquatic, artificial flowing waters, artificial standing waters, freshwater marsh, marsh and swamp, riparian forest, riparian scrub, riparian woodland, south coast flowing or standing waters, and wetland.	None. No suitable habitat for this species occurs on the project site.
Birds	western yellow-billed cuckoo	<i>Coccyzus americanus occidentalis</i>	Threatened	Riparian habitat associated with large river systems.	None. No suitable habitat for this species occurs on the project site.
	Northern spotted owl	<i>Strix occidentalis caurina</i>	Threatened	Resides in dense, old-growth, multi-layered mixed conifer, redwood, and Douglas-fir habitats, from sea level up to 7,545 feet. Feeds in forest habitats.	None. No suitable habitat for this species occurs on the project site.

As shown in Table 3.4-3, the project site does not provide habitat for any federally-listed species.

### ***Critical Habitat***

Critical habitat is defined in Section 3(5)A of the federal Endangered Species Act as the specific portions of the geographic area occupied by the species in which physical or biological features essential to the conservation of the species are found and that may require special management considerations or protection.

There is no critical habitat designated within or adjacent to the project site.

## **3.4.2 Impact Analysis**

### **3.4.2.1 Proposed Action**

#### ***Special-Status Species***

The project site does not provide habitat for federally protected species and does not occur within designated Critical Habitat for federally listed species. Migratory birds with a medium or higher potential for occurrence with the project site are discussed below. It is assumed for this analysis that the entire project site would be disturbed.

#### ***Nesting Birds***

Under the Migratory Bird Treaty Act (MBTA) most bird species and their nests and eggs are protected from injury or death. The project site supports suitable habitat for nesting birds within the ornamental landscape trees. Direct impacts on nesting birds during the breeding season (generally between February 15 and September 14) could occur during initial site preparation, demolition of existing structures and active construction. Nesting birds could be adversely affected if an active nest is either removed or exposed to a substantial increase in noise or human presence during project activities. Disturbance that causes nest abandonment by migratory birds or raptors and subsequent loss of eggs or developing young may violate the MBTA and is considered a potentially significant impact. With implementation of **Mitigation Measure 3.4-1** and **3.4-2**, impacts would be reduced to a less-than-significant level.

**Mitigation Measure 3.4-1:** Vegetation clearing operations, including initial grading and tree removal, should occur outside of the nesting season (September 1 through February 14) to the extent feasible. If vegetation removal begins during the nesting season (February 15 to August 31), a qualified biologist will conduct a preconstruction survey for active nests within a 500-foot buffer around the project site. The pre-construction survey will be conducted within 7 days prior to commencement of ground disturbing activities. If the pre-construction survey shows that there is no evidence of active nests, then a letter report will be prepared, and no additional measures are required. If construction does not commence within 7 days of the pre-construction survey, or halts for more than 7 days, an additional pre-construction survey is required (if working during the nesting season).

**Mitigation Measure 3.4-2:** If any active nests are located in the vicinity of the project site, an appropriate buffer zone will be established around the nests, as determined by the biologist. The biologist will mark the buffer zone with construction tape or pin flags and



maintain the buffer zone until the end of breeding season or until the young have successfully fledged or the nest is determined to be no longer active. Buffer zones are typically 50-100 feet for migratory bird nests and 250-500 feet for raptor nests. If active nests are found within the vicinity of the construction area, a qualified biologist will monitor nests weekly during construction to evaluate potential nesting disturbance by construction activities. If establishing the typical buffer zone is impractical, the qualified biologist may reduce the buffer depending on the species and daily monitoring would be required to ensure that the nest is not disturbed and no forced fledging occurs. Daily monitoring will occur until the qualified biologist determines that the nest is no longer occupied.

### 3.4.2.2 No Action Alternative

Maintenance of the existing commercial office use on the site would not result in significant impacts with respect to biological resources. Any future development would need to be consistent with federal, State and local regulations concerning the protection of biological resources.

### 3.4.3 Cumulative Impact Analysis

Impacts associated with biological resources would be limited geographically to within 500 feet of the project site (where nesting birds may be affected). Cumulative impacts would be limited to times when the active nesting season overlaps with site preparation, demolition, and construction. Mitigation Measures 3.4-1 and 3.4-2 are proposed to reduce impacts during construction. If concurrent construction activities are underway or planned in the immediate vicinity of the project site, those project sites would be implemented under similar or more rigorous environmental regulations, mitigation measures and policies for the protection of local biological resources. For these reasons, the Proposed Action is not anticipated to contribute to cumulative impacts to biological resources.

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## 3.5 Cultural Resources

This section describes the cultural resources that could be affected by the alternatives under consideration. ESA conducted a cultural resources investigation of the project site in January 2021, March 2022 and October 2022, the results of which are provided below.

Federal regulations require the identification of historic properties in the Area of Potential Effects (APE). The APE is defined as the geographic area within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties (36 CFR 800.16[d]). The APE includes the one-acre project site (depicted on Figure 2).

### Setting

#### Environmental Setting

##### *Pre-Contact Setting*

Categorizing the pre-contact period into cultural stages allows researchers to describe a broad range of archaeological resources with similar cultural patterns and components during a given timeframe, thereby creating a regional chronology. Milliken et al. (2007) provide a framework for interpreting the pre-contact period and have divided human history of the region into four periods: the *Paleoindian Period* (11,500 to 8000 B.C.), the *Early Period* (8000 to 3500 B.C.), the *Middle Period* (500 B.C. to A.D. 1050), and the *Late Period* (A.D. 1050 to 1550).

The Paleoindian Period was characterized by big-game hunters occupying broad geographic areas. One of the earliest known sites in California, the Borax Lake site, has been identified near Clear Lake. The earliest component of the site dates to approximately 12,000 years ago (10,000 B.C.) and is represented by fluted points, similar to the Clovis points found in association with extinct Pleistocene mammals in the southwest.

During the Early Period, geographic mobility continued from the Paleoindian Period and is characterized by the millingslab and handstone, and by large wide-stemmed and leaf-shaped projectile points. The first cut shell beads and the mortar and pestle are documented in burials during the Early Period, indicating the beginning of a shift away from mobility to a practice of remaining in one location over time.

During the Middle Period, geographic mobility may have continued, although groups began to establish longer term base camps in localities from which a more diverse range of resources could be exploited. The addition of milling tools and obsidian and chert concave-base projectile points, and the occurrence of sites in a wider range of environments suggest that the economic base was more diverse. By the Upper Middle Period, mobility was being replaced by the development of numerous small villages.

During the Late Period, social complexity developed toward lifeways of large, central villages with resident political leaders and specialized activity sites, which are locations where archaeological sites may be discovered. Artifacts associated with the period include the bow and arrow, small corner-notched projectile points, and a diversity of beads and ornaments.

### ***Ethnographic Setting***

Distributed over the lands of Mendocino, Lake, Sonoma, and portions of Glenn Counties are many independent bands of Pomo Indians. Pomo (Powers, 1877) is a construction used by ethnographers to describe a series of similar, but not identical cultures. The Pomo never were a single consolidated tribe, but instead are more accurately represented by numerous politically independent bands. The Elem Pomo Tribe is one of six Pomo groups in Lake County and one of 20 federally-recognized Pomo tribes in California.

The primary sociopolitical unit of the Pomo was the village community, sometimes referred to as a tribelet. Pomo village communities consisted of a principal village, at which the chief resided, surrounded by secondary settlements. Each village community averaged around 100 to 2,000 people (Bean and Theodoratus, 1978). Within the territory of each Pomo village community, people were allowed to freely hunt, fish, and gather plant foods. Village community boundaries, however, were clearly defined in regards to rights of utilization of their territory by other groups (Kroeber, 1925). Ethnographic village sites on the east side of Lower Clear Lake included *Kulái*, *Kuúlbídai*, and *Xubé* (Barrett, 1908).

As with other California Native American groups, the Gold Rush of 1849 had a devastating effect on the Southeastern Pomo. Those who survived were subjected to violence and prejudice at the hands of the miners and settlers, and the Pomo were pushed out of their ancestral territory. Although this contact with settlers had a profound negative impact on the Pomo population through disease and violent actions, the Pomo people survived and continue to maintain strong communities and action-oriented organizations.

## **Research Methods**

### ***Cultural Resources Record Search***

Staff completed a records search of the APE and vicinity at the Northwest Information Center (NWIC) of the California Historical Resources Information System on January 4, 2021 (File No. 20-1157). The records search consisted of an examination of the following documents:

- **NWIC digitized base maps** (USGS Clearlake Highlands 7.5-minute topographic map), to identify recorded archaeological sites and studies within a 0.25-mile radius of the APE.
- **NWIC digitized base maps** (USGS Clearlake Highlands 7.5-minute topographic map), to identify recorded historic-era resources of the built environment (building, structures, and objects) within and adjacent to the APE.
- **Resource Inventories:** *California Inventory of Historical Resources*, *California Historical Landmarks*, *Built Environment Resources Directory for Lake County* (through April 2020).

The purpose of the records search was to (1) determine whether known cultural resources have been recorded within or adjacent to the APE; (2) assess the likelihood for unrecorded cultural resources to be present based on historical references and the distribution of nearby sites; and (3) develop a context for the identification and preliminary evaluation of cultural resources.

## Results

Eight cultural resources investigations have been completed in the vicinity of the project site (Table 3.5-1). None of these studies included the APE.

**TABLE 3.5-1  
PREVIOUS CULTURAL RESOURCES STUDIES IN VICINITY**

Study No.	Title	Author	Year	Resources Identified (None within APE)
S-000462	Cultural Resource Assessment of the Clear Lake Sanitation Assessment District 1-4, Lake County, California.	Robert A. Gerry	1976	--
S-000675	An Archaeological Survey of Redbud Park, Clearlake Highlands, Lake County, California.	Roger Werner	1977	17-000731, 17-000732
S-007624	An Archaeological Survey of the Eagle Property, Situated Along Lakeshore Drive, City of Clearlake, Lake County, California (letter report) City of Clearlake, Lake County, California.(letter report)	Jay M. Flaherty	1985	--
S-027942	City of Clearlake, Old Highway 53 Bikepath Project, Survey and Evaluation of Potential Historic Properties Located Within the Area of Potential Impact.	Dennis E. Harris	1993	17-002194, 17-002195, 17-002196, 17-002197, 17-002198, 17-002199
S-038954	Archaeological Survey Report Safe Routes to Schools Old Hwy 53 Bike Lane Project, Clearlake, Lake County, California, 01-Lake, SRTSL-5427(022)	Vicki Beard	2012	--
S-038954	Historic Property Survey Report, State Routes to Schools Old Hwy 53 Bike Lane Project, Clearlake, Lake County, California, SRTSL(022)	Vicki Beard	2012	--
S-044237	Cultural Resources Constraints Report: Highlands 1104 Blitz, Electric Distribution, Clearlake, Lake County	Michella Rossi	2013	--
S-048437	A Cultural Resources Study for the Clearlake Subway Drive-Through 15060 Lakeshore Drive, Clearlake, Lake County, California	Jacqueline Farrington and Thomas M. Origer	2016	--
S-049932	Cultural Resource Evaluation of 15105 Lakeshore Drive, Clearlake CA, APN 040-330-32	John W. Parker	2017	--

Source: NWIC, 2021

Results of the records search indicate that no cultural resources have been previously recorded within the APE. Thirteen cultural resources have been previously recorded within the 0.25-mile records search radius (Table 3.5-2).

Based on the Phase I Environmental Assessment completed for the project (LACO, 2019), there are no buildings or structures in the APE that are older than 50 years and would therefore meet the minimum age threshold for consideration to the National Register of Historic Places (National Register).

**TABLE 3.5-2  
PREVIOUS CULTURAL RESOURCES IN RECORDS SEARCH RADIUS**

Designation	Trinomial	Age	Description	Recording Event
P-17-000563	CA-LAK-626	Pre-contact	"Midden"	1976 (D. Branscomb)
P-17-000579	CA-LAK-657	Pre-contact	"Obsidian scatter"	1975 (D. Branscomb)
P-17-000731	CA-LAK-886	Pre-contact	Large site of a "midden deposit with obsidian flakes and tools" including groundstone tools	1975 (D. Branscomb); 1976 (D. Branscomb); 1977 (Roger Werner)
P-17-000732	CA-LAK-887	Pre-contact	Large site of a "midden deposit with obsidian flakes and tools" including groundstone tools	1976 (D. Branscomb)
P-17-001560	CA-LAK-664	Pre-contact	Originally described as "obsidian flakes" and determined to not be a site	1975 (D. Branscomb); 2000 (Roger Werner)
P-17-001571	CA-LAK-683	Pre-contact	"Obsidian flakes and basalt tools"	1975 (D. Branscomb)
P-17-002102	--	Pre-contact, Historic	Originally described as an "obsidian workshop" and determined to not be a site	1976 (D. Branscomb); 2000 (Roger Werner)
P-17-002103	--	Historic	1930s stone wall	2000 (Roger Werner)
C-149	--	Pre-contact	"Midden"	1975 (D. Branscomb)
C-180	--	Pre-contact	"Workshop"	1976 (D. Branscomb)
C-193	--	Pre-contact	"Workshop, midden, obsidian scatter"	1976 (D. Branscomb)
C-521	--	Pre-contact	"Obsidian scatter"	1977 (D. Branscomb)
C-536	--	Pre-contact	"Obsidian flake"	1977 (D. Branscomb)

Source: NWIC, 2021

Cultural resources recorded in the records search radius include locations of isolated midden, concentrations of obsidian debitage, and widespread scatters of tools and other artifacts. All of these resources were originally recorded by D. Branscomb between 1975 and 1977, have very little information about resource components, and their locations have poor accuracy. For example, Roger Werner revisited many of the sites near the APE in 2000 (P-17-000731, -000732, -001560, -002102, -002103), finding that many of the sites were not located correctly or were not, in fact, cultural resources. The two nearest previously recorded resources to the APE are C-149 and P-17-002102.

C-149 was informally recorded by Branscomb in 1975. The documentation for this resource describes it as a large pre-contact midden site. The notes also state that an obsidian sample was taken from the site. No other information is included in the documentation. The site has not been re-recorded since this informal recordation.

P-17-002102 was first formally recorded by Branscomb in 1976 as a pre-contact obsidian workshop several feet thick. Branscomb noted that the site had been partly destroyed and that an obsidian sample was taken from the site. In 2000, Werner revisited the recorded location of the resource, and no evidence of the site was identified. Werner stated that he found, "*numerous locations with gravel fill that contained obsidian chunks and detritus, none of which was prehistoric in age. I do not believe this location is an archaeological site. I think Branscomb saw*

*obsidian in fill and thought it was a prehistoric site. His description of the deposit as several feet thick is absurd as he provides no bases for the depth. He often gauged depth from exposed cuts I saw nothing like that in this location” (Werner, 2000). Werner goes on to argue that the location is not a cultural resource and that the obsidian identified is part of fill taken from the Borax Lake area.*

The APE is underlain by Late Pleistocene-aged Lower Lake Formation (Qll). The Lower Lake Formation is composed of siltstone, claystone, tuff and conglomerate (Manson, 1989). This geological formation does not have the potential for pre-contact archaeological sites to be buried by natural alluvial processes; archaeological sites in this context would be at or very near to the surface and would be identifiable through a pedestrian survey or shallow subsurface survey.

On March 18, 2022, an ESA archaeologist conducted a pedestrian survey of the APE. A concentration of obsidian was observed, which included primarily non-cultural shatter. Some potential obsidian scraper tools were identified. Modern refuse was also scattered throughout the APE.

On October 20, 2022, three ESA archaeologists conducted a subsurface survey in the vicinity of the potential obsidian scraper tools identified during the pedestrian survey. Elem Indian Colony of Pomo Indians Tribal Historic Preservation Officer conducted a brief site visit during the subsurface survey. The archaeologists determined that only one of the previously identified potential obsidian tools was potentially culturally modified and was designated as an isolate. Isolates are not eligible for listing in the National Register and no further consideration of this resource is necessary for the Proposed Action. All other surface obsidian material was determined to not be culturally modified and was intermixed with gravel fill. Subsurface survey consisted of four 40-centimeter (cm)-diameter shovel probes in a 10-meter square to determine if there were any subsurface archaeological deposits and to determine the stratigraphy of the APE. All excavated sediment was dry-screened through ¼-inch wire mesh. Shovel probes were excavated to a depth of at least 30 cm, if possible, or until sterile soil has been reached. No cultural material was identified in any of the shovel probes. Based on these results, there are no archaeological resources in the APE that could be considered historic properties.

## Impact Analysis

### Proposed Action

Based on the cultural resources assessment, there are no cultural resources in the APE and the finding for the Proposed Action is **No Historic Properties Affected**.

While unlikely, ground disturbing activity could impact previously unidentified cultural resources. **Measures 3.5-1** through **3.5-3** are provided to reduce effects to previously unidentified cultural resources.

**Mitigation Measure 3.5-1: Construction Worker Cultural Resources Sensitivity Training.** Prior to any earth moving activities, a qualified archaeologist meeting the Secretary of the Interior’s Professional Qualifications Standards for Archeology shall conduct cultural resources sensitivity training in coordination with a tribal representative.

The Tribe shall coordinate the training. Construction personnel will be informed of the types of cultural resources that may be encountered, and of the proper procedures to be enacted in the event of an inadvertent discovery of archaeological resources or human remains. The construction contractor will ensure that construction personnel are available for and attend the training and retain documentation demonstrating attendance.

**Mitigation Measure 3.5-2: Inadvertent Discoveries.** If pre-contact or historic-era archaeological resources are encountered during project implementation, all construction activities within 100 feet shall halt, and a qualified archaeologist, defined as an archaeologist meeting Secretary of the Interior's Professional Qualifications Standards (SOI PQS) for Archeology, shall inspect the find within 24 hours of discovery and notify the BIA of their initial assessment. Pre-contact archaeological materials might include: obsidian and chert flaked-stone tools (e.g., projectile points, knives, scrapers) or toolmaking debris; culturally darkened soil (midden) containing heat-affected rocks, artifacts, or shellfish remains; stone milling equipment (e.g., mortars, pestles, handstones, or milling slabs); and battered stone tools (e.g., hammerstones, pitted stones). Historic-era materials might include building or structure footings and walls, and deposits of metal, glass, and/or ceramic refuse.

If the BIA determines, based on recommendations from the archaeologist and, if the resource is indigenous and a Native American tribe has expressed interest, a Native American tribe, that the resource may qualify as a historic property (for NHPA purposes), the resource shall be avoided, if feasible. Consistent with Section 15126.4(b)(3), this may be accomplished through planning construction to avoid the resource; incorporating the resource within open space; capping and covering the resource; or deeding the site into a permanent conservation easement.

If avoidance is not feasible, the BIA shall consult with appropriate Native American tribes (if the resource is pre-contact and a tribal government has requested consultation), and other appropriate interested parties to determine treatment measures to avoid, minimize, or mitigate any potential adverse effects to the resource pursuant to 36 CFR Section 800.5. This shall include documentation of the resource and may include data recovery, if deemed appropriate, or other actions such as treating the resource with culturally appropriate dignity and protecting the cultural character and integrity of the resource.

