

RESOLUTION NO. 2016-048

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CALISTOGA, COUNTY OF NAPA, STATE OF CALIFORNIA, AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH CALISTOGA JOINT UNIFIED SCHOOL DISTRICT REGARDING WATER AND WASTEWATER ALLOCATION AND CONNECTION FEE PAYMENT

WHEREAS, the City of Calistoga provides municipal water and wastewater services to properties within its service area; and

WHEREAS, the Calistoga Joint Unified School District (CJUSD) provides school services within its designated service boundary, which includes the entire City of Calistoga; and

WHEREAS, the City of Calistoga and CJUSD anticipates regular measured growth in population into the future years; and

WHEREAS, such growth has resulted in increased student population and increased student facility expansion; and

WHEREAS, the Calistoga Joint Unified School District and the City of Calistoga have determined through engineering analyses that projected the water usage and wastewater production of the facility expansion; and

WHEREAS, the School District did not wish a project delay in construction of new facilities and paid an initial, good-faith deposit in the amount of \$40,000 so it could proceed while the City and CJUSD sought to reach an agreement about the appropriate connection fees; and

WHEREAS, as the City has historic information regarding usage, CJUSD has agreed to pay any additional connection fees that may be required if the actual usage/production exceeds the Initial Water Allocation or the Initial Wastewater Allocation; and

WHEREAS, the City of Calistoga has also agreed to refund any excess connection fees that may have been collected if the actual usage/production is less than the Initial Water Allocation or the Initial Wastewater Allocation; and

WHEREAS, the City of Calistoga and the CJUSD have mutually agreed to the Water-Wastewater Connection Agreement (Attachment A).

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Calistoga hereby authorizes the City Manager to execute an agreement, Exhibit A attached, in substantially the same form, subject to the review and approval by the City Attorney.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Calistoga at a regular meeting held this **21st day of June, 2016** by the following vote:

AYES: Councilmembers Barnes, Kraus and Lopez-Ortega, Vice Mayor
Dunsford and Mayor Canning

NOES: None

ABSTAIN: None

ABSENT: None



CHRIS CANNING, Mayor

ATTEST:



KATHY FLAMSON, City Clerk

**AGREEMENT FOR WATER AND WASTEWATER ALLOCATION
AND CONNECTION FEE PAYMENT
BETWEEN THE CITY OF CALISTOGA AND
THE CALISTOGA JOINT UNIFIED SCHOOL DISTRICT**

ATTACHMENT A

Agreement No. 681

This Agreement for Water and Wastewater Allocation and Connection Fee Payment (“**Agreement**”), effective as of the date of last execution (“**Effective Date**”), is made by and between the City of Calistoga, a general law city and a municipal corporation (“**City**”), and the Calistoga Joint Unified School District, a California public school district (“**District**”) (the City and District may be referred to collectively as “**Parties**” or individually as “**Party**”), with reference to the following facts and intentions.

RECITALS

- A. Pursuant to Chapter 13.16 (Resource Management System) of the Calistoga Municipal Code, all connections to and expansions of water and/or wastewater service within Calistoga are required to (1) receive an allocation as provided for in Chapter 19.02 (Growth Management System), and (2) pay water and wastewater service connection fees to the City as provided for in Chapter 13.18 (Rates, Billing, Payments and Charges).
- B. State law requires that the costs of connecting to the water and wastewater system be apportioned to all customer classes based on the estimated reasonable cost of providing the service.
- C. The connection fees for water and wastewater were established based upon a fee study approved by the City of Calistoga on September 21, 2010. The connection fee is adjusted annually on January 1st of each year based on a construction cost index. For 2015, water connection fees are \$36,312 per acre foot and wastewater connection fees are \$106,019 per acre foot.
- D. The District has existing school facilities on the Calistoga Junior/Senior High School campus (APN 011-091-001) (“**School Property**”). The School Property’s established annual baseline allocation, as defined by Chapter 13.16, is 3.41 acre-feet of water and 3.07 acre-feet of wastewater.
- E. The District has initiated and completed construction to expand the School Property with two new buildings comprised of a new gymnasium and a student union, including a new cafeteria (“**New Facilities**”) and the District desires to contribute appropriately to its fair share of any actual burden on the City utilities.
- F. The connection fees for a new connection or expanded use of