**Mitigation Measure 3.5-3: Discovery of Human Remains.** If human remains are encountered during construction, the qualified archaeologist in coordination with the tribal monitor shall have the authority to halt or redirect construction activities in the immediate vicinity of the find (within approximately 100 feet). The Tribe will contact the County Coroner to determine that no investigation of the cause of death is required. The Coroner will contact the Native American Heritage Commission within 24 hours, if the Coroner determines the remains to be Native American in origin. The Commission will then identify the person or persons it believes to be the most likely descendant from the deceased Native American (PRC Section 5097.98), who in turn would make recommendations for the appropriate means of treating the human remains and any associated funerary objects (CEQA Guidelines Section 15064.5[d]). Human remains will be treated in accordance with the provisions of the Native American Graves Protection and Repatriation Act of 1990.



## No Action Alternative

Since no historic properties were identified, and since any future development would be implemented in a manner consistent with federal, State, and local land use regulations, there would be No Historic Properties Affected from the No Action Alternative.

## Cumulative Impact Analysis

As described above, the Proposed Action would not result in adverse effects to historic properties; therefore, it would not contribute to a cumulative adverse effect to historic properties. Cumulative impacts to undiscovered cultural resources would be reduced for the Proposed Action by the included mitigation measures, and compliance with federal, State and local regulations.

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## 3.6 Socioeconomic Conditions and Environmental Justice

The following section provides a setting for socioeconomic conditions (population, employment, and housing) and environmental justice issues in the project area and evaluates the potential effects from implementation of the alternatives under evaluation.

### 3.6.1 Setting

#### 3.6.1.1 Environmental Setting

##### ***Population Characteristics***

In 2018, Lake County (County) had an estimated population of approximately 64,382 people of which 15,323 lived within the City (City) (U.S. Census Bureau, 2018). The ethnic makeup of the City in 2018 was 10,347 (65.9%) White; 778 (5%) African American; 703 (4.5%) Native American; 29 (0.1%) Asian; 2,985 (19.4%) from other races; and 481 (3.13%) from two or more races (U.S. Census Bureau, 2018). The Tribe has approximately 100 adult citizens.

##### ***Employment***

In 2018, the median household income was \$48,554 in the County and approximately \$28,888 in the City, while the percentage of the population living in poverty was 17.6% in the County and 34.1% in the City. In 2018, the unemployment rate for the County was 5.6% and the City's unemployment rate was 17.9% (U.S. Census Bureau, 2018).

##### ***Housing***

In 2018, the City contained 8,042 housing units, of which 5,979 were occupied and 2,063 units were vacant. The City had a homeowner vacancy rate of 2.9% and a rental vacancy rate of 6.1% (U.S. Census Bureau, 2018).

##### ***Environmental Justice***

Federal agencies are directed by Executive Order 12898, *Federal Actions to Address Environmental Justice in Minority and Low Income Populations*, as amended, to develop an Environmental Justice Strategy that identifies and addresses disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations. The CEQ *Environmental Justice Guidance under the National Environmental Policy Act* advises agencies to consider the composition of the affected area, to determine whether minority populations, low-income populations, or Indian tribes are present in the area affected by the proposed action, and if so whether there may be disproportionately high and adverse environmental effects. Approximately 34 percent of the City's population is composed of minority ethnicities. The City is not considered a low-income population since over 70 percent of the population is above the poverty line. The Elem Indian Colony Pomo Tribe Reservation is considered a nearby environmental justice community.

### 3.6.1.2 Regulatory Setting

Executive Order 12898 is discussed above.

## 3.6.2 Impact Analysis

### 3.6.2.1 Proposed Action

#### ***Socioeconomic Conditions***

The Proposed Action would result in a beneficial socioeconomic effect for the Tribe by providing Tribal economic self-sufficiency, employment opportunities for Tribal members, and funding for Tribal services. Additionally, the Proposed Action would create a small number of short-term construction jobs and full-time, permanent 20-25 employees at the proposed travel center. It is anticipated that construction workers and operational employees would come from the local or regional work force. While it is acknowledged that the proposed travel center and fueling station may provide services competing with other local gas stations, the Proposed Action would benefit the local economy overall via the creation of new employment opportunities for the Tribe and local employment pool, and the increased sales and profits for other nearby businesses as potential patrons, residents, travelers, and shoppers are attracted to the features provided by the new travel center and fueling station.

#### ***Environmental Justice***

The Tribe would be classified as a minority population and the Proposed Action would benefit this community by providing needed housing for Tribal members. No disproportionate, adverse impacts to low-income or minority populations are anticipated from the Proposed Action. Sensitive receptors near the project site include existing residential homes to the north of the project site across Lakeshore Drive, Redbud Park to the west of the project site, the Clearlake Youth Center and adjacent ball park located approximately 140 feet south of the project site, and residential homes south of the ball park fronting Ball Park Avenue. Residents and visitors would not be exposed to significant amounts of fumes or toxic air contaminants (TACs) during the short-term construction period, approximately eight months, of the Proposed Action due to the limited construction term and implementation of standard construction best practices.

As discussed in Section 3.6, Air Quality, CARB's Air Quality and Land Use Handbook: A Community Health Perspective recommends siting sensitive land uses at least 50 feet from a typical dispensing facility, which is a fueling station with a throughput of less than 3.6 million gallons per year (CARB, 2005). The nearest residential receptor is located approximately 120 feet north of the project site boundary. In addition, the baseball diamond at Redbud Park south of the site is located more than 50 feet from the project boundary. As shown in Figures 3a, 3b and 3c, up to ten fuel dispensers would be sited closer to the intersection of Lakeshore Drive and Golf Avenue to allow for easier access and ingress and egress from the project site. Therefore, it is likely that children at the park would be located 80 to 100 feet from the fuel dispensers. Therefore, the Proposed Action would be consistent with CARB's recommendation of a separation of 50 feet between a typical fuel station and sensitive uses.

### 3.6.2.2 No Action Alternative

Maintenance of the existing commercial office use on the site would not result in significant impacts with respect to socioeconomic conditions or environmental justice. Any new development would likely have a beneficial socioeconomic effect from increased employment opportunities; however, no specific project has been proposed.

### 3.6.3 Cumulative Impact Analysis

The Proposed Action is more likely to benefit the City and its local economy and is not expected to result in adverse impacts for socioeconomic conditions or environmental justice issues; therefore, the Proposed Action would not contribute to cumulative impacts for these issues.

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## 3.7 Land Use

This section discusses the land use setting for the project site and vicinity and any potential impacts with respect to land use from the alternatives considered.

### 3.7.1 Setting

#### 3.7.1.1 Environmental Setting

As described in Section 1.2, Project Site and Vicinity, Parcel 040-240-08 is undeveloped with a gravel parking lot and mixed non-native vegetation. Parcel APN 040-240-07 contains a First Loan commercial building and paved parking lot. The project site is surrounded by: Lakeshore Drive to the north; commercial buildings to the east; the Clearlake Youth Center and a ball park to the south; and Golf Avenue to the west (**Figure 8**). Clear Lake is located 0.15 miles to the west of the project site.

Land uses on the project site are currently guided by the Land Use Element of the City's General Plan (City of Clearlake, 2017), and corresponding zoning laws. The project site has a General Plan land use designation of Commercial (**Figure 9**). The project site is zoned MUX District: Mixed Use (**Figure 10**). The purpose of the MUX designation allows for a meaningful blend of residential and nonresidential uses that enhance and build upon the City's commercial base (City of Clearlake, 2021).

#### 3.7.1.2 Regulatory Setting

The Land Use Element of the City's General Plan (City of Clearlake, 2017), and corresponding zoning are discussed above.

### 3.7.2 Impact Analysis

#### 3.7.2.1 Proposed Action

Transfer of the project site into federal trust would exempt the project site from local land use regulations, and land use would be regulated by the Tribe. However, the proposed commercial use would be consistent with the existing City land use designation and zoning of Mixed Use, which allows for eating establishments, businesses, parking lots, and retail trade and services. The proposed commercial development of a travel center and gas station is compatible with existing commercial buildings adjacent to the project site. Thus, land use impacts from the Proposed Action would be less than significant.

#### 3.7.2.2 No Action Alternative

Under the No Action Alternative, the project site would remain subject to City land use regulations and there would be no land use impacts.

### 3.7.3 Cumulative Impact Analysis

As described above, the Proposed Action would be consistent with applicable land use regulations and compatible with surrounding developments. In addition, all new construction and proposed land uses would be consistent with City's construction standards, zoning and municipal codes, and land use policies outlined in its General Plan. Therefore, the Proposed Action is not anticipated to contribute to cumulative impacts.





SOURCE: Esri, 2018; Lake County, 2020; ESA, 2020.

Elem Indian Colony Fee-to-Trust and Travel Center Project EA

**Figure 8**  
Surrounding Land Uses





SOURCE: Esri, 2018; City of Clearlake, 2019; Lake County, 2020; ESA, 2020.

Elem Indian Colony Fee-to-Trust and Travel Center Project EA

**Figure 9**  
General Plan Land Use



SOURCE: Esri, 2018; City of Clearlake, 2019; Lake County, 2020; ESA, 2020.

Elem Indian Colony Fee-to-Trust and Travel Center Project EA

**Figure 10**  
Zoning

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## 3.8 Transportation

This section is focused on existing transportation conditions near the project site and potential transportation impacts from the evaluated alternatives.

### 3.8.1 Setting

#### 3.8.1.1 Regional Roadway System

The project site is located in the City. Regional access to the project site is provided by State Route (SR) 53, which is an approximately 7.5-mile-long north-south roadway that connects SR 29 to the south with SR 20 to the north. SR 53 is designated as a principal arterial in the General Plan with two lanes in each direction south of Lakeshore Drive and one lane in each direction north of Lakeshore Drive. The posted speed limit is 55 miles per hour (mph).

#### 3.8.1.2 Local Roadway System

The project site is located at the southeast corner of the intersection of Lakeshore Drive and Golf Avenue. As shown in **Figure 11**, principal access to the project site is from Lakeshore Drive, which is primarily accessed via Old Highway 53, approximately 1,000 feet to the east, and SR 53, approximately 0.5 miles to the east. The key characteristics of these roadways, with the exception of SR 53, which is described above, are summarized below:

**Old Highway 53** is a north-south roadway that connects SR 53 to the south with Olympic Drive to the north. It is designated in the General Plan as a minor arterial with one lane in each direction, and has a posted speed limit of 35 mph.

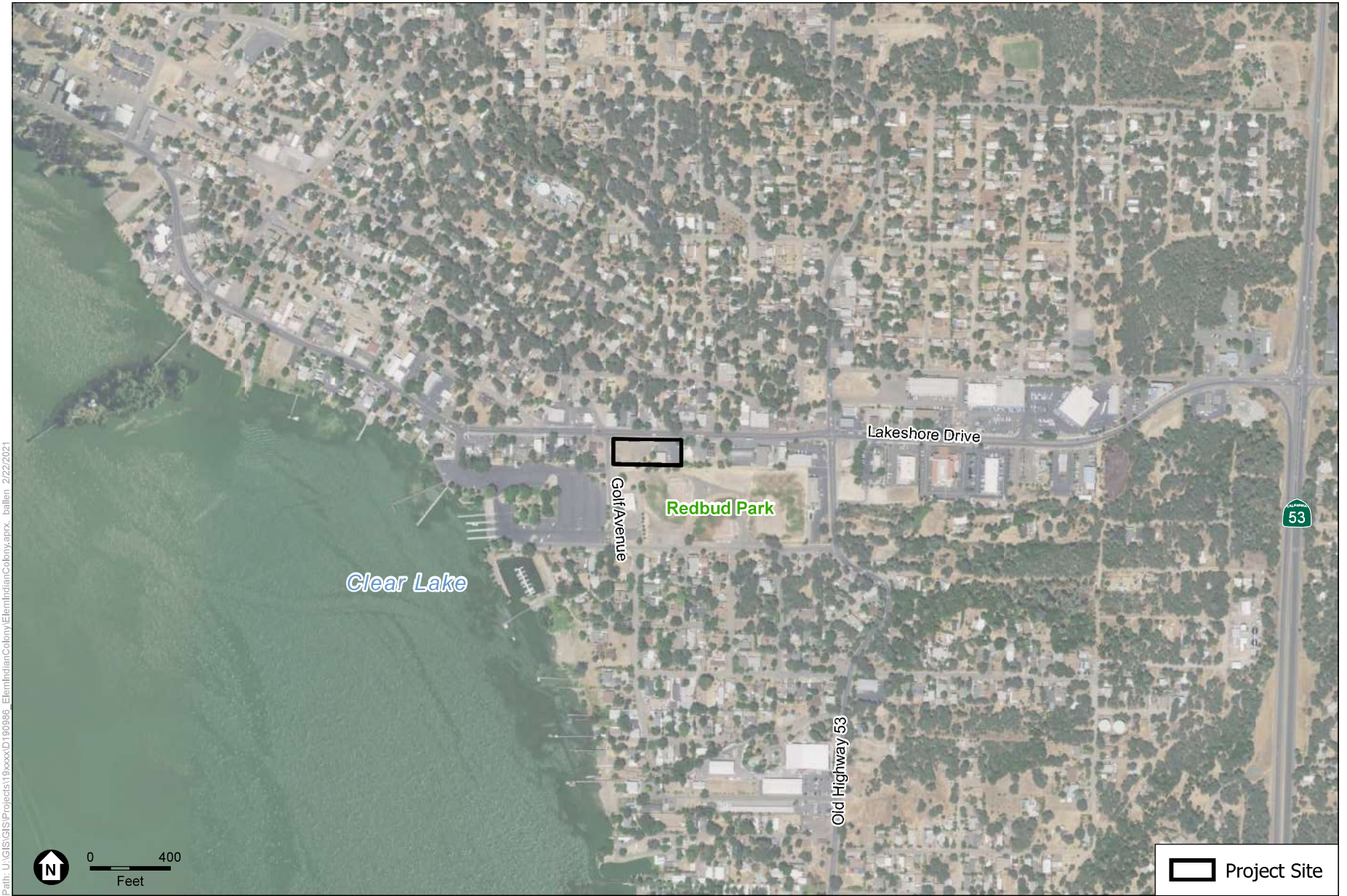
**Lakeshore Drive** is an east-west roadway that connects SR 53 to the east with the City/County line to the west, where it becomes County Road 205 and continues along the east shore of Clear Lake. Lakeshore Drive is designated in the General Plan as a minor arterial with one-lane in each direction and has a posted speed limit of 30 mph.

**Golf Avenue** is a north-south roadway that connects Lelabelle Boulevard to the south with Uhl Avenue to the north. It is an undesignated local roadway in the General Plan with one-lane in each direction, and does not have a posted speed limit.

#### 3.8.1.3 Existing Traffic Operating Conditions

Average Daily Traffic (ADT) counts for state facilities (i.e., SR 53) are maintained by the California Department of Transportation (Caltrans). In 2018, SR 53 experienced an ADT of approximately 18,300 at Lakeshore Drive (Caltrans, 2018). Based on the capacity of a four-lane (two lanes in each direction) State signalized arterial, the Level of Service (LOS) at this location is currently LOS C or better (FDOT, 2020). LOS is a qualitative measure of traffic operating conditions, whereby a letter grade, from A to F is assigned, based on quantitative measurements of delay per vehicle. The grades represent the perspective of drivers and are an indication of the comfort and convenience associated with driving. In general, LOS A represents free-flow conditions, and LOS F represents severe delay under stop-and-go conditions.





SOURCE: Esri, 2018; Lake County, 2020; ESA, 2020.

Elem Indian Colony Fee-to-Trust and Travel Center Project EA

**Figure 11**  
Project Study Area Roadways

ADT counts for local facilities are not available; however, peak hour (i.e., AM peak hour, PM peak hour, Saturday peak hour) traffic counts/ intersection analysis were conducted as part of a recently completed EIR for the Walmart Expansion Project at the two intersections that would be most affected by traffic generated by the Proposed Action (City of Clearlake, 2017a). The results are reported below in **Table 3.8-1**. As shown in the table, both intersections currently operate at acceptable LOS during weekday AM and PM peak hours as well as the Saturday peak hour, according to the target LOS established in the General Plan (City of Clearlake 2017b).

**TABLE 3.8-1  
EXISTING INTERSECTION OPERATING CONDITIONS**

Intersection	General Plan Target LOS	AM Peak Hour LOS	PM Peak Hour LOS	Saturday Peak Hour LOS
Old Highway 53/ Lakeshore Drive	D	B	C	C
SR 53/Lakeshore Drive	D	C	C	C

SOURCE: Omni-Means, 2016; ESA, 2020.

### ***Transit Service***

Lake Transit Authority provides bus transit service to the project site. Clearlake City Routes 10 and 11 offer hourly service 7 days a week, while Clearlake City Route 12 only offers hourly weekday service (Lake Transit Authority, 2020). All three routes operate in one-way loops (Lakeshore Drive, Olympic Drive, and Old Highway 53) near the project site, meaning that inbound and outbound trips to/from the project site may require two different bus routes. The nearest bus stops are located on Lakeview Drive west of Golf Avenue, approximately 300 feet to the west of the project site.

### ***Pedestrian and Bicycle Facilities***

There are bicycle lanes on both sides of Lakeshore Drive adjacent to the project site. The project site is lacking sidewalks along the Golf Avenue frontage and along approximately two-thirds of the Lakeshore Drive frontage.

## **3.8.2 Impact Analysis**

### **3.8.2.1 Proposed Action**

As shown in the preliminary site overview for the Proposed Action (see Figure 3a, 3b, and 3c), vehicular access to the project site would be provided by a total of three two-way driveways. The principal driveway would be located on Lakeshore Drive would be 70 feet wide, which is wide enough to accommodate turns by large trucks. Additional access would be provided by a 24-foot-wide driveway at the east end of the project site (near the proposed convenience store) on Lakeshore Drive, and a 28-foot-wide driveway on the north side of the project site on Golf Avenue. Internal circulation would provide access between the proposed convenience store and the fuel dispensers, as well as to the back side of the proposed convenience store for access by service vehicles (e.g., garbage trucks, deliveries, etc.) and emergency vehicles. Up to 28 parking

stalls would be provided throughout the site to serve employees and visitors including charging stations for EVs.

The Institute of Transportation Engineers (ITE) Trip Generation, 10<sup>th</sup> Edition was used to calculate the daily, AM Peak Hour, and PM Peak Hour vehicle trip generation for the Proposed Action (ITE, 2017). In addition, the following two vehicle trip reductions were applied to the Proposed Action trip generation: existing office use to be removed (to be replaced as part of the Proposed Action), and pass-by/diverted trips. By making these adjustments, the analysis more accurately focuses on net new vehicle trips generated by the Proposed Action. The pass-by/diverted trips reduction was only applied to the gas station/convenience center land use, as most visitors to this use would either shift from an existing gas station/convenience center land use along Lakeshore Drive, or would simply make a stop at the project site en route to another destination. As shown below in **Table 3.8-2**, the Proposed Action would generate up to 345 daily vehicle trips, 21 AM peak hour vehicle trips, and 23 PM peak hour vehicle trips.

**TABLE 3.8-2  
NET AUTOMOBILE TRIP GENERATION ESTIMATES**

ITE Land Use (Code)	Units	Daily Number of Vehicle Trips	AM Peak Hour Number of Vehicle Trips	PM Peak Hour Number of Vehicle Trips
Gas Station with Convenience Market (945)	8-10 fueling positions	1,643	100	112
pass-by/diverted reduction <sup>a</sup>		-1,298	-79	-89
Subtotal		345	21	23
Single-Tenant Office Building (715)	2,000 square feet	32	4	5
Existing Office to be Removed	2,000 square feet	-32	-4	-5
<b>Total</b>		<b>345</b>	<b>21</b>	<b>23</b>

NOTE:

<sup>a</sup> Total reduction is 79 percent, which includes 51 percent diverted and 28 percent pass-by.

SOURCES: ITE Trip Generation Manual, 10th Edition, 2017; SANDAG Brief Guide of Vehicular Traffic Generation Rates for the San Diego Region, 2002; ESA, 2021.

The Caltrans Guide for the Preparation of Traffic Impact Studies (Caltrans, 2002) indicates that a traffic study is needed if a project would generate over 100 peak hour trips assigned to a State highway facility. The nearest State highway facility is SR 53 and, as shown above in Table 3.8-2, the Proposed Action would generate fewer than 100 peak hour trips to this or any other project study area roadway. For this reason, a quantitative traffic analysis was not conducted for the Proposed Action.

As shown in Table 3.8-1, the main roadways that would be used to access the project site (Lakeshore Drive, Old Highway 53, and SR 53) currently operate at an acceptable LOS based on the targets established in the General Plan. Other roadways near the project site that serve local neighborhoods and Redbud Park (e.g., Golf Avenue, Ball Park Avenue) would likely see very



little traffic as a result of the Proposed Action, due to fact that the proposed land uses would mostly attract regional vehicle trips using the roadways noted above, or vehicle trips that are already traveling on surrounding roadways (pass-by/diverted trips). Considering the relatively low number of new vehicle trips estimated to be generated by the Proposed Action, and the fact that there is capacity on study area roadways/intersections to accommodate these trips without causing operating conditions to deteriorate below acceptable levels, the impacts to transportation on existing roadways would be less than significant.

With respect to transit and bicycle conditions, the Proposed Action would not require the removal or relocation of an existing bicycle lane or bus stop, nor would it impede access to an existing bicycle lane or bus stop. Furthermore, the relatively low increase in traffic volumes on Lakeshore Drive that would be generated by the Proposed Action would not noticeably affect transit or bicycle operating conditions. As noted in the project description (Section 2.1.4) sidewalks would be upgraded to current City standards along the entire project site frontages on Lakeshore Drive and Golf Avenue. This would result in improved pedestrian safety and accessibility or a beneficial impact.

With respect to parking conditions, as described above the Proposed Action would provide vehicular parking to accommodate up to 28 vehicles. The Proposed Action would adhere to any local or state requirements related to the provision parking stalls to accommodate Americans with Disabilities Act (ADA) and/or electric vehicle charging as part of the final design/project approvals process. Based on the number of employees that would be onsite at any given time (per shift) and the quick turnover of visitors parking to access the proposed convenience store, the proposed parking capacity would accommodate the demand, and it is not anticipated that parking would spill out onto the adjacent roadways or into the nearby Rosebud Park parking lot.

Construction activities associated with the Proposed Action would generate fewer vehicle trips than described above for project operation. Therefore, the discussion and conclusions provided above with respect to potential transportation impacts during project operation would also apply to project operation. As required by the City, an encroachment permit must be issued for any work conducted with the public right-of-way and connections to City infrastructure. Among other things, the encroachment permit would ensure that appropriate measures are taken by the construction contractor to maintain access and provide construction area traffic control, which would ensure minimal interruptions to vehicles, bicyclists, and pedestrians traveling on affected roadways.

The Proposed Action would not affect the jurisdiction of public roads or the ability of law enforcement personnel to access local communities. Access to the residential communities near the project site would remain unimpeded.

### **3.8.2.2 No Action Alternative**

Maintenance of the existing commercial office use and potential future development of low-density commercial uses (consistent with City land use designations and zoning) have been included in long-range transportation planning and therefore no significant impacts to transportation would occur.

### 3.8.3 Cumulative Impact Analysis

The General Plan did not identify any circulation improvements needed in the project study area within the 2040 planning horizon. The Proposed Action is consistent with the assumptions for long-range transportation planning; thus, is not anticipated to result in significant, adverse cumulative effects.

## 3.9 Public Services and Utilities

The following section describes the existing setting and analyzes impacts related to public services, including water, wastewater, solid waste, energy, police, fire, and emergency services.

### 3.9.1 Setting

#### 3.9.1.1 Water Supply

As the largest, natural, freshwater lake located entirely in California, Clear Lake is a valuable natural, recreational, and economic resource for county residents. Yolo County Flood Control and Water Conservation District (YCFCWCD) owns and operates the Cache Creek Dam and hydropower facility. The dam is operated to generate hydroelectric power and to regulate YCFCWCD's appropriative water. On May 1, when Clear Lake is full, the maximum diversion available to YCFCWCD for consumptive purposes is 150,000 acre-feet. This is approximately three times the total water use in Lake County as estimated in the 2006 water inventory (CDM 2006c). Two water purveyors, the Highlands Water Company and the City of Lakeport, have limited water rights to divert surface water from Clear Lake for distribution and consumption to its customers. Several other water purveyors purchase surface water from YCFCWCD.

Highlands Mutual Water Company diverts raw water from Clear Lake and conveys it to its water treatment plant (WTP), at 14774 Hillcrest Avenue in the City. The WTP is capable of producing 2.5 million gallons per day (MGD). After treatment and disinfection, treated water is pumped to six storage tanks. Highlands Mutual Water Company has a combined storage capacity of 4.9 million gallons (MG). Treated water in storage is distributed to residential and non-residential customers throughout Highlands Mutual Water Company's service area including the project site and the central portion of City. The WTP is approximately 1,500 feet from the project site and consistent with existing conditions would continue to convey treated water through its existing facilities and pipelines.

#### 3.9.1.2 Wastewater Service

The Southeast Regional Wastewater System provides wastewater service to the City, including the project site. Wastewater is conveyed to the Southeast Treatment Plant, which has an average dry weather flow of approximately 1.9 million gallons per day (MGD) and an average wet weather flow of 6.1 MGD. All of the treated waste water from the Southeast Treatment Plant is recycled to the Geysers geothermal field, sustaining the energy production complex (Lake County Special Districts Administration, 2017).

#### 3.9.1.3 Solid Waste Service

Solid waste collection and disposal for the project site would be provided by Clearlake Waste Solutions. Clearlake Waste Solutions offers garbage, recycling, and green waste collection to residential and commercial services (Clearlake Waste Solutions, 2020). The City disposes solid waste at the Eastlake Sanitary Landfill, located at 16015 Davis Avenue. The landfill has a maximum permitted capacity of 6,050,000 cubic yards and a remaining capacity of 2,859,962 cubic yards (CalRecycle, 2019).

#### **3.9.1.4 Energy**

PG&E supplies electricity for the City. There are no natural gas services within the City. There are several propane retailers that provide service to residents and businesses.

#### **3.9.1.5 Police Services**

The City's Police Department provides law enforcement services. The police station is located at 14050 Olympic Drive. The Police Department has approximately 47 staff, including 25 sworn officers. The Police Department logs an average of 21,000 incidents per year, with dispatch receiving between 60,000 to 70,000 calls (City of Clearlake, 2016).

#### **3.9.1.6 Fire and Emergency Services**

The project area is served by the Lake County Fire Protection District. The nearest fire station to the project site is Headquarter Station 70, located at 14815 Olympic Drive in Clearlake, approximately 0.75 miles north of the project site. The Lake County Fire Protection District is provided with mutual aid from the Department of Forestry and Fire Protection (Cal Fire) authority, an available resource for both structure and wilderness response. The nearest Cal Fire Units, managed by Cal Fire Lake, Napa, and Sonoma County (Cal Fire LNU) are located in the communities of Kelseyville and Clearlake Oaks. These facilities are approximately 15 miles and 5 miles away, respectively, from the city.

Emergency health care in the vicinity of the project site is provided by Adventist Health Clearlake, located at 15630 18<sup>th</sup> Avenue in Clearlake, approximately 1.2 miles southeast of the project site. American Medical Response provides emergency medical transportation for the project area.

#### **3.9.1.7 Public Schools**

The project site is located within the Konocti Unified School District. The nearest school is Burns Valley Elementary School, located 0.85 miles northwest of the project site (Konocti Unified School District, 2020).

#### **3.9.1.8 Recreation**

The Public Works Department maintains the City's parks, playground, and other public facilities. The nearest recreational facility is Redbud Park located directly to the west of the project site. The 15-acre park includes a boat launch, softball fields, fishing pier, picnic area, tennis courts and playground (Lake County, 2020).

### **3.9.2 Impact Analysis**

#### **3.9.2.1 Proposed Action**

##### ***Water Supply***

Water for the Proposed Action would be supplied to the proposed development by the Highlands Mutual Water Company. The *2006 Lake County Water Demand Forecast* addresses future water demands of the County. In 2000, the average water use for urban demand was 10,903 acre-feet per year (afy). In 2040, average water use is expected to be approximately 19,738 afy during

average years and 21,716 afy during dry years. The Proposed Action would be within these planning assumptions as it is consistent with the existing City land use designation and zoning of Community Commercial. Based on the available water supplies through surface water diversions Highland Mutual Water Company would be able to meet the future demand in years of normal precipitation as well as single dry and multiple-dry years (Lake County Watershed Protection District, 2006). In addition, Highland Mutual Water Company treats up to 5.0 MGD and currently treats about 4.9 MGD. Conservatively, demand generated by the Proposed Action would be approximately 4,210 gallons per day (gpd) based on the water demand methodology for a similar convenience store project (**Table 3.9-1**). Water demand is likely to be slightly less as the project consists of an approximately 6,000 square foot convenience store and a 2,000 square foot office space. Based on this information, there is sufficient remaining capacity within Highland Mutual Water Company water treatment plant to accommodate demand generated by the Proposed Action. Therefore, it is not anticipated that new or improved water facilities (which could cause environmental impacts) would be needed to continue to provide water service to the project site. Therefore, this impact would be less than significant.

**TABLE 3.9-1**  
**ESTIMATED WATER DEMANDS/WASTEWATER FLOWS**

<b>Wet Utilities</b>	<b>Proposed Project</b>
Water Demand	4,210 gpd
Wastewater Generation	4,000 gpd
NOTES:	
a Water demands= wastewater flows/0.96	
b 8,000 sf development x 0.5(gpd/sf)	
SOURCE: Blue Stone Strategy Group, 2020.	

### **Wastewater Service**

Wastewater service to the Proposed Action would be provided by Southeast Regional Wastewater System, the SRWTP has a permitted monthly average wet weather flow of 6.1 MGD with a capacity of 8.5 MGD. Average wet weather flows are 2-3 MGD during wet weather months.

As shown in Table 3.9-1, up to 4,000 gpd of wastewater could be generated by the Proposed Action, which is 95 percent of the treated water use at the travel center. The SRWTP has sufficient capacity to serve the Proposed Action and the Proposed Action would be within long range planning assumptions, as it is consistent with the existing City land use designation and zoning of Community Commercial. Therefore, it is not anticipated that new or improved wastewater facilities (which could cause environmental impacts) would be needed to continue to provide water service to the project site. Therefore, this impact would be less than significant.

### **Solid Waste Service**

Solid waste collection and disposal for the project site would be provided by Clearlake Waste Solutions. Solid waste in Clearlake is transported to Eastlake Sanitary Landfill in Clearlake. The landfill has a maximum permitted capacity of 6,050,000 cubic yards and a remaining capacity of

2,859,962 cubic yards (CalRecycle, 2019). Development of the travel center would incrementally increase the demand for solid waste collection and disposal. The daily solid waste generated by the Proposed Action would represent a minimal contribution to the landfill waste stream. With sufficient capacity at nearby landfills, the Proposed Action would have less than significant impacts to solid waste services.

### ***Energy***

Electricity and natural gas services would be provided by service providers who currently provide service to the Reservation and nearby areas. The Tribe would coordinate with PG&E for electrical service to the project site. If natural gas is needed, the Tribe would coordinate with a propane provider. The Proposed Action would represent a minimal portion of energy demands within the region and thus a less than significant impact is anticipated.

### ***Police Services***

Law enforcement services would be provided by either the City or Lake County Sheriff's Department through an agreement for service with the Tribe. The Proposed Action would include private security and surveillance to deter criminal activities. As there is an existing commercial use at the project site and the Proposed Action is consistent with the City land use designation and zoning of Community Commercial, the Proposed Action, as a travel center and gas station is not anticipated to create significant new demands on law enforcement services. It is not anticipated that the law enforcement agencies will require new or improved facilities (which could cause environmental impacts) to continue to provide a similar level of service to the project site. Therefore, this impact is considered less than significant.

### ***Fire and Emergency Services***

Fire protection and emergency services would be provided by the Lake County Fire Protection District through an agreement for service with the Tribe. As there is an existing commercial use at the project site and the Proposed Action is consistent with the City land use designation and zoning of Community Commercial, the Proposed Action is not anticipated to create significant new demands on fire and emergency services. It is not anticipated that the fire agency will require new or improved facilities (which could cause environmental impacts) to continue to provide a similar level of service to the project site. Therefore, this impact is considered less than significant. Wildfires are discussed under Section 3.11, Hazards.

### ***Public Schools and Recreation***

The Proposed Action would allow for the construction of a travel center and would create a small number of construction and permanent jobs. It is anticipated that construction workers and travel center employees would come from the local or regional work force and would not represent new residents to the area. Therefore, no significant increase in demand for recreation/parks and schools would occur.

### 3.9.2.2 No Action Alternative

Under the No Action Alternative, the project site would remain as is; all existing uses and utility connections, public services and utilities are anticipated to have sufficient capacity for operation and maintenance of the existing commercial office at the project site.

### 3.9.3 Cumulative Impact Analysis

Impacts associated with public services and utilities would be limited geographically to the service areas of the providers and temporally to construction and operational phases. As described above, the Proposed Action would result in minimal impacts to public services and utilities. The Proposed Action represents a small portion of future growth and would be within planning assumptions as it is consistent with the existing City land use designation and zoning of Community Commercial. Therefore, the Proposed Action would not result in a cumulatively considerable impact to public services and utilities.

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## 3.10 Noise

The following section discusses the noise environment at the project site and vicinity and assesses the potential for the alternatives under evaluation to impact the noise environment.

### 3.10.1 Setting

#### 3.10.1.1 Environmental Setting

##### ***Fundamentals of Noise***

Noise can be generally defined as unwanted sound. Sound, traveling in the form of waves from a source, exerts a sound pressure level (referred to as sound level) which is measured in decibels (dB), with zero dB corresponding roughly to the threshold of human hearing and 120 to 140 dB corresponding to the threshold of pain. Sound pressure fluctuations can be measured in units of hertz (Hz), which correspond to the frequency of a particular sound. The typical human ear is not equally sensitive to all frequencies of the audible sound spectrum. As a consequence, when assessing potential noise impacts, sound is measured using an electronic filter that de-emphasizes the frequencies below 1,000 Hz and above 5,000 Hz in a manner corresponding to the human ears decreased sensitivity to low and extremely high frequencies instead of the frequency mid-range. This method of frequency weighting is referred to as A-weighting and is expressed in units of A-weighted decibels (dBA).

An individual's noise exposure is a measure of noise over a period of time. A noise level is a measure of noise at a given instant in time. Community noise varies continuously over a period of time with respect to the contributing sound sources of the community noise environment. Community noise is primarily the product of many distant noise sources, which constitute a relatively stable background noise exposure, with the individual contributors unidentifiable. The background noise level changes throughout a typical day, but does so gradually, corresponding with the addition and subtraction of distant noise sources such as traffic and atmospheric conditions. What makes community noise constantly variable throughout a day, besides the slowly changing background noise, is the addition of short duration single event noise sources (e.g., aircraft flyovers, motor vehicles, sirens), which are readily identifiable to the individual.

Community noise varies continuously over a period of time with respect to the contributing sound sources of the community noise environment. Frequently used community noise descriptors are summarized below:

- $L_{eq}$ : the energy-equivalent sound level is used to describe noise over a specified period of time, typically one hour, in terms of a single numerical value. The  $L_{eq}$  is the constant sound level which would contain the same acoustic energy as the varying sound level, during the same time period (i.e., the average noise exposure level for the given time period).
- $L_{max}$ : the instantaneous maximum noise level for a specified period of time.
- $L_{dn}$ : 24-hour day and night A-weighted noise exposure level which accounts for the greater sensitivity of most people to nighttime noise by weighting noise levels at night ("penalizing")

nighttime noises). Noise between 10:00 p.m. and 7:00 a.m. is weighted (penalized) by adding 10 dBA to take into account the greater annoyance of nighttime noises. As a general rule, in areas where the noise environment is dominated by traffic, the  $L_{eq}$  during the peak-hour is generally equivalent to the  $L_{dn}$  at that location.  $L_{dn}$  is also referred as DNL.

CNEL: similar to DNL, the Community Noise Equivalent Level (CNEL) adds a 5-dBA “penalty” for the evening hours between 7:00 p.m. and 10:00 p.m. in addition to a 10-dBA penalty between the hours of 10:00 p.m. and 7:00 a.m.

As a general rule, in areas where the noise environment is dominated by traffic, the  $L_{eq}$  during the peak-hour is generally within one to two decibels of the  $L_{dn}$  at that location.

### **Vibration**

Vibration is an oscillatory motion through a solid medium in which the motion’s amplitude can be described in terms of displacement, velocity, or acceleration. Several different methods are used to quantify vibration. The peak particle velocity (PPV) is defined as the maximum instantaneous peak of the vibration signal. The PPV is most frequently used to describe physical vibration impacts on buildings. Typical groundborne vibration generated by human activities attenuates rapidly with distance from the source of the vibration. Sensitive receptors to vibration include people (especially residents, the elderly, and sick people), structures (especially older masonry structures), and vibration-sensitive equipment (FTA, 2018).

### **Sensitive Receptors**

Some land uses are considered more sensitive to ambient noise levels than others, due to the amount of noise exposure (in terms of both exposure duration and insulation from noise) and the types of activities typically involved. Residences, motels and hotels, schools, libraries, churches, hospitals, nursing homes, auditoriums, and parks and other outdoor recreation areas generally are more sensitive to noise than are commercial (other than lodging facilities) and industrial land uses.

Nearest sensitive receptors in the form of single family residences are located along Palmer Avenue approximately 200 feet north of the project site boundary. The Clearlake Church of God is located approximately 150 feet to the east of the project site. Single family residences are also located to the south of the project site along Ball Park Avenue.

### **Existing Noise Levels**

As described in the City’s General Plan Noise Element, traffic, commercial and industrial activity, recreational activities, and periodic nuisances such as construction are the major sources of noise in the City. Industrial and commercial land uses in the City are located primarily along State Route (SR) 53 and Lakeshore Drive; traffic on SR 53 and Lakeshore Drive is the primary source of noise in the City (City of Clearlake, 2017b). Noise levels in the project vicinity are influenced by traffic on Lakeshore Drive and activities at neighboring land uses including use of the baseball diamond to the south of the project site. Based on traffic noise contours included in the Noise Element, the existing ambient noise level at the project site is between 60 to 65 dB,  $L_{dn}$  (City of Clearlake, 2016b).

## 3.10.2 Impact Analysis

### 3.10.2.1 Proposed Action

The Proposed Action will result in a short-term increase in ambient noise levels during construction and long-term increase in noise from traffic generated by the Proposed Action and the Proposed Action's operational activities. Construction-related noise and vibration impacts are evaluated based on typical levels generated by construction equipment, distance to nearest sensitive uses in the project vicinity, and standards established by the City to address noise and vibration. The Proposed Action would result in a long-term increase in noise from traffic generated to the proposed land uses and operational activities associated with the project, including the operation of an emergency generator for testing and maintenance purposes. Traffic noise increase is assessed qualitatively while noise impacts to the nearest residential uses from the proposed emergency generator was assessed by comparing the attenuated noise level at the residences to the standard in the Noise Element of the General Plan (**Table 3.10-1**).

**TABLE 3.10-1**  
**NOISE LEVEL PERFORMANCE STANDARDS FOR PROJECTS AFFECTED BY OR INCLUDING NON-TRANSPORTATION NOISE SOURCES**

Type of Use	Interior Noise Level Standard, dBA L <sub>max</sub>	Daytime Exterior Noise Level Standard, dBA L <sub>eq</sub> (7 a.m. to 10 p.m.)	Nighttime Exterior Noise Level Standard, dBA L <sub>eq</sub> (10 p.m. to 7 a.m.)
Residential Uses	55	55	45

**NOTES:**

- <sup>a</sup> Exterior noise level standard to be applied at the property line of the receiving land use or at a designated outdoor activity area (at the discretion of the Planning Director) of the new development.
- <sup>b</sup> For mixed-use type projects, the exterior noise level standard may be waived (at the discretion of the Planning Director) if the project does not include a designated activity area and mitigation of property line noise is not practical. In this case, the interior standard would still apply.
- <sup>c</sup> Interior noise level standards are applied within noise-sensitive areas of residential land uses, with windows and doors in the closed positions.
- <sup>d</sup> Each of the exterior noise levels specified above shall be lowered by five dB for simple tone noises, noises consisting primarily of speech or music, or for recurring impulsive noises (e.g., humming sounds, outdoor speaker systems). These noise level standards do not apply to residential units established in conjunction with industrial or commercial uses (e.g., caretaker dwellings).

SOURCE: City of Clearlake, 2017b.

### **Construction Noise**

Construction would involve the use of heavy equipment that can generate substantial noise at and in the vicinity of the project site. Construction noise levels would fluctuate at any given receptor depending on the type of construction activity being undertaken, equipment type and duration of use, distance between the noise source and receptor, the presence or absence of barriers between the noise source and receptor, and the existing noise levels at the receptors. The likelihood for noise impacts from construction tend to be greatest when construction activities occur during the noise-sensitive times of the day (early morning, evening, or nighttime hours), in areas immediately adjacent to sensitive receptors, or when construction noise lasts for extended periods of time.

**Table 3.10-2** shows typical noise levels produced by various types of construction equipment that could be used as part of project construction activities. Not all equipment listed in the table may

be used for construction, but this analysis considers the entire range of equipment that could be potentially be used. As shown in Table 3.10-2, typical construction equipment generates maximum noise levels ( $L_{max}$ ) ranging from 55 to 90 dBA at a distance of 50 feet from the source. Impact equipment such as pile drivers would generate higher levels of noise but are not anticipated to be used for construction of this project.

**TABLE 3.10-2  
TYPICAL NOISE LEVELS FROM CONSTRUCTION EQUIPMENT**

Type of Equipment	$L_{max}$ , dBA (at 50 feet)	Acoustical Usage Factor (%)	$L_{eq}$ , dBA (at 50 feet)
Backhoe	80	40	76
Crane	85	16	77
Dozer	85	40	81
Compactor	80	20	73
Excavator	85	40	81
Roller	85	20	78
<b>Paver</b>	<b>85</b>	<b>50</b>	<b>82</b>
Grader	85	40	81
Generator	82	50	79
Jackhammer	85	20	78
Dump Truck	84	40	80
Pickup Truck	55	40	51
Concrete Mixer Truck	85	40	81
Concrete Pump Truck	82	20	75
Loader	80	40	76
Pump	77	50	74
Pneumatic Tools	85	50	82
Air Compressor	80	40	76
<b>Concrete Saw</b>	<b>90</b>	<b>20</b>	<b>83</b>

NOTE: Values in **bold** show the two noisiest construction equipment.

SOURCE: FHWA, 2017.

Over a typical work day, equipment would operate at different locations on the project site and would not always be operating concurrently. This is accounted for in the acoustical usage factor (also shown in Table 3.10-2). The  $L_{eq}$  noise levels shown in the table are the hourly  $L_{eq}$  levels taking into account the acoustical usage factors for each equipment. For a conservative approximation of noise from construction sites, the FTA in its *Transit Noise and Vibration Assessment Manual* (FTA, 2018) recommends an evaluation approach that considers the two loudest pieces of construction equipment to be operating at the same time at the center of the project site. Based on this approach, the combined noise level from the operation of a **concrete saw** and a **paver** would be 85.5 dBA,  $L_{eq}$  at 50 feet. This would attenuate to 70 dBA,  $L_{eq}$  at the

nearest residences to the north of the project site along Palmer Avenue, approximately 300 feet from the center of the project site.

The Noise Element does not provide quantitative noise limits for construction activities, but restricts construction activities to the hours of 7 a.m. to 7 p.m. on weekdays, and 8 a.m. to 7 p.m. on Saturdays. No construction on Sundays. Policy NO 1.3.1 identifies several BMPs to reduce noise impacts from construction. The City's Municipal Code restricts noise from construction activities occurring during daytime hours to a maximum of 80 dBA when measured at a distance of 100 feet from the source. At a distance of 100 feet, the simultaneous operation of a concrete saw and a paver, the two highest noise generating equipment, would generate 79.5 dBA, less than the 80 dBA limit.

Implementation of **Mitigation Measure 3.10-1** identified below would ensure compliance with the standards and requirements in the General Plan Noise Element resulting in a less than significant impact.

**Mitigation Measure 3.10-1:** The construction contractor shall be required to implement the following measures to reduce noise impacts during construction.

- Construction activities shall be limited to the daytime hours of 7 a.m. to 7 p.m. on weekdays, and 8 a.m. to 7 p.m. on Saturdays. Construction shall not take place on Sundays and legal holidays.
- The construction contractor shall utilize “quiet” models of air compressors and other stationary noise sources where technology exists and is feasible.
- At all times during grading and construction, stationary noise-generating equipment shall be located as far as practicable from sensitive receptors and placed so that emitted noise is directed away from residences.
- Unnecessary idling of internal combustion engines shall be prohibited.
- Construction staging areas shall be established at locations that will create the greatest distance between the construction-related noise sources and noise-sensitive receptors nearest the project site during all project construction activities, to the extent feasible.
- Neighbors located adjacent to the construction site shall be notified of the construction schedule in writing. The construction contractor shall designate a “noise disturbance coordinator” who will be responsible for responding to any local complaints about construction noise. The disturbance coordinator shall be responsible for determining the cause of the noise complaint (e.g., starting too early, poor muffler, etc.) and instituting reasonable measures as warranted to correct the problem. A telephone number for the disturbance coordinator shall be conspicuously posted at the construction site.

### **Construction Vibration**

Construction activities that generate detectable levels of groundborne vibration off-site include impact, drilling and vibratory compaction equipment. No such equipment is anticipated to be used for construction of this project. The highest vibration generating equipment that could be

potentially used at the site are bulldozers, loaded trucks and jackhammers. The PPV levels associated with these equipment are identified in **Table 3.10-3**. This table presents the reference vibration level at a distance of 25 feet as published by FTA. There are no historic structures in the vicinity of the project site that would be affected by construction vibration. The Noise Element identifies a vibration limit of 0.30 in/sec PPV to minimize the potential for cosmetic damage at buildings of normal conventional construction. The nearest off-site structure of conventional construction is located approximately 25 feet from the eastern boundary of the project site. As shown in Table 3.10-7, vibration levels at 25 feet from construction equipment that could potentially be used at the project site would be less than 0.3 in/sec PPV. Therefore, the Proposed Action would have a less than significant impact with respect to generation of excessive groundborne vibration levels from construction.

**TABLE 3.10-3  
VIBRATION LEVELS FROM CONSTRUCTION EQUIPMENT**

Equipment	Approximate PPV (in/sec) 25 Feet (Reference Vibration Level)
Vibratory Roller	0.21
Large Bulldozer	0.089
Loaded Truck	0.076

SOURCES: FTA, 2018.

### **Operational Noise**

Operational noise generated by the Proposed Action would be primarily from an increase in traffic to the Proposed Action new land uses, i.e., convenience store and/or gas station. The transportation section estimates that the project would generate approximately 50 new vehicle trips during the PM peak hour and 21 new vehicle trips during the AM peak hour. These trips to the project site would be distributed over the roadway network leading to the project site and not all take place along any one particular roadway. Generally, it requires a doubling of traffic volumes to increase the noise level to a potentially significant range of 3 dBA above the existing noise level. Given that the Proposed Action would generate a maximum of 50 trips in an hour distributed over the roadway network leading up to the site, the relatively small increase in vehicle trips along the affected roadway segments is not anticipated to double existing traffic volumes. Therefore, increase in noise along roadway segments affected by project traffic would be less than 3 dBA. As discussed earlier, the existing noise level at the project site is between 60 to 65 dBA,  $L_{dn}$ . The Noise Element considers an increase of 3 dB  $L_{dn}$  in roadway noise levels to be significant where existing traffic noise levels range between 60 and 65 dB  $L_{dn}$ . Therefore, traffic generated by the project would lead to a less than significant noise impact.

The Proposed Action includes an emergency generator to provide power during power shut offs from the grid. Based on the frequency of power shut offs in the project area, it is anticipated that the generator could be used up to 10 days per year for about 17 hours per day. In addition, the generator would need to be operated routinely for maintenance and testing purposes. This would

result in an occasional increase in ambient noise levels. Program NO 1.1.1.8 of the General Plan Noise Element exempts emergency warning devices and equipment operated in conjunction with emergency situations, such as sirens and generators which are activated during power outages. The routine testing of such warning devices and equipment is also exempt provided such testing occurs during daytime hours and does not occur for periods of more than one hour per week. Due to the proposed use (for emergency purposes or testing only) and limited number of hours of operation, this impact is considered less than significant.

### ***Operational Vibration***

The project would not include any operational sources of vibration. Hence there would be no impact.

### **3.10.2.2 No Action Alternative**

As discussed in Section 2.2, under the No Action Alternative, the project site would not be placed into federal trust for the benefit of the Tribe and land jurisdiction would remain with the City. It is assumed that the site would remain in its existing condition and therefore not generate new sources of noise. Any future development would be required to be consistent with the City's General Plan Noise Element and noise ordinance regulations.

### **3.10.3 Cumulative Impact Analysis**

Impacts associated with noise would be limited geographically to off-site areas where construction noise would be perceptible and along roadways carrying project traffic. Impacts would be limited temporally to construction phases and also operation of the Proposed Action. If concurrent construction activities are underway or planned in the immediate vicinity of the project site, those project sites would be implemented under similar or more rigorous noise and vibrations regulations. Moreover, all new construction would be consistent with City's construction standards, local codes and regulations in addition to policies outlined in its General Plan. The Proposed Action represents a very small portion of traffic on local roadways and is also consistent with the existing land use designation/zoning for the project site of commercial development; therefore, the Proposed Action is within the long-range transportation and transportation-related noise assumptions for the project area. For these reasons, the Proposed Action would not result in cumulatively considerable noise impacts.

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## 3.11 Hazards

Phase I and II Environmental Site Assessments (ESAs) were prepared for the project site and are included as **Appendix C** (LACO, 2019 and LACO, 2020). The following section discusses the potential for hazards at the project site and potential effects from implementation of the alternatives under evaluation.

### 3.11.1 Setting

#### 3.11.1.1 Environmental Setting

##### ***Hazardous Materials***

A material is considered hazardous if it appears on a list of hazardous materials prepared by a federal, state, or local agency, or if it has characteristics defined as hazardous by such an agency. A hazardous waste is any hazardous material that is discarded, abandoned, or to be recycled. The criteria that render a material hazardous also apply to wastes that are determined to be hazardous. Factors that influence the health effects of exposure to hazardous material include the dose to which the person is exposed, the frequency of exposure, the exposure pathway, and individual susceptibility.

The project site was investigated for Recognized Environmental Conditions (RECs) by completing a Phase I ESA under the American Society for Testing and Materials (ASTM) *Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process*, Designation E1527-13 in 2019. A Phase II ESA was performed in general accordance with LACO's Standard Operating Procedure No. 1, as a screening level evaluation to identify if impacts are present from the HREC and potential REC Phase I ESA findings that may pose a threat to human health and/or the environment. The Phase II ESA was completed in 2020.

A review of available environmental databases maintained by the State Water Resources Control Board (SWRCB) and Department of Toxic Substances Control (DTSC) for sites that have been impacted by leaking underground storage tanks (LUST); non-fuel related cases known as Spills, Leaks, Investigative Cleanup (SLIC); and other cleanup sites was conducted. In addition, other state and federal databases were reviewed to determine if the property or adjacent properties were listed as hazardous waste generators, LUST releases, or as having other environmental concerns (i.e., spill, leak, or aboveground tank [AST]). The project site was not listed on any of the databases researched, however, 42 sites were identified in the search radius. **Table 3.11-1** provides a list of the databases included in the search. The project site was not listed on any of the databases as having environmental concerns.

**TABLE 3.11-1  
DATABASES SEARCHED**

Database	Type of Record	Agency
NPL	National Priority List	EPA
Delisted NPL	Delisted National Priority List	EPA
CA UST	Active UST facilities gathered from local regulatory agencies	State Water Resources Control Board
CERCLIS <sup>a</sup>	Sites currently or formerly under review by US EPA	EPA
CERCLIS/NFRAP <sup>b</sup>	CERCLIS site where no further remedial action is planned	EPA
Indian LUST	LUST facilities on Indian land in California	EPA
LUST	Leaking Underground Storage Tanks	STATE
RCRA	RCRA violations/ enforcement actions	EPA
ERNS	Emergency Response Notification System of spills	EPA
RCRIS	RCRA treatment, storage and disposal facilities	EPA
AWP <sup>c</sup>	State/Tribal equivalent to NPL	Cal-EPA
DTSC Properties needing further evaluation (Cal-NFE)	State/Tribal equivalent to CERCLIS	Cal-PEA
VCP	Low level threat properties where project proponents have requested DTSC involvement.	Cal-EPA
Engineering Controls Site List	List of site with engineering controls in place.	US EPA
Institutional Controls Site List	List of site with institutional controls in place	US EPA
Brownfields Site List	Listing of Brownfields properties	US EPA

NOTES:

<sup>a</sup> CERCLIS: Comprehensive Environmental Response, Compensation & Liability Information System

<sup>b</sup> RCRA: Resource Conservation and Recovery Act

<sup>c</sup> AWP: Annual Workplan Sites

<sup>d</sup> VCP: Voluntary Cleanup Program

SOURCE: LACO, 2019

The Phase I and II ESAs identified and evaluated one potential REC and two historical RECs (HRECs):

- Subject Property HREC: A former structure containing asbestos materials was demolished and the demolished materials were removed from the property in 2018. The threat to human health is considered low.
- Nearby Property HREC: A former LUST environmental regulated case known as Nott's Liquor concerns a nearby property. The threat to human health is considered low as the Nott's Liquor case was closed by a regulatory agency following years of groundwater monitoring and remediation at the site and the project site is connected to a public water supply.
- Nearby Property REC at 14961 Lakeshore Drive: Due to the site's proximity to the project site, being located hydraulically up to cross-gradient from the project site, the violation records on file, and the lack of information for removal of historical USTs, the site located at 14961 Lakeshore Drive was further evaluated as a potential REC for waste oil and historical

gasoline constituents. For the Phase II ESA, groundwater samples were collected from the site. The samples showed presence of TPHmo and heavy oil range organics; however, the threat to human health is considered low and at a de minimus level because the constituents detected are non-volatile and the site is connected to a public water supply.

### **Wildland Fire**

The City is surrounded by rural and undeveloped foothills that are designated as moderate to very high severity zones (City of Clearlake, 2016). Cal Fire is required by law to map areas of significant fire hazard based on fuels, terrain, weather, and other relevant factors (PRC 4201-4204 and Govt. Code 51175-89). Factors that increase an area's susceptibility to fire hazards include slope, vegetation type and condition, and atmospheric conditions. The project site is located in an unmapped Cal Fire, Fire Hazard Severity Zone (CAL FIRE, 2012). However, the project site is located within a highly urbanized area and considered low risk for wildland fires. Therefore, this issue is not discussed or analyzed further.

## **3.11.2 Impact Analysis**

### **3.11.2.1 Proposed Action**

#### **Hazardous Materials**

As described above in the Environmental Setting section, the Phase I and II ESAs concluded that the threat to human health from historic and potential RECs is considered low. Thus, these issues are not discussed further.

During construction, there is a potential for accidental release of hazardous materials, such as fuels, paints, and cleaning solvents. Section 3.2, Water Resources, discusses **Mitigation Measure 3.2-1**, which includes the development of a Stormwater Pollution Prevention Plan which will include best management practices (BMPs) to prevent accidental releases and other pollutants from entering waterways.

Operation of the gas station portion of the Proposed Action would include storage of gasoline and/or diesel fuel. The Tribe will conform to federal regulations under 40 CFR 280, Technical Standards and Corrective Action Requirements for Owners and Operators of USTs. Part 280.20, Performance Standards for new underground storage tank systems, includes requirements for tank design, the installation and maintenance of leak detection and prevention systems, and spill and overfill controls to minimize the risk of release of petroleum into the environment. Compliance with the provisions of 40 CFR Part 280 would ensure that the impacts to public safety and environmental quality from accidental release of petroleum products, fire, explosion, and vapor intrusion hazards are minimized.

Operation of the convenience store and office space portion of the Proposed Action may involve use and storage of small quantities of common hazardous wastes such as cleaning products, paints, and fuels. The Tribe would adhere to the typical safety guidelines and standards for the storage and handling of these products.

Upon final design, the Tribe will ensure compliance with Clean Air Act permitting requirements for new Gas Station Construction on Tribal Lands under the Clean Air Act Federal Indian Country Minor New Source Review (NSR) program for gasoline dispensing facilities (GDFs) located in Indian country within the geographical boundaries of California. The primary pollutant of concern for GDFs is volatile organic compounds, which are emitted from storage tanks and gasoline dispensing units at GDFs. Permitting under the NSR program will require controls to limit emissions to a less-than-significant level.

### **3.11.2.2 No Action Alternative**

Maintenance of the existing commercial office use on the site would not result in significant impacts with respect to hazards and hazardous materials. Any future development would be required to comply with federal, State, and local environmental laws, ensuring the risk of exposure to hazardous materials is minimized.

### **3.11.3 Cumulative Impact Analysis**

Impacts associated with hazards and hazardous materials would be limited geographically to the drainage and groundwater basins which capture stormwater releases from the project site and temporally to construction and operational phases. If concurrent construction activities are underway or planned in the immediate vicinity of the project site, those project sites would be implemented under similar i.e., SWPPP and/or more rigorous regulations to manage hazards and hazardous materials on each site. Moreover, all new construction would be consistent with City's construction standards, local codes and regulations in addition to policies outlined in its General Plan. During operations, the Proposed Action as discussed above, would comply with federal laws regulating fuels storage and emissions. For these reasons, the Proposed Action is not anticipated to contribute to cumulative impacts.

## 3.12 Visual Resources

The following section describes the existing setting and analyzes impacts related to visual resources.

### 3.12.1 Setting

#### 3.12.1.1 Environmental Setting

The project site is located near the shore of Clear Lake, within an urban environment. The elevation range of the project site is approximately 1,350 feet above mean sea level and the site slopes gently to the southeast.

The project site is developed with a First Loan office building, paved parking lot, and gravel parking lot. The project site contains minimal vegetation, including non-native grasses and several small trees. The project site is immediately surrounded by: Lakeshore Drive to the north; commercial buildings to the east; the Clearlake Youth Center and a baseball diamond and park to the south; and Golf Avenue to the west (Refer to Figures 1 and 2). The project site is not located near an officially designated state scenic highway (Caltrans, 2016).



**Photo 1**  
Project site facing east.



**Photo 2**  
Project site facing southwest.

## 3.12.2 Impact Analysis

### 3.12.2.1 Proposed Action

Transfer of the project site into tribal trust would exempt the site from local land use and design regulations, and land use and design would be regulated by the Tribe; however, the proposed commercial use is consistent with the existing City land use designation and zoning of Community Commercial. The Proposed Action includes a one-story, 8,000 square foot building containing a 6,000 square foot convenience store and a 2,000 square foot office space, an eight-to ten dispenser fuel island, EV charging stations and associated parking, infrastructure, and landscaping improvements. The scale and design of Proposed Action is anticipated to be compatible with surrounding commercial development. The exterior of the proposed convenience store would be finished using natural tones to the extent feasible, in keeping with the visual setting provided by the adjacent Redbud Park. The structures on-site would not affect any designated scenic viewsheds or corridors. As such, impacts would be less than significant.

### 3.12.2.2 No Action Alternative

Maintenance of the existing commercial office use on the site would not result in significant impacts with respect to visual resources. Any future development would be consistent with City land use, design, and zoning regulations.

## 3.12.3 Cumulative Impact Analysis

Impacts associated with visual resources would be limited geographically to approximately 800 feet from where the project site can be seen from the surrounding area, and temporally to the construction and operational phase. If concurrent construction activities are underway or planned

in the immediate vicinity of the project site, those project sites would be implemented under similar or more rigorous regulations and building codes to meet City standards, zoning codes and land use designation and/or policies outlined in its Municipal Code and General Plan. As such, the Proposed Action is not anticipated to contribute to cumulative impacts.

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## CHAPTER 4

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## CHAPTER 5

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# Attachment 1

## **Mitigation Monitoring and Reporting Program**

## MITIGATION MONITORING AND REPORTING PROGRAM FOR THE ELEM INDIAN COLONY FEE-TO-TRUST AND TRAVEL CENTER PROJECT

Resource Area	Mitigation Measures	Implementing Actions/ Responsible Party	Timing
Land Resources	N/A		
Water Resources	<p><b>Mitigation Measure 3.2.1: Best Management Practices.</b></p> <p>Prior to the initiation of construction activities on site disturbing an acre or more, the Tribe shall prepare a SWPPP, and shall implement the SWPPP during construction on site. BMPs shall target minimization of erosion, minimization of sedimentation, and minimization of the release of stormwater pollutants from construction equipment and activities. BMPs may include, but are not limited to the following:</p> <ul style="list-style-type: none"> <li>• Prepare a spill prevention and control plan;</li> <li>• Inspect work area and surrounding area, identify existing pollutants, keep the worksite clean to prevent loss of accumulated debris into stormwater channels.</li> <li>• Any material stored outside that is susceptible to "wash-off" when it rains shall be protected from the effects of wash off through the use of covers and/or secondary containment as necessary.</li> <li>• All material will be stored in specified lay down areas and secured after every work shift.</li> <li>• Any construction debris and/or waste will be cleaned up after every work shift.</li> <li>• Stockpile soil under cover in a manner that minimizes contact with process water or storm water. Keep covered end secured at all times except when adding or removing soil. Store in containers or in the following manner: <ul style="list-style-type: none"> <li>○ Underlay the soil with a continuous impervious sheet of plastic with a thickness sufficient to contain the soil with a minimum thickness of 0.254 millimeters (10 mils). Thicker or reinforced plastic or other measures to protect the integrity of the plastic underlayment may be required if there is a danger that the plastic will be punctured or torn during accumulation. Weld, heat seal or continuously tape (on both sides) all seams. Protect the plastic from perforation during loading and handling operations.</li> <li>○ Install an impervious continuous sheet of plastic of 0.254 millimeters (10 mils) thickness, over the pile. Weld, heat seal or continuously tape (on both sides) all seams.</li> <li>○ Secure the top cover to ensure that wind will not balloon the cover or blow it aside leaving the pile exposed to weather.</li> </ul> </li> <li>• Street sweep as necessary.</li> <li>• Install physical barriers (e.g. setbacks/buffers, silt fencing and/or straw wattles) to prevent erosion and sedimentation</li> <li>• Establish protocols for vehicle refueling and maintenance</li> <li>• Minimize work during the storm season</li> <li>• Stabilize construction equipment entrance/exit</li> <li>• Revegetate disturbed soils</li> </ul>	Elem Indian Colony of Pomo Indians (Project Applicant) / Construction Contractor	<p>Developed prior to the initiation of construction activities disturbing an acre or more</p> <p>Implemented during construction on site</p>
Air Quality	N/A		

## MITIGATION MONITORING AND REPORTING PROGRAM FOR THE ELEM INDIAN COLONY FEE-TO-TRUST AND TRAVEL CENTER PROJECT

Resource Area	Mitigation Measures	Implementing Actions/ Responsible Party	Timing
Biological Resources	<b>Mitigation Measure 3.4-1: Avoid and Minimize Impacts to Nesting Birds.</b> Vegetation clearing operations, including initial grading and tree removal, should occur outside of the nesting season (September 1 through February 14) to the extent feasible. If vegetation removal begins during the nesting season (February 15 to August 31), a qualified biologist will conduct a preconstruction survey for active nests within a 500-foot buffer around the project site. The pre-construction survey will be conducted within 7 days prior to commencement of ground disturbing activities. If the preconstruction survey shows that there is no evidence of active nests, then a letter report will be prepared, and no additional measures are required. If construction does not commence within 7 days of the pre-construction survey, or halts for more than 7 days, an additional pre-construction survey is required (if working during the nesting season).	Qualified biologist	Survey will be conducted within 7 days prior to commencement of ground disturbing activities
	<b>Mitigation Measure 3.4-2: Avoid and Minimize Impacts to Nesting Birds.</b> If any active nests are located in the vicinity of the project site, an appropriate buffer zone will be established around the nests, as determined by the biologist. The biologist will mark the buffer zone with construction tape or pin flags and maintain the buffer zone until the end of breeding season or until the young have successfully fledged or the nest is determined to be no longer active. Buffer zones are typically 50-100 feet for migratory bird nests and 250-500 feet for raptor nests. If active nests are found within the vicinity of the construction area, a qualified biologist will monitor nests weekly during construction to evaluate potential nesting disturbance by construction activities. If establishing the typical buffer zone is impractical, the qualified biologist may reduce the buffer depending on the species and daily monitoring would be required to ensure that the nest is not disturbed and no forced fledging occurs. Daily monitoring will occur until the qualified biologist determines that the nest is no longer occupied	Qualified biologist	Daily monitoring will occur until the qualified biologist determines that the nest is no longer occupied.
Cultural Resources	<b>Mitigation Measure 3.5-1: Construction Worker Cultural Resources Sensitivity Training.</b> Prior to any earth moving activities, a qualified archaeologist meeting the Secretary of the Interior's Professional Qualifications Standards for Archeology shall conduct cultural resources sensitivity training in coordination with a tribal representative. The Tribe shall coordinate the training. Construction personnel will be informed of the types of cultural resources that may be encountered, and of the proper procedures to be enacted in the event of an inadvertent discovery of archaeological resources or human remains. The construction contractor will ensure that construction personnel are available for and attend the training and retain documentation demonstrating attendance.	Elem Indian Colony of Pomo Indians and a qualified archaeologist meeting the Secretary of the Interior's Professional Qualifications Standards for Archeology	Prior to earthmoving or ground-disturbing construction activities
	<b>Mitigation Measure 3.5-2: Inadvertent Discoveries.</b> If pre-contact or historic-era archaeological resources are encountered during project implementation, all construction activities within 100 feet shall halt, and a qualified archaeologist, defined as an archaeologist meeting Secretary of the Interior's Professional Qualifications Standards (SOI PQS) for Archeology, shall inspect the find within 24 hours of discovery and notify the BIA of their initial assessment. Pre-contact archaeological materials might include: obsidian and chert flaked-stone tools (e.g., projectile points, knives, scrapers) or toolmaking debris; culturally darkened soil (midden) containing heat-affected rocks, artifacts, or shellfish remains; stone milling equipment (e.g., mortars, pestles, handstones, or milling slabs); and battered stone tools (e.g., hammerstones, pitted stones). Historic-era materials might include building or structure footings and walls, and deposits of metal, glass, and/or ceramic refuse.  If the BIA determines, based on recommendations from the archaeologist and, if the resource is indigenous and a Native American tribe has expressed interest, a Native American tribe, that the resource may qualify as a historic property (for NHPA purposes), the resource shall be avoided, if feasible. Consistent with Section 15126.4(b)(3), this may be accomplished through planning construction to avoid the resource; incorporating the resource within open space; capping and covering the resource; or deeding the site into a permanent conservation easement.	Elem Indian Colony of Pomo Indians representative and a qualified archaeologist meeting the Secretary of the Interior's Professional Qualifications Standards for Archeology	During active construction especially during earthmoving or ground-disturbing construction activities

## MITIGATION MONITORING AND REPORTING PROGRAM FOR THE ELEM INDIAN COLONY FEE-TO-TRUST AND TRAVEL CENTER PROJECT

Resource Area	Mitigation Measures	Implementing Actions/ Responsible Party	Timing
Cultural Resources (cont.)	<p>If avoidance is not feasible, the BIA shall consult with appropriate Native American tribes (if the resource is pre-contact and a tribal government has requested consultation), and other appropriate interested parties to determine treatment measures to avoid, minimize, or mitigate any potential adverse effects to the resource pursuant to 36 CFR Section 800.5. This shall include documentation of the resource and may include data recovery, if deemed appropriate, or other actions such as treating the resource with culturally appropriate dignity and protecting the cultural character and integrity of the resource.</p> <p><b>Mitigation Measure 3.5-3: Discovery of Human Remains.</b> If human remains are encountered during construction, the qualified archaeologist in coordination with the tribal monitor shall have the authority to halt or redirect construction activities in the immediate vicinity of the find (within approximately 100 feet). The Tribe will contact the County Coroner to determine that no investigation of the cause of death is required. The Coroner will contact the Native American Heritage Commission within 24 hours, if the Coroner determines the remains to be Native American in origin. The Commission will then identify the person or persons it believes to be the most likely descendant from the deceased Native American (PRC Section 5097.98), who in turn would make recommendations for the appropriate means of treating the human remains and any associated funerary objects (CEQA Guidelines Section 15064.5[d]). Human remains will be treated in accordance with the provisions of the Native American Graves Protection and Repatriation Act of 1990.</p>	Elem Indian Colony of Pomo Indians, tribal monitor and a qualified archaeologist meeting the Secretary of the Interior's Professional Qualifications Standards for Archeology	During active construction especially during earthmoving or ground-disturbing construction activities
Socioeconomic Conditions and Environmental Justice	N/A		
Land Use	N/A		
Transportation	N/A		
Public Services and Utilities	N/A		
Noise	<p><b>Mitigation Measure 3.10-1:</b> The construction contractor shall be required to implement the following measures to reduce noise impacts during construction.</p> <ul style="list-style-type: none"> <li>Construction activities shall be limited to the daytime hours of 7 a.m. to 7 p.m. on weekdays, and 8 a.m. to 7 p.m. on Saturdays. Construction shall not take place on Sundays and legal holidays.</li> <li>The construction contractor shall utilize "quiet" models of air compressors and other stationary noise sources where technology exists and is feasible.</li> <li>At all times during grading and construction, stationary noise-generating equipment shall be located as far as practicable from sensitive receptors and placed so that emitted noise is directed away from residences.</li> <li>Unnecessary idling of internal combustion engines shall be prohibited.</li> <li>Construction staging areas shall be established at locations that will create the greatest distance between the construction-related noise sources and noise-sensitive receptors nearest the project site during all project construction activities, to the extent feasible.</li> <li>Neighbors located adjacent to the construction site shall be notified of the construction schedule in writing. The construction contractor shall designate a "noise disturbance coordinator" who will be responsible for responding to any local complaints about construction noise. The disturbance coordinator shall be responsible for determining the cause of the noise complaint (e.g., starting too early, poor muffler, etc.) and instituting reasonable measures as warranted to correct the problem. A telephone number for the disturbance coordinator shall be conspicuously posted at the construction site.</li> </ul>	Construction Contractor	During all phases of project construction.

MITIGATION MONITORING AND REPORTING PROGRAM FOR THE ELEM INDIAN COLONY FEE-TO-TRUST AND TRAVEL CENTER PROJECT

Resource Area	Mitigation Measures	Implementing Actions/ Responsible Party	Timing
Hazards	Mitigation Measures 3.2.1: See Water Resources above	Elem Indian Colony of Pomo Indians (Project Applicant)/ Construction Contractor	Developed prior to the initiation of construction activities disturbing an acre or more  Implemented during construction on site



**City of Clearlake**  
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February 10, 2022

Amy Dutschke  
Regional Director  
Bureau of Indian Affairs, Pacific Region  
2800 Cottage Way, Room W-2820  
Sacramento, CA 95825

**RE: TR-4313-P5-J51-632T Environmental Assessment and draft FONSI for Fee-to-trust Acquisition and Travel Center Project – Elem Indian Colony of Pomo Indians of the Sulphur Band Rancheria**

Director Dutschke:

The City of Clearlake received a copy of the Environmental Assessment (EA) and draft FONSI on January 25, 2022. After review of the documents the City would like to identify various concerns with the preparation of the EA and the draft FONSI and request that several items be updated and recirculated prior to adoption of a final FONSI.

General Overview:

It is impossible to determine a finding of no significant impact, based on the information in the EA. The most detailed description of the proposed “travel center” is simply one paragraph in nature (2.1.2 Commercial Development) and is not adequate for basing any environmental findings. Why is there no site plan or other supporting documents that can be invaluable in actually conducting a review of environmental impacts? In discussion with Elem representatives we understand that they want to determine if the fee-to-trust process will move forward prior to beginning the design phase. While we understand not spending significant dollars for design prior to a decision on the fee-to-trust process, we also find it impossible to make an environmental determination on the information provided thus far and at least a site plan should be required before a FONSI determination can be made. Many of the specific comments below are raised due to the inability to analyze the project for potential impacts.

3.2 Water Resources:

Stormwater - The EA acknowledges drainage will be designed to push surface water into the City-manage stormwater system. With no detail about how this will be managed, and on-site water handled, a determination of no significant impact cannot be made.

Groundwater – This section (and others) references the project site being within the Golden State Water District. This is incorrect. The property is within the Highlands Mutual Water Company. Further the groundwater section includes a mitigation measure (3.2-1) for construction activity, but there is no

mitigation or analysis of the impacts of the project itself once built and its impact on the City-managed stormwater system.

3.5 Cultural Resources:

While at first glance the cultural resources section seems uniquely thorough in the EA, upon closer review it does not meet a standard of consistency with federal, state or local regulations. The City would not accept this review for any other conventional applicant in the City.

The City requested an informal review of the cultural resource section of the EA/draft FONSI from an archeologist and was provided with the following feedback.

- (1) The Document Review section makes the argument that “the nearest sites to the APE are over 500 feet away...[and therefore]...none of the resources would be impacted by the Proposed Action” (page 3.5-4). This argument is based on a premise that the Northwest Information Center archives contain a complete and accurate record of all local cultural resources, neither of which is true. The prior surveys cited by the document covered only a fraction of the landscape, no field investigation has been done of the proposed Fee-to-Trust parcel, and prior projects in the vicinity are generally so old that they are well-past their conventional shelf-lives, having been done prior to implementation of modern regulation and methods. For example, we’ve learned in the past two decades that, in floodplain environments like this, archaeological deposits are more likely to be buried than visible on the surface. A pre-project study employing subsurface probes (augers or backhoe test pits) are fundamentally important.
- (2) The Impact Analysis section (3.5.2) subscribes to the notion that no field investigation is necessary and that potential cultural resource concerns can be addressed by implementation of the National Historic Preservation Act’s (NHPA) “post-review discoveries” provision. You will find few if any lead agencies willing to support this construct. The post-review discoveries provision is meant to provide a safety net for truly unanticipated discoveries (i.e., discoveries not made during good-faith field inventory), and not as a half-measure potentially resulting in the execution of studies under duress and at the expense of the project proponent who will then have to carry the costs of construction stand-down and project delay. This is an inaccurate application of the regulatory framework guiding archaeological practice; it short-circuits NHPA’s intent and clearly runs counter to the purpose of NHPA’s post-review discovery provisions.
- (3) The cultural resources section closes with the assertion that “Since no historic properties were identified, and since future development would be implemented in a manner consistent with federal, State, and local land use regulations, there would be No Historic Properties Affected from the No Action Alternative” (section 3.5.2.2). In fact, it’s entirely possible that “no historic properties were identified” because no historic resource investigation was undertaken.
- (4) The Cultural Resource section is inadequate with respect to basic content. For example, there are several important errors of commission and omission, in particular the use of unique terminology and the lack of identification of specific regulatory provisions. For example, the assertion that “there would be No Historic Properties Affected from the No Action Alternative” is an odd mashup that appears to take a broad swipe at the question of Project Effects and appears to be making

a claim for a finding of “No Adverse Effect” pursuant to 36 CFR Part 800.5(b), yet fails to cite the regulatory instrument. In another example, the document identifies “post-review discovery procedures” but fails to place these procedures in the regulatory context, fails to note the need for a federal lead, and fails to note that regulation requires that all work cease in the vicinity of the find until a professional archaeologist is retained to evaluate the find, and further, that the archaeologist may determine the unanticipated finds may merit resolution of adverse effects pursuant to 36cfr800 and thus result in reasonable efforts to avoid, minimize, or mitigate adverse effects. The study also fails to note that, because the project will be completed under federal permit, the work must proceed in compliance with provisions of the Native American Graves Protection and Repatriation Act, 25 U.S.C. 3001 et seq. [Nov. 16, 1990], under which any individual who has knowingly and inadvertently discovered human remains “must provide immediate telephone notification of the inadvertent discovery, with written confirmation, to the responsible Federal agency official” (10.4(b)). If the discovery occurs in connection with a Federal undertaking or activity, then “the person, in addition to providing the notice described above, must stop the activity in the area of the inadvertent discovery and make a reasonable effort to protect the human remains” (10.4(b)). The responsible Federal agency official must act immediately to certify receipt of the notification, secure and protect the finds, notify affected tribes by telephone and with written confirmation, and initiate consultation (10.4(d)(1)(i-iv)). The regulations make further provisions for treatment and disposition of the remains, but these procedures will primarily depend on the outcome of tribal consultation. It is also important to note that the Native American Graves Protection and Repatriation Act specifically dictates that the activity resulting in the inadvertent discovery may resume either: (1) “thirty (30) days after certification by the notified Federal agency of receipt of the written confirmation of notification of inadvertent discovery if the resumption of the activity is otherwise lawful”, or (2) “at any time that a written, binding agreement is executed between the Federal agency and the affiliated Indian tribes (10.4(d)(2)).

We request that an updated cultural resource study be conducted consistent with federal, state and local standards and the EA be revised accordingly and recirculated for review and comment.

3.6 Socioeconomic Conditions and Environmental Justice:

This section focuses on the beneficial socioeconomic impact of the Tribe providing employment opportunities for tribal members and funding for tribal services. The City is supportive of this goal and further choosing the City of Clearlake for that investment.

What does not appear to be analyzed is the socioeconomic impact of the proposed travel center on other businesses and the larger community. While, as mentioned above, details on this project are scarce we know the plan is for eight fuel pumps and a convenience store. This area of the City has a very high concentration of gas stations. This proposal would be the sixth one on Lakeshore Drive. One is 150 ft away, two are approximately 900 feet away, one each at a half mile and a mile away. The traffic analysis in the EA surmises that 79% of traffic to the travel center would not be new trips but “diverted” customers from one or more of the neighboring locations. This will result in a dramatic economic impact on local businesses, employees, additional investment and public agency tax revenue. Other Lake County tribes have constructed travel centers selling fuel and tobacco products, but they have been associated with other tribal operations such as hotels and casinos and are not in close proximity to other existing businesses of that type. The proposed project will be undoubtably devastating to the immediately neighboring businesses. One location has halted plans to expand and renovate their facility due to the



concern about the tribal project and being able to compete with their advantageous tax structure. Again, we do not begrudge the Tribe from pursuing this project, which will undoubtedly be an economic benefit to them, but at the very least the review needs to address and identify the negative impact that will surely result in a loss of jobs of neighboring businesses. City sales tax records show that the previous 12 months resulted in \$525,811 of sales tax receipts from gas stations. This includes the 1% Bradley-Burns, the 1% Measure V for roads, and 0.5% Measure P for police. If 79% of this total is diverted to the proposed travel center this would result in a loss of \$415,391 in revenue to support public services. This does not assume the loss of other retailers from tobacco and other high tax products, that if sold from the proposed travel center would cause a dramatic revenue reduction for local businesses and public agencies. It is inaccurate for the EA to state that this project will not have significant adverse effects to the tax revenues to the local political subdivisions.

The City requests the larger socioeconomic impacts be analyzed, the EA be updated and recirculated for review and comment.

3.7 Land Use:

The EA is not using up to date zoning information. The City of Clearlake adopted a new zoning ordinance and zoning map in December of 2020, which was effective in early 2021. The land use analysis relies on the old information. The project site is zoned Mixed Use (MUX).

The land use analysis needs to be redone based on accurate and up to date land use information and the EA be recirculated for review and comment.

3.8 Transportation:

As mentioned previously it is extremely difficult, if not impossible, to analyze the traffic impacts of this project without a site plan and other project details. There is some discussion about impacts to Lakeshore Drive and Highway 53, but little beyond that. There is a minor reference to impact to residential areas, but there is no acknowledgement or reference to impacts to Golf Avenue, Ballpark Avenue, or the roadways and parking facilities contained within Redbud Park, which is adjacent to the project site.

The City appreciates the commitment illustrated in the document to install pedestrian safety and accessibility improvements to the City standard. We further agree that the trust acquisition will not affect the jurisdiction of public roads or the ability of law enforcement personnel to access local communities, this EA is supposed to analyze not only the fee-to-trust process, but the travel center as well. This determination of no impact cannot be made on the travel center with the available information.

The most recent gas station project approved by the City (at the south east corner of the Old Highway 53/Lakeshore intersection) was required to make improvements to the Old Highway 53/ Lakeshore intersection. This project is likely to also cause a negative impact on this intersection as well as various public roadways in and around Redbud Park. We believe the EA does not adequately address these impacts and a FONSI is not appropriate or justifiable.

While we hesitate at this time to request mitigation measures be added due to the incompleteness and inaccuracy of the document in general, the City will require an encroachment permit for connection to City infrastructure and work within the City right-of-way.

3.9 Public Services and Utilities:

3.9.1.1 – Water Supply - As mentioned above the EA is incorrect in the water service provider. This project is within the Highlands Mutual Water Company’s District. The EA should be updated to accurately reflect the capacity and impacts of the appropriate water district and recirculated for comment.

3.9.1.5 – Police Services – This project could have a significant impact on police services. The data provided is from 2016 is extremely outdated. The EA should analyze more recently available data. The City released its most recent annual report from the Police Department on February 3, 2022. The EA is incorrect in stating that there is an existing commercial use at the site and therefore the project will not have an additional impact. While there is a small commercial building on the site, most of the property is vacant and a travel center will have a significantly different impact.

3.9.1.6 – Fire and Emergency Services – The information provided on fire emergency mutual aid and emergency medical transportation is inaccurate. An adequate analysis of the actual service providers should be completed and incorporated in a revised EA before recirculation.

Summary

The City supports the tribe’s interest and need in economic sustainability and welcomes new investment in the community. However, we conclude it is clear there is simply not enough project information provided to make a determination on environmental impacts. Additionally, many of the conclusions offered are based on inaccurate information as described above. The City of Clearlake requests a more detailed project description and site plan be provided, the EA be updated based on this information in an accurate and thorough way, and the EA and FONSI then be recirculated for review and comment.

Thank you for your consideration of these comments and our request. Please do not hesitate to contact me with any questions.

Sincerely,



Alan Flora  
City Manager

cc: Augustine Garcia, Tribal Chairperson  
Jack Duran, Tribal Counsel



STAFF REPORT	
<b>SUBJECT:</b> Consideration of Summary Vacation of an Irrevocable Dedication of a Roadway and Public Utility Easement by Mitchell and Patricia Markowitz.	<b>MEETING DATE:</b> 12/07/2023 6:00 p.m.
<b>SUBMITTED BY:</b> Michael Taylor, Associate Planner	
<b>REPORT PURPOSE:</b> <input checked="" type="checkbox"/> Action Item <input type="checkbox"/> Discussion <input type="checkbox"/> Information Only	
<b>LOCATION:</b> Jones Avenue	<b>PROPERTY OWNER(S):</b> Mitchell Markowitz Patricia Markowitz
<b>ZONING:</b> Low Density Residential “LDR”	<b>GENERAL PLAN:</b> Medium Density Res. “MDR”

**WHAT IS BEING ASKED OF THE CITY COUNCIL**

The City Council is being asked to consider a summary vacation of the irrevocable dedication of a roadway and public utility easement as being a part of an existing subdivision known as Parcel Map in the County of Lake, State of California, of a Merger and Re-subdivision of a Portion Of the North West 1/4 of the South West 1/4 of Section 27, Township 13 North., Range 7 West, Mount Diablo Base and Meridian Being within the City Of Clearlake.

**BACKGROUND**

Parcel Map Recorded

The parcel map was recorded on June 6, 1986. The City Council at that time accepted the irrevocable dedication of the roadway and public utility easement but rejected the conveyance of deed or title of the roadway until the roadway was constructed to City standards. Prior to the recordation of parcel map the subdivider/property owner was not required to construct any improvements.

Current Parcel Map Lot Accessor Numbers and Addresses

- 040-340-72 (5395 Jones Avenue)
- 040-340-73 (5396 Jones Avenue)
- 040-340-74 (5405 Jones Avenue)
- 040-340-75 (5415 Jones Avenue)

Although no improvements were required, however, there are minimum infrastructure improvements required, per City Standards, before any building permit could be approved, including:

- Minimum required access road improvements
- Minimum required roadway improvements for Jones Avenue extension
- Cul-de-sac improvement
- Street name
- Provide City Engineer with onsite and offsite improvement plans.
- Utilities to be placed underground to each parcel.
- Identify fire hydrant type and size.

**Notice of Merger Application Submitted**

The Markowitz’s purchased all the properties impacted by the parcel map in 1995. They have interest in disposing of the separate parcels. They applied for a Notice of Merger of Contiguous Parcels and Consent to Waiver (Lot Merger, LM 2022-06). The merger proposes combining the lots of the existing Parcel Map subdivision with two other contiguous parcels. Upon completion of the application process and notice of merger recording the roadway and public utility easement will no longer serve the purpose for which it was dedicated or acquired for five consecutive years immediately preceding the proposed vacation.

**Infrastructure Status**

- Parcel Map  
Access to the subdivision by the roadway and public utility easement that begins at a 40-foot-wide roadway and public utility easement (40-foot Jones Avenue) roadway easement. Mapping available for utilities including Highlands Water Company or City mapping indicate existing infrastructure improvements for water or sewer within the easement.
- Jones Avenue
  - Water: 2” galvanized pipe and blow-off valve beginning at Lakeview Drive and generally ending at the Parcel 3 of the Parcel Map (source: Highlands Water Company Water Map).
  - Sewer: Gravity main and manholes. Beginning at Lakeview Drive and transitioning through Parcel Map access point and serving most northerly lot.
  - Road surface: Unimproved

**BUILDING PERMITS**

No improvements per Parcel Map conditions and requirements therefore no building permits have been issued.

**NOTED STATUTES**

GOVERNMENT CODE – GOV  
TITLE 1. GENERAL [100-7931.000]  
DIVISION 7. MISCELLANEOUS [6000 – 7599.113]  
CHAPTER 12.7. Dedication of Real Property for Public Purposes [7050-7050]

7050. With the consent of the city, county, or city and county, as the case may be, an irrevocable offer of dedication of real property for any public purpose, including, but not limited to, streets,

highways, paths, alleys, including access rights and abutter's rights, drainage, open space, public utility or other public easements, parks, or other public places, may be made pursuant to this section. Such offer of dedication shall be executed, acknowledged, and recorded in the same manner as a conveyance of real property. Such offer of dedication, when recorded in the office of the county recorder, shall be irrevocable and may be accepted at any time by the city council of the city within which such real property is located at the time of acceptance or, if located in unincorporated territory, by the board of supervisors of the county within which such real property is located.

Such offer of dedication may be terminated and the right to accept such offer abandoned in the same manner as is prescribed for the summary vacation of streets or highways by Part 3 (commencing with Section 8300) of Division 9 of the Streets and Highways Code. Such termination and abandonment may be by the city council of the city within which such real property is located or, if located in unincorporated territory, by the board of supervisors of the county within which such real property is located.

The procedure prescribed by this section shall be alternative to any other procedure authorized by law.

STREETS AND HIGHWAYS CODE - SHC  
DIVISION 9. CHANGE OF GRADE AND VACATION [8000 - 8363]  
PART 3. PUBLIC STREETS, HIGHWAYS, AND SERVICE EASEMENTS VACATION LAW [8300 - 8363]  
CHAPTER 4. Summary Vacation [8330 - 8336]

ARTICLE 1. Authority [8330 - 8334.5]

8333. The legislative body of a local agency, or any public officer or employee authorized by the legislative body as provided in subdivision (a) of Section 8335, may summarily vacate a public service easement in any of the following cases:

- (a) The easement has not been used for the purpose for which it was dedicated or acquired for five consecutive years immediately preceding the proposed vacation.
- (b) The date of dedication or acquisition is less than five years, and more than one year, immediately preceding the proposed vacation, and the easement was not used continuously since that date.
- (c) The easement has been superseded by relocation, or determined to be excess by the easement holder, and there are no other public facilities located within the easement.

8334. The legislative body of a local agency may summarily vacate any of the following:

- (a) An excess right-of-way of a street or highway not required for street or highway purposes.

(b) A portion of a street or highway that lies within property under one ownership and that does not continue through such ownership or end touching property of another.

8334.5. Notwithstanding any other provision of this article, a street, highway, or public service easement may not be summarily vacated if there are in-place public utility facilities that are in use and would be affected by the vacation.

**LEGAL NOTICE & PUBLIC COMMENT**

Public notice noticed was provided in advance via mail (USPS) to the surrounding parcels owners directly affected by the vacation of the irrevocable dedication of a roadway and public utility easement as required pursuant to the Clearlake Municipal Code.

- All mailing addresses are drawn from the electronic database supplied by the Lake County Assessor Office.

**MOTION/OPTIONS**

1. Move to approve Resolution CC 2023-49, the summary vacation of the irrevocable dedication of a roadway and public utility easement of an existing subdivision known as Parcel Map in the County of Lake, State of California, of a Merger and Re-subdivision of a Portion of the North West 1/4 of the South West 1/4 of Section 27, Township 13 North., Range 7 West, Mount Diablo Base and Meridian.
2. Move to deny Resolution CC 2023-49, and direct staff to prepare appropriate findings.
3. Move to continue the item and provide alternate direction to staff.

**ATTACHMENTS**

1. Parcel Map - June 6, 1986
2. Resolution CC 2023-49 - Summary Vacation

**RESOLUTION No. 2023-49**  
**An Ordinance of the City Council of the City of Clearlake**  
**Summary Vacation of an Irrevocable Dedication of a Roadway and**  
**Public Utility Easement**

WHEREAS, the City of Clearlake, State of California, has an irrevocable dedication of a roadway and public utility easement as being a part of an existing subdivision known as Parcel Map in the County of Lake, State of California, of a Merger and Re-subdivision of a Portion Of the North West 1/4 of the South West 1/4 of Section 27, Township 13 North., Range 7 West, Mount Diablo Base and Meridian;

WHEREAS, notice of said City Council Meeting Hearing for December 7, 2023 was duly made by mailing and posting in accordance with all applicable Federal, State and local requirements; and

WHEREAS, no protests were filed with and/or received by said City of Clearlake; and

WHEREAS, the proposed Project is located on real property in the incorporated portions of the City of Clearlake, described as Parcel Map in the County of Lake, State of California, of a Merger and Re-subdivision of a Portion Of the North West 1/4 of the South West 1/4 of Section 27, Township 13 North., Range 7 West, Mount Diablo Base and Meridian; and

WHEREAS, the City Council of the City of Clearlake may vacate all or part of a street, highway, or public service easement pursuant to the Government Code, Title 1. General [100-7931.0000], Division 7. Miscellaneous [60000-7599.113], Chapter 12.7. Dedication of Real Property for Public Purposes [7050-7050], and Streets and Highways Code, Division 9. Change of Grade and Vacation [8000 - 8363], Part 3. Public Streets, Highways, and Service Easements Vacation Law [8300 - 8363], Chapter 4. Summary Vacation [8330 - 8336]; and

WHEREAS, the summary vacation has been met, pursuant to Government Code 7050 and California Streets and Highways Code 8333 and 8334; and

WHEREAS, the City Council of the City of Clearlake has reviewed and considered the staff report and evidence at a regular meeting on December 7, 2023.

**NOW, THEREFORE, BE IT RESOLVED that the City of Clearlake City Council of the City of Clearlake makes the following findings:**

1. Find the summary vacation of the irrevocable dedication of a roadway and public utility easement is consistent with the adopted City of Clearlake General Plan; and

- 2. The summary vacation of the irrevocable dedication of a roadway and public utility easement is exempt under current California Environmental Quality Act (CEQA); and,
- 3. The Council of the City of Clearlake hereby orders the summary vacation of the irrevocable dedication of a roadway and public utility easement; and
- 4. The summary vacation of the irrevocable dedication of a roadway and public utility easement for the reason that they are no longer needed, and that public convenience, necessity, and the best interests of the citizens of Clearlake will be served by such summary vacation.

**PASSED AND ADOPTED on this 7th day of December 2023 by the following vote:**

\_\_\_\_\_  
Mayor, Russ Perdock

ATTEST: \_\_\_\_\_  
City Clerk, City Council





# CITY OF CLEARLAKE

## City Council

### STAFF REPORT

**SUBJECT:** Discussion and Possible Direction to Staff Regarding Cost Increases with the Burns Valley Sports Complex Project

**MEETING DATE:** Dec. 1, 2023

**SUBMITTED BY:** Alan D. Flora, City Manager

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

#### WHAT IS BEING ASKED OF THE CITY COUNCIL:

The City Council is being asked to receive an update on cost increases as a result of the delays with the Burns Valley Sports Complex project.

#### BACKGROUND/DISCUSSION:

In December of 2020 the City purchased approximately 31 acres of property on Burns Valley Road with the intent to develop a mixed-use project at the site. The project includes an 80—unit housing development, public works corporation yard, and a sports complex and recreation center. The housing development will be opening this month, and the first phase of the public works corporation yard is complete. The environmental review and design process for the sports complex and recreation center has been on-going since January of 2021.

The project was delayed for a year in an attempt reach agreement with the Koi Nation over mitigation measures for the project, but agreement was never reached and the parties are in the midst of litigation over the project. The sports complex portion of the project (soccer, baseball, softball fields, etc.) has been estimated at \$8-9 million. The City has worked at compiling this funding through various sources, City funds, CA State Parks grant, Community Project Funding through Congressman Thompson, Konocti Unified School District funds, and a contribution from Lake County Tribal Health (a consortium of six of the seven Lake County tribes: Elem, Scotts Valley, Big Valley, Middletown, Habematolel, and Robinson). A couple of weeks ago we received an updated cost estimate from the design team that places the estimated cost of the project now at \$18.7 million. This estimate does NOT include the recreation center, which is expected to cost another \$13-15 million. This is in large part related to the delays in the project and constantly increasing costs. Project cuts and further delays of the project to acquire more funding will both be needed to move the project forward. We believe this project is critical for the youth in our community and their future and must continue in spite of the challenges.

Staff would like to have a discussion with the Council on a path forward for this important project that will include a community sponsorship program and other ideas.

#### OPTIONS:

1. Provide direction to staff.

#### FISCAL IMPACT:

☐ None      ☐ \$      Budgeted Item? ☐ Yes ☒ No

Section H, Item 12.

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

Affected fund(s): ☒ General Fund ☒ Measure P Fund ☒ Measure V Fund ☐ Other:

Comments: The agreement would provide revenue to the City.

**STRATEGIC PLAN IMPACT:**

- ☒ Goal #1: Make Clearlake a Visibly Cleaner City
- ☒ Goal #2: Make Clearlake a Statistically Safer City
- ☒ Goal #3: Improve the Quality of Life in Clearlake with Improved Public Facilities
- ☒ Goal #4: Improve the Image of Clearlake
- ☒ Goal #5: Ensure Fiscal Sustainability of City
- ☐ Goal #6: Update Policies and Procedures to Current Government Standards
- ☒ Goal #7: Support Economic Development

☐ **Attachments:**

1.



# CITY OF CLEARLAKE

## City Council

### STAFF REPORT

**SUBJECT:** Adoption of the 1<sup>st</sup> Amendment to the FY 2023-24 Fee Schedule (Resolution No. 2023-29) Updating Facility Rental Fees, Resolution No. 2023-47

**MEETING DATE:** December 7, 2023

**SUBMITTED BY:** Kathy Wells, 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 adopt the 1<sup>st</sup> Amendment to the Fiscal Year 2023-24 Fee Schedule to update facility rental fees.

#### BACKGROUND/DISCUSSION:

The City of Clearlake has recently completed a remodel of the Youth Center, located at 4750 Golf Avenue, and is ready to rent the facility out for events, classes, and camps. Staff have evaluated fees for other current City owned facilities and have set a fee schedule consistent with other facility rental fees. In addition to the Youth Center rates, staff would like to slightly increase facility rental rates at the Senior Center and at the City Parks which will help cover increased costs for water, power, and labor at the facilities.

Staff is recommending Council approve proposed facility rental fees and support City efforts to develop a financially self-sustaining Recreation Department.

#### FISCAL IMPACT:

☒ None ☐ Amount Budgeted Item? ☐ Yes ☒ No

Budget Adjustment Needed? ☒ Yes ☐ No

Affected fund(s): ☒ General Fund ☐ Measure P Fund ☐ Measure V Fund ☐ Other:

Comments: The increase is expected to increase revenue. Appropriations will be brought back to Council as needed.

#### STRATEGIC PLAN IMPACT:

☐ Goal #1: Make Clearlake a Visibly Cleaner City

☐ Goal #2: Make Clearlake a Statistically Safer City

☐ Goal #3: Improve the Quality of Life in Clearlake with Improved Public Facilities

- ☒ Goal #4: Improve the Image of Clearlake
- ☒ Goal #5: Ensure Fiscal Sustainability of City
- ☐ Goal #6: Update Policies and Procedures to Current Government Standards
- ☒ Goal #7: Support Economic Development

**SUGGESTED MOTIONS:**

Move to adopt the 1<sup>st</sup> Amendment to the FY 2023-24 Fee Schedule (Resolution 2023-29) Updating Facility Rental Fees, Resolution No. 2023-47

- ☒ **Attachments:**
- 1) Resolution No. 2023-47
  - 2) Fee schedule

**RESOLUTION NO. 2023-47**

**ADOPTION OF THE 1<sup>st</sup> AMENDMENT TO THE FY 2023-24 FEE SCHEDULE (RESOLUTION NO. 2023-29)**

**WHEREAS**, the City Council reviews and updates the fee schedules on an annual basis, and as needed,

**WHEREAS**, the City of Clearlake wishes to be an economically stable city while still maintaining a friendly community relationships supporting educational and social activities,

**WHEREAS**, the fee schedule has been thoroughly reviewed by staff and is found to provide reasonably competitive fees for facility rentals,

**WHEREAS**, the City Council desires to approve the 1<sup>st</sup> Amendment to the FY 2023-24 Fee Schedule to increase fiscal sustainability of the City's Recreation Department.

**Therefore**, the City of Clearlake moves to adopt the 1<sup>st</sup> Amendment to the FY 2023-24 Fee Schedule.

**PASSED AND ADOPTED** by the City Council of the City of Clearlake, County of Lake, State of California, on this 7<sup>th</sup> day of December 2023, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST: \_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

**CITY OF CLEARLAKE**  
**FEE SCHEDULE**  
*Effective July 1, 2023*



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**Administrative & Miscellaneous Fees**

Description	Fee
Technology Recovery Cost Applied to All Applications	2%
<b>Publications &amp; Maps</b>	
Budget	\$ 20.00
Design & Construction Standards	\$ 12.00
Drainage Master Plan Study	\$ 18.00
General Plan Policies	\$ 30.00
General Plan Technical Background	\$ 12.00
General Plan Housing Element	\$ 24.00
General Plan Land Use Map	\$ 18.00
Lakeshore Drive Design Guidelines	\$ 12.00
Parks Master Plan	\$ 12.00
Redevelopment Plan	\$ 18.00
Redevelopment Five Year Implementation Plan	\$ 12.00
Sphere of Influence Study	\$ 12.00
Zoning Chapter XVIII	\$ 36.00
Zoning Map	\$ 1.20
Site Development Assessment & Business Attraction Strategy	\$ 14.40
Subdivision Ordinance	\$ 12.00
<b>Copy Fees (per page)</b>	
Public Record General 8 1/2 x 11 Copy	\$ 0.20
8 1/2 x 14 Copy (Legal Size)	\$ 0.20
11 x 17 Copy	\$ 0.25
Parcel Maps	\$ 4.00
Topographical Maps	\$ 7.00
<b>Copies of City Council/Planning Commission Meetings</b>	
Meeting Recordings	Per CD \$ 5.00
Planning Commission Agenda Cover Sheet Mailing	Per year \$ 50.00
Planning Commission Agenda Packets (in advance of meeting)	Per Meeting \$ 25.00
<b>Electronic Records</b>	CPO - 50%
<i>Deposit to be determined by the City Manager on a case-by-case basis</i>	
<b>Other Fees</b>	
Return Check Fee	\$ 35.00
Credit Card Chargeback Fee	\$ 30.00
Credit/Debit Card Fee	3%
Credit/Debit Card Fee (Collected through Citation Processing Center)	3.5%
<b>Civil Subpoenas</b>	<b>\$275 deposit at time of service</b>
<i>The service of civil subpoenas, depositions, and attendance in civil court proceedings of employees will be governed pursuant to Government Code Section 68096.1, 68097, 68097.1, 68097.2, 68097.5, 68907.6, 68907.7, 68907.9, and 68907.10, all inclusive</i>	<i>Per Government Code</i>

**Business License Fees**

**Licensing Period: October 1st through September 30th**

**General Business License Annual Fees**

	Fee
<b>Business License Annual Fee</b>	<b>\$ 90.00</b>
<i>+\$10 for each additional employee</i>	
<i>10% fee per total business license cost will be added per each month delinquent</i>	
<i>\$4 State Fee will be added to each application</i>	

**Secondary Business License**

	<b>\$ 45.00</b>
<i>+ \$10 per employee</i>	
<i>Secondary Business license shall be one half of the general business license fee if you have more than one business in the City limits (i.e., general license \$90.00 plus \$45.00 for second business, plus \$10 per employee)</i>	

**Special Category Business License Annual Fees**

<b>a) Beauty Shops</b>	<b>\$ 90.00</b>
<i>+ \$10 for each booth</i>	
<b>b) Real Estate Broker</b>	<b>\$ 90</b>
<i>+ \$10.00 for each agent and/or employee who was paid a commission for salary during the previous licensing year</i>	

<b>c) Flea Market/Farmers Market</b>	<b>\$ 90.00</b>
<i>+ \$5.00 for each permanent space</i>	

<b>Special Event Business License</b>	<b>\$ 79 per day</b>
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<b>Quarterly Business License</b>	<b>\$25 per quarter</b>
<i>(applicants requiring more than one quarter must submit for Annual Business License)</i>	

<b>Vacation Rental Application</b>	<b>\$70 per year</b>
<i>Vacation Rental Owners must register for TOTs at: <a href="http://Welcome(hd.gov.com)">Welcome(hd.gov.com)</a></i>	

<b>Business Listing Fee</b>	<b>\$ 10.00</b>
<i>(one time fee for new listings)</i>	

**Business Licenses go to:** [Applying for a Business License | Clearlake, CA - Official Website](#)

**Taxicabs & For-Hire Vehicles**

Operator's Permit	<b>\$ 125.00</b>
Driver Permit	<b>\$ 75.00</b>
Vehicle Permit	<b>\$ 25.00</b>



**Building Permit Applications**

	<b>Fee</b>
<b>Failure to obtain any required permits before work begins</b>	<b>2 x Permit fee</b>

*Building Permits - City staff will calculate cost using the most recent issue of the 'Building Valuation Data' (BVD) fee table published by the International Code Council (ICC).*

Other Permits - CBC	Calculated Per BVD Fee Table, as noted
Building Plan Check	Calculated Per BVD Fee Table, as noted
Building Plan Check Amendments	Calculated Per BVD Fee Table, as noted
Residential Electrical/Mechanical Service Upgrade/Repair	\$ 150.00
Residential Plumbing	\$ 150.00
Residential Plumbing with Trenching	\$ 150.00
Commercial Electrical Service Upgrade	\$ 175.00
Electrical Vehicle Charging Port	\$ 125.00
Generator	\$ 200.00
Residential Demo	\$ 150.00
Comercial Demo	\$ 200.00
Residential Roof Mounted Solar	\$ 400.00
Comercial Roof Mounted Solar	\$ 500.00
Retrofit Foundation	\$ 150.00
Reissuance of Certificate of Occupancy	\$ 100.00
Plan Revision Review	\$ 100.00
Reinspection Fee	\$ 100.00

**California Building Standards Commission**

*State Mandated Fee added to Applications - Building Standards Administration Special Revolving Fund Based on Permit Valuation.*

Permit Valuation:	
\$1 - 25,000	\$ 1.00
\$25,001 - 50,000	\$ 2.00
\$50,001 - 75,000	\$ 3.00
\$75,001 - 100,000	\$ 4.00
Every \$25,000 or fraction thereof above \$100,000	Add \$1.00

**Seismic Fees**

- |   |                        |
|---|------------------------|
| <i>i. Group R occupancies, as defined in the current Uniform Building Code, one to three stories in height, except hotels and motels, shall be assessed at the rate of ten dollars (\$10.00) per one hundred thousand dollars (\$100,000.00), with appropriate fractions thereof.</i> | <i>Per Calculation</i> |
| <i>ii. All other buildings shall be assessed at the rate of twenty - one dollars (\$21.00) per one hundred thousand dollars (\$100,000.00) with appropriate fractions thereof.</i>  | <i>Per Calculation</i> |
| <i>iii. The fee shall be the amount assessed under paragraph 1. or 2., depending on building type, or fifty cents (\$0.50), whichever is the higher.</i>  | <i>Per Calculation</i> |

Mobile Home Park Fees	Fee
Mobile Home Park Annual Inspection Fee	\$ 40.00
per site including the 1st unit, plus	\$ 15.00
Non-compliance re-inspection	\$ 30.00
per site including the 1st unit, plus	\$ 10.00
for each additional unit on site	
Mobile Home Park Annual Permit to Operate Fees	\$ 1.00

All fees for 'Mobile Home Parks Annual Permit to Operate' and related fees shall be as set forth in the current Mobile Home Parks Act, Title 25, Section 1008, et seq. The CA Department of Housing and Community Development (HCD) calculates annual fees. The City of Clearlake collects payment on behalf of HCD.

Engineering Fees

Grading Permits - 2019 California Building Code Fee Schedule	As Calculated by City Staff
Grading Permits - City staff will calculate cost based on the grading plan, and review if required, as noted on the Grading Application.	

Encroachment Permits	
Driveway Adjacent to Paved Street	\$ 170.00
Driveway Adjacent to Unpaved Street	\$ 125.00
Trenching - Paved Streets	\$250 + \$1.00/LF
Trenching - Unpaved Streets	\$200 + \$0.50/LF
Other Plan Check and Inspections	4.5% of engineer's Estimate (\$200 minimum)
Minimum Fee	\$ 200.00
Engineer's Estimate	As Calculated by City Staff
Calculation based on type of work requested in encroachment permit	
Heavy Load Permits for Overweight, Over-Width, Over-Length and Over-Height	\$ 75.00
Re-Inspection	\$ 55.00
Failure to obtain any required permits before work begins	2 x Permit fee

Development Fees

Plan Check Fee	4.5 % of Engineer Estimate up to \$200k
	3.5% of Engineer Estimate between above \$200k and \$500K
	2.5% of Enginner Estimate between above \$500 and \$1 Million
	2% of Engineer Estimate above \$1 Million
Development Inspection	2 % of Engineer Estimate up to \$200k
	1.5% of Engineer Estimate between above \$200k and \$500K
	1% of Enginner Estimate between above \$500 and \$1 Million
	.5% of Engineer Estimate above \$1 Million

**Planning Fees**

	<b>Fee</b>	<b>Deposit</b>
<b>Marijuana Dispensary Annual Renewals</b>		
LiveScan	\$ 10 + DOJ Fee	
Renewal Processing	\$ 250.00	
<b>Zoning Clearance</b>		
Sign Permit	\$ 102.00	
Sign Face Copy Change	\$ 54.00	
Single Family Residence	\$ 125.00	
Second Residential Unit	\$ 125.00	
Multifamily Residence <4 units	\$ 250.00	
5 to 14 units	\$ 816.00	
Multifamily Residence >15 units	\$ 4,000.00	
Commercial <5,000 SF	\$ 555.00	
5001 to 9999 SF	\$ 840.00	
>10,000 SF	\$ 4,000.00	
Temporary Use Permit	\$ 125.00	
Outdoor Annual Display Permit	\$ 800.00	
<b>Lot Line Adjustment</b>	\$ 500.00	
<b>Lot Merger</b>	\$ 800.00	
<b>PM/Sub. Map Checking</b>	\$ 150/per lot	

	Fee	Deposit
Conditional Use Permits	\$ 2,200.00	
Administrative Use Permits	\$ 2,200.00	
Temporary Use Permit	\$ 125.00	
Categorical Exemption (CE) from CEQA	\$ 150.00	
Environmental Impact Report	(deposit required, applicant will be responsible for actual cost)	\$ 5,000.00
Initial Study Fee	\$ 1,500.00	
Street name change fee	\$ 400.00	
Tree Replacement Fee	\$ 600.00	per tree
Variance	\$ 500.00	
Minor Subdivision (Four or Fewer Lots)		
Initial Study	\$ 1,500.00	
Tentative Map Processing	\$ 2,450.00	
Total Fee:	\$ 3,950.00	
Improvement Plan Processing and Inspections	\$ 4,000.00	
Parcel Map Processing	\$ 1,000.00	
Subdivision Construction Agreement	\$ 570.00	
Acceptance of Easements and Improvements	\$ 450.00	
Appeals		
Appeal of Staff Decision	\$ 880.00	
Appeal of Planning Commission Decision	\$ 880.00	
Extension of Approval	\$ 345.00	
Abandonment of Easement	\$ 715.00	
Major Subdivision	\$ 6,000.00	
Zone Amendment	\$ 2,400.00	
General Plan Amendment	\$ 6,000.00	
Certificate of Compliance	\$ 1,200.00	
Annexation	\$ 6,000.00	
Development Agreement	\$ 6,000.00	
Special Requests or Studies	\$ 6,000.00	
Technology fee - 2% of total fees charged		2%
Legal Services	CPO-50%	
General Plan Maintenance Fee	\$ 25.00	

Animal Control Fees		Fee
<b>Adoption Fees</b>		
Dog Adoption	\$	90.00
Cat Adoption	\$	70.00
Barn Cat Adoption		No Fee
Rabbit Adoption	\$	10.00
Small Animal Adoption	\$	10.00
Large Bird Adoption	\$	25.00
Small Bird Adoption	\$	36.00
Cat Carrier	\$	5.00
<b>Dog License Fees</b>		
<i>License Issued with Proof of Current Rabies Vaccination</i>		
With Proof of Spay & Neuter*	\$	20.00
Specialized Animals - AKC, UKC, or Others as listed in Clearlake Municipal Code 7-10.3*	\$	25.00
Service Animals (Excludes therapy animals)		No Fee
Late Fee (Unaltered)	\$	25.00
Late Fee (Altered)	\$	21.00
Tag Replacement	\$	6.00
Engravable Collar	\$	20.00
<b>Deceased Animal Disposal</b>		
Disposal Cat	\$	42.00
Disposal Small Animal	\$	26.00
Disposal Dog < 50 pounds	\$	42.00
Group Cremation Dog	\$	54.00
Group Cremation Cat	\$	48.00
Group Cremation 75-99 pounds	\$	54.00
Group Cremation 100+ pounds	\$	75.00
Private Cremation 0-2 pounds	\$	140.00
Private Cremation 3-49 pounds	\$	140.00
Private Cremation 50-99 pounds	\$	175.00
Private Cremation 100+ pounds	\$	260.00
Private Cremation Paw Print	\$	84.00
<b>Euthanasia Fees (at vets)</b>		
Cats	Actual Cost	
Dogs	Actual Cost	
<b>Field Services</b>		
ACO Transport Animal to Vet	\$	75.00
ACO Transport to Vet After Hours	\$	175.00
ACO Field Euthanasia	\$	106.00
ACO Service Fee	\$	75.00

**Kennel Permits (Annual Fee)**

*Prior to issuance of Kennel Permit - Use Permits, Zoning Verification and Neighbor Acknowledgements may be required.*

	Fee
5 - 7 Dogs	\$ 90.00
8 - 16 Dogs	\$ 150.00
16 + Dogs	\$ 225.00

**Impound/Redemption Fees**

Altered Animal	Doesn't include boarding	\$ 45.00
Unaltered Animal	Doesn't include boarding	\$ 45.00
Repeat Impound Unaltered Additional Fee		\$ 30.00
- 2nd Offense		\$ 50.00
- 3rd Offense		\$ 100.00
Board (Per Day)		\$ 20.00
Quarantine Board (per day)		\$ 32.00
Veterinarian		Actual Cost
Livestock		Actual Cost

**Surrender Fees**

Owner Surrender Dog Altered	\$ 46.00
Owner Surrender Dog Unaltered	\$ 69.00
Owner Surrender Cat Altered	\$ 46.00
Owner Surrender Cat Unaltered	\$ 69.00
Owner Surrender Small Animal Altered	\$ 46.00
Owner Surrender Small Animal Unaltered	\$ 69.00
Owner Surrender for Litter (per animal)	\$ 19.00

**Vicious Dog Hearing fee**

\$ 150.00

**Medical**

Microchip Dog	\$ 20.00
Microchip Cat	\$ 10.00
Other Medical @ Vet Clinic	Actual Cost

Code Enforcement Fees	
<b>Abandoned Vehicle Abatement</b>	<b>Fee</b>
Voluntary Compliance (Gone Upon Arrival)	\$ 75.00
Voluntary Compliance (Removed by City)	\$ 125.00
Property Owner Requested Vehicle Abatement - Passenger Vehicle	\$ 250.00
Property Owner Requested Vehicle Abatement - Other (RV, Boat, Trailer, etc...)	Actual Cost
Code Enforcement Hearing Fee	\$ 200.00
Cultivation Permit Application Fee	\$ 250.00
Following Admin Cite for No Permit w/Code Enf Approval	\$ 500.00
<b>Boarding Permit (Non-refundable upon application)</b>	
Commercial Building Boarding Permit	\$ 150.00
Commercial Building Boarding Permit Renewal/Extension	\$ 150.00
Re-Inspection Fee	\$ 50.00
Red Tagged Building Entry Permit	\$ 25.00
<b>Vacant Commercial Buildings</b>	
Registration	\$100 + 12.50 per month until July 1st
Annual Renewal	\$250 Renewal + \$200 per month Monitoring Fee
Response Fee (per day)	\$ 50.00

Police Fees		Fee
DUI Cost Recovery		\$ 425.00
Police Reports		\$ 10.00
<b>Criminal Offender Registration</b>		
Initial Registration		\$ 50.00
Change of Address		\$ 30.00
<b>Photographs</b>		
CD/Audio-Video		\$ 10.00
4 x 5	8.5x11 color copy	\$ 10.00
5 x 7		\$ 15.00
8 x 10		\$ 20.00
<b>Citation Sign-Off</b>		
CPD Parking/Mech/Reg Cites		\$ 15.00 No Charge
<b>Deer Tag Sign-Off</b>		
		\$ 15.00
<b>Release of Vehicle</b>		
22651(h) & (p), DUI and 23109 VC		\$ 100.00 \$ 150.00
<b>Citizen Clearance Letter</b>		
		\$ 10.00
<b>Repossession Fee</b>		
		\$ 15.00
<b>Booking Fee</b>		
		(Arrestee) Actual Cost
<b>V.I.N. Verification</b>		
At Police Department		\$ 10.00
Other		\$ 20.00
<b>False Alarm</b>		
1st - 2nd		\$ -
3rd - 4th		\$ 100.00
5th - 6th		\$ 200.00
7th - 8th		\$ 400.00
9th - 10th		\$ 800.00
11th +		\$ 1,000.00
<b>Fingerprinting (Rolled)</b>		
LiveScan		\$ 10.00 \$10 + DOJ Fee
<b>Secondhand Dealer Permit (New + Renewal)</b>		
Plus LiveScan fee		\$50 + DOJ Fee \$10 + DOJ Fee
<b>Sidewalk Wendor/Itinerant Vendor</b>		
Plus Livescan fee		\$ 45.00 \$10 + DOJ Fee



Parking Citation Fines		Fee
21113(A) VC	Parking, School Grounds	\$ 50.00
21210 VC	Bicycle Parking, Sidewalk	\$ 50.00
21211(A)-(B) VC	Obstructing Bikeway, Path or Trail	\$ 50.00
22500(A) VC	Parked in Intersection	\$ 50.00
22500(B) VC	Parked in Crosswalk	\$ 50.00
22500(C) VC	Parked in Safety Zone	\$ 50.00
22500(E) VC	Parked Blocking Driveway	\$ 50.00
22500(F) VC	Parked on Sidewalk	\$ 50.00
22500(H) VC	Double Parked	\$ 50.00
22500(I) VC	Parked in Bus Zone	\$ 250.00
22500(K) VC	Parked on Bridge	\$ 50.00
22500(L) VC	Parked in Wheelchair Access	\$ 250.00
22500.1 VC	Fire Lane	\$ 70.00
22502(A) VC	Right Wheel to Curb	\$ 50.00
22504(A) VC	Parking Unincorporated Area	\$ 50.00
22505(B) VC	Posted No Parking, State Highway	\$ 70.00
22507.8(A)-(C)	Parking in Handicap Space	\$ 275.00
22514 VC	Parked by Fire Hydrant	\$ 50.00
22515 VC	Unattended Vehicle	\$ 40.00
22516 VC	Parked w Person Locked in Vehicle	\$ 145.00
22517 VC	Open Door on Traffic Side When Unsafe	\$ 145.00
22522 VC	Parked by Sidewalk Ramp	\$ 275.00
22523(A) VC	Abandoned Vehicle, Highway	\$ 350.00
22523(B) VC	Abandoned Vehicle, Public-Private Property	\$ 350.00
22526 VC	Anti-Gridlock	\$ 70.00
4461(A)-(D) VC	Misuse Disabled Person Placard/Plate	\$ 275.00
4000(A)(1) VC	Unregistered Vehicle/Expired Registration	\$ 85.00
5204(A) VC	Expired/Improper Tabs Displayed	\$ 85.00
9850 VC	Numbering of Undocumented Vessels	\$ 85.00
8-6.3 CMC	Parked Over 72 hours	\$ 145.00
10-6.13 CMC	Abandonment Prohibited	\$ 350.00
10-6.14 CMC	Failure to Abate	\$ 350.00
	All Other Parking Codes Not Listed (VC and CMC)	\$ 50.00
	All Mechanical Violations	\$ 50.00
	Mechanical Violations w Proof of Correction	\$ 10.00
40203.5 VC	15 Days After Mailing of Notification of Violation	50% of Violation Not to Exceed \$150
40203.5 VC	DMV Hold	\$ 10.00
40220 VC	Low Income Payment Plan Fee	\$ 5.00
40220 VC	Standard Payment Plan Fee	\$ 25.00
Other Fees		
	Returned Check Fee	\$ 35.00
	Credit Card Chargeback	\$ 30.00

Special Events

**RESERVATION DEPOSIT:** Non-refundable deposit for reservations made up to twelve (12) months in advance is \$25.00.  
Reservation deposit will be applied toward facility rental fee.

Austin Park

	Daily	Deposit
<del>Non-profit</del>	<del>\$ 35.00</del>	<del>\$ 100.00</del>
<del>All Others Under 50 Attendees</del>	<del>\$ 75.00</del>	<del>\$ 500.00</del>
<del>All Others Over 50 Attendees</del>	<del>\$ 125.00</del>	<del>\$ 1,000.00</del>
<u>Non-profit</u>	<u>\$ 45.00</u>	<u>\$ 100.00</u>
<u>All Others Under 50 Attendees</u>	<u>\$ 80.00</u>	<u>\$ 500.00</u>
<u>All Others Over 50 Attendees</u>	<u>\$ 130.00</u>	<u>\$ 1,000.00</u>
Covered Bench Area at Playground ( 3 tables for 4 hours)	\$ 50.00	\$ 100.00
Bandshell	\$ 500.00	\$ 500.00
Dog Park - 4 hours	\$ 100.00	\$ 150.00

\*\* These fees are adjustable by the City Manager based on past performance.

Large Events

200-300 People or 2-3 day event	\$ 500.00
300-500 People or 3-5 day event	\$ 1,000.00

Electrical/Trash

Electricity	\$ 25.00
Additional Trash Cans (per can)	\$ 25.00

Senior/Community Center

		Standard Rate	Non-Profit Rate
<b>Building w/o Kitchen (4042 sq ft)</b>	<b>4 hours</b>	\$ 235.00	\$ 131.00
Each Additional Hour		\$ 59.00	\$ 32.00
Cleaning Deposit		\$ 300.00	\$ 300.00
<b>Multi-purpose Room (2964 sq ft)</b>	<b>4 hours</b>	\$ 179.00	\$ 95.00
Each Additional Hour		\$ 44.00	\$ 23.00
<del>Auxiliary Room (1078 sq ft)</del>	<del>4 hours</del>	<del>\$ 68.00</del>	<del>\$ 39.00</del>
<del>Each Additional Hour</del>		<del>\$ 16.00</del>	<del>\$ 9.00</del>
<del>Cleaning Deposit</del>		<del>\$ 100.00</del>	<del>\$ 100.00</del>
<u>Auxiliary Room (1078 sq ft)</u>	<u>4 hours</u>	<u>\$ 70.00</u>	<u>\$ 40.00</u>
<u>Each Additional Hour</u>		<u>\$ 30.00</u>	<u>\$ 19.00</u>
<u>Cleaning Deposit</u>		<u>\$ 100.00</u>	<u>\$ 100.00</u>
<del>Kitchen Only (1078 sq ft)</del>	<del>4 hours</del>	<del>\$ 55.00</del>	<del>\$ 30.00</del>
<del>Each Additional Hour</del>		<del>\$ 20.00</del>	<del>\$ 10.00</del>
<del>Cleaning Deposit</del>		<del>\$ 300.00</del>	<del>\$ 300.00</del>
<u>Kitchen Only (1078 sq ft)</u>	<u>4 hours</u>	<u>\$ 75.00</u>	<u>\$ 45.00</u>
<u>Each Additional Hour</u>		<u>\$ 40.00</u>	<u>\$ 22.00</u>
<u>Cleaning Deposit</u>		<u>\$ 300.00</u>	<u>\$ 300.00</u>
<b>Classroom (320 sq ft)</b>	<b>4 hours</b>	\$ 25.00	\$ 15.00

Each Additional Hour	\$	5.00	\$	3.00
Cleaning Deposit	\$	100.00	\$	100.00

Sq ft are approximations

Alcohol Use Additional Deposit	\$	200.00	\$	200.00
Returned Check Fee	\$	35.00	\$	35.00

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Youth Center

<b>Building with Kitchen (3500 sq ft)</b>		<b>4 hours</b>	<b>\$ 270.00</b>	<b>\$ 151.00</b>
Each Additional Hour			\$ 59.00	\$ 35.00
Cleaning Deposit			\$ 300.00	\$ 300.00
<b>Large Room (1200 sq ft)</b>		<b>4 hours</b>	<b>\$ 179.00</b>	<b>\$ 95.00</b>
Each Additional Hour			\$ 44.00	\$ 23.00
Cleaning Deposit			\$ 250.00	\$ 250.00
<b>Smaller Room (1078 sq ft)</b>		<b>4 hours</b>	<b>\$ 150.00</b>	<b>\$ 90.00</b>
Each Additional Hour			\$ 26.00	\$ 19.00
Cleaning Deposit			\$ 200.00	\$ 200.00
<b>Returned Check Fee</b>			<b>\$ 35.00</b>	<b>\$ 35.00</b>
			<u>Standard</u>	<u>Non-Profit</u>
			<u>Rate</u>	<u>Rate</u>
<u>Room</u>		<u>4 hours</u>	<u>\$ 65.00</u>	<u>\$ 50.00</u>
Each Additional Hour			\$ 25.00	\$ 25.00
Cleaning Deposit			\$ 300.00	\$ 300.00
<u>Kitchen</u>		<u>4 hours</u>	<u>\$ 75.00</u>	<u>\$ 50.00</u>
Each Additional Hour			\$ 30.00	\$ 30.00
Cleaning Deposit			\$ 300.00	\$ 300.00
<b>Room and Kitchen</b>		<b>4 hours</b>	<b>\$ 130.00</b>	<b>\$ 90.00</b>
Each Additional Hour			\$ 40.00	\$ 40.00
Cleaning Deposit			\$ 600.00	\$ 600.00
<b>Lost Key Fee</b>			<b>\$ 25.00</b>	<b>\$ 25.00</b>
<b>Lock Out Fee</b>			<b>\$ 25.00</b>	<b>\$ 25.00</b>
<b>Returned Check Fee</b>			<b>\$ 35.00</b>	<b>\$ 35.00</b>

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# CITY OF CLEARLAKE

## City Council

### STAFF REPORT

**SUBJECT:** Contract with Flock Safety for ALPR Cameras

**MEETING DATE:**  
December 7, 2023

**SUBMITTED BY:** Tim Hobbs, Chief of Police

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

#### WHAT IS BEING ASKED OF THE CITY COUNCIL/BOARD:

Authorize the Chief of Police to enter into a 5-year contract with Flock Safety for (ALPR) cameras and adopt Resolution No. 2023-48 waiving the competitive formal bidding process.

#### BACKGROUND/DISCUSSION:

The Police Department currently has thirty (30) stationary Automatic License Plate Reader (ALPR) cameras throughout the city that were purchased from and installed by Flock Safety. Flock Safety provides maintenance for the cameras and provides the software the cameras use.

The City Council approved the original agreement with Flock Safety in December 2018 and an update in January 2021.

We are currently on a year-to-year agreement with Flock Safety. The agreement is based on a per-camera count. Recently the department became aware that there would be a substantial increase in the cost to operate the Flock Safety ALPR system for any customer that is not on a 5-year agreement. The additional expense would cost the Department an additional \$32,320 per year, above the \$55,480 per year we are currently paying.

Flock Safety has provided the Department with an option to keep our cost near what we currently pay. The proposed agreement has an annual cost of \$55,880.

This proposed agreement retains the use of our existing ALPR cameras from Flock Safety and allows the Clearlake Police Department to have access to the data at a locked-in rate of \$55,880 per year for the next five years.

The Police Department has identified Flock Safety as the sole vendor for our currently installed ALPR cameras. Flock Safety data is compatible with the Department's digital evidence storage system. The retention of ALPR data is configurable to the Police Department's specifications to adhere to local and state requirements. The Department controls who can access data captured by our cameras.

Staff recommends the City Council waive competitive bidding and approve the Chief of Police to enter into a 5-year agreement with Flock Safety for the continued use of our current fixed ALPR cameras. Staff also recommends the City Council further authorize the Chief of Police, with the approval of the City Manager, to add additional cameras to the agreement during the term of the agreement. The additional camera may include Flock Condor cameras or equivalent.

**OPTIONS:**

1. Authorize the Chief of Police to enter into a 5-year contract with Flock Safety for the purchase of ALPR cameras and adopt Resolution No. 2023-48, waiving the competitive formal bidding process.
2. Provide direction to staff

**FISCAL IMPACT:**

☐ None      ☒ \$55,880.60    Budgeted Item? ☒ Yes   ☐ No

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

Affected fund(s): ☒ General Fund   ☒ Measure P Fund   ☐ Measure V Fund   ☒ Other: SLESF

Comments: The total cost of the 5-year agreement is \$279,400, with a per-year cost of \$55,880.00 per year.

**STRATEGIC PLAN IMPACT:**

- ☐ Goal #1: Make Clearlake a Visibly Cleaner City
- ☒ Goal #2: Make Clearlake a Statistically Safer City
- ☐ Goal #3: Improve the Quality of Life in Clearlake with Improved Public Facilities
- ☒ Goal #4: Improve the Image of Clearlake
- ☒ Goal #5: Ensure Fiscal Sustainability of City
- ☐ Goal #6: Update Policies and Procedures to Current Government Standards
- ☐ Goal #7: Support Economic Development

**SUGGESTED MOTIONS:**

1. Authorize the Chief of Police to enter into a 5-year contract with Flock Safety for the purchase of ALPR cameras and adopt Resolution No. 2023-48, waiving the competitive formal bidding process.

- ☒ **Attachments:**
- 1) Flock Safety Agreement
  - 2) Resolution NO. 2023-48

RESOLUTION NO. 2023-48

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CLEARLAKE EXECUTING A FIVE-YEAR AGREEMENT WITH FLOCK SAFETY FOR THE PURCHASE OF AUTOMATED LICENSE PLATE READER (ALPR) CAMERAS AND AUTHORIZING THE CITY MANAGER TO ADD ADDITIONAL ALPR CAMERAS TO THE SOLE SOURCE CONTRACT WITH FLOCK SAFETY

WHEREAS, Automated License Plate Recognition technology allows for the automated detection of license plates from video streams placed at fixed locations; and

WHEREAS, the Police Department has been utilizing automated license plate reader (“ALPR”) cameras through Flock Safety since December 2018, becoming an integral part of investigating, identifying, and solving crime.

WHEREAS, the City has an existing contract with Flock Safety for cameras that are deployed in the City and Flock Safety is the sole provider of the cameras that integrate with the Flock Safety network.

WHEREAS, Entering into a new contract with Flock Safety will allow the Department to lock in our current per-camera pricing for the next five years; and

WHEREAS, the cameras have proven useful in recovering stolen vehicles and aiding in the apprehension of suspects and in investigations and the Police Department desires to add additional cameras to the network to further increase public safety and reduce crime.

NOW, THEREFORE BE IT RESOLVED that the Chief of Police of the City of Clearlake is authorized to contract with Flock Safety for 5-years with an annual amount of \$55,880 and to add additional cameras, not to exceed \$71,000 annually with the approval of the City Manager; and

BE IT FURTHER RESOLVED that the City Council of the City of Clearlake hereby waives the competitive formal bidding process pursuant to Clearlake Municipal Code Section 3-4.5.

PASSED AND ADOPTED by the City Council of the City of Clearlake, County of Lake, State of California, on this 7<sup>th</sup> day of December 2023, by the following vote:

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

ATTEST: \_\_\_\_\_  
City Clerk Mayor



**Flock Safety + CA - Clearlake PD**

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Flock Group Inc.  
1170 Howell Mill Rd, Suite 210  
Atlanta, GA 30318

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MAIN CONTACT:  
Graham Carter  
[graham.carter@flocksafety.com](mailto:graham.carter@flocksafety.com)  
(415) 329-1307





EXHIBIT A  
ORDER FORM

Customer: CA - Clearlake PD  
Legal Entity Name: CA - Clearlake PD  
Accounts Payable Email: rpeterson@clearlakepd.org  
Address: 14050 Olympic Dr Clearlake, California 95422

Initial Term: 60 Months  
Renewal Term: 24 Months  
Payment Terms: Net 30  
Billing Frequency: Annual Plan - First Year Invoiced at Signing.  
Retention Period: 30 Days

**Hardware and Software Products**  
Annual recurring amounts over subscription term

Item	Cost	Quantity	Total
Flock Safety Platform			\$50,880.00
Flock Safety Flock OS			
FlockOS™	Included	1	Included
Flock Safety LPR Products			
Flock Safety Falcon®	Included	18	Included
Flock Safety Wing™ LPR	Included	10	Included

**Professional Services and One Time Purchases**

Item	Cost	Quantity	Total
One Time Fees			

Subtotal Year 1:  
Annual Recurring Subtotal:  
Discounts:  
Estimated Tax:  
Contract Total:

\$50,880.00  
\$50,880.00  
\$90,600.00  
\$0.00  
\$254,400.00

55,880.00  
55,880.00  
  
  
279,400.00

225

**Billing Schedule**

Billing Schedule	Amount (USD)
Year 1	
At Contract Signing	<del>\$50,880.00</del>
Annual Recurring after Year 1	<del>\$50,880.00</del>
Contract Total	<del>\$254,400.00</del>

55,880.00  
55,880.00  
259,400.00

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\*Tax not included

**Discounts**

Discounts Applied	Amount (USD)
Flock Safety Platform	\$90,600.00
Flock Safety Add-ons	\$0.00
Flock Safety Professional Services	\$0.00

## Product and Services Description

Flock Safety Platform Items	Product Description	Terms
Flock Safety Falcon ®	An infrastructure-free license plate reader camera that utilizes Vehicle Fingerprint® technology to capture vehicular attributes.	The Term shall commence upon first installation and validation of Flock Hardware.
Flock Safety Wing™ LPR	Software integration with third-party cameras utilizing Flock's Vehicle Fingerprint Technology® for license plate capture.	The Term shall commence upon execution of this Agreement and continue for one (1) year, after which, the Term may be extended by mutual consent of the Parties, unless terminated by either Party.

One-Time Fees	Service Description
Installation on existing infrastructure	One-time Professional Services engagement. Includes site & safety assessment, camera setup & testing, and shipping & handling in accordance with the Flock Safety Advanced Implementation Service Brief.
Professional Services - Standard Implementation Fee	One-time Professional Services engagement. Includes site and safety assessment, camera setup and testing, and shipping and handling in accordance with the Flock Safety Standard Implementation Service Brief.
Professional Services - Advanced Implementation Fee	One-time Professional Services engagement. Includes site & safety assessment, camera setup & testing, and shipping & handling in accordance with the Flock Safety Advanced Implementation Service Brief.

## FlockOS Features & Description

### Package: Essentials

FlockOS Features	Description
Community Cameras (Full Access)	Access to all privately owned Flock devices within your jurisdiction that have been shared with you.
Unlimited Users	Unlimited users for FlockOS
State Network (LP Lookup Only)	Allows agencies to look up license plates on all cameras opted in to the statewide Flock network.
Nationwide Network (LP Lookup Only)	Allows agencies to look up license plates on all cameras opted in to the nationwide Flock network.
Time & Location Based Search	Search full, partial, and temporary plates by time at particular device locations
License Plate Lookup	Look up specific license plate location history captured on Flock devices
Vehicle Fingerprint Search	Search footage using Vehicle Fingerprint™ technology. Access vehicle type, make, color, license plate state, missing / covered plates, and other unique features like bumper stickers, decals, and roof racks.
Flock Insights/Analytics page	Reporting tool to help administrators manage their LPR program with device performance data, user and network audits, plate read reports, hot list alert reports, event logs, and outcome reports.
ESRI Based Map Interface	Flock Safety's maps are powered by ESRI, which offers the ability for 3D visualization, viewing of floor plans, and layering of external GIS data, such as City infrastructure (i.e., public facilities, transit systems, utilities), Boundary mapping (i.e., precincts, county lines, beat maps), and Interior floor plans (i.e., hospitals, corporate campuses, universities)
Real-Time NCIC Alerts on Flock ALPR Cameras	Alert sent when a vehicle entered into the NCIC crime database passes by a Flock camera
Unlimited Custom Hot Lists	Ability to add a suspect's license plate to a custom list and get alerted when it passes by a Flock camera
Direct Share - Surrounding Jurisdiction (Full Access)	Access to all Flock devices owned by law enforcement that have been directly shared with you. Have ability to search by vehicle fingerprint, receive hot list alerts, and view devices on the map.

By executing this Order Form, Customer represents and warrants that it has read and agrees all of the terms and conditions contained in the Terms of Service located at <https://www.flocksafety.com/terms-and-conditions>

The Parties have executed this Agreement as of the dates set forth below.

**FLOCK GROUP, INC.**

**Customer: CA - Clearlake PD**

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

PO Number: \_\_\_\_\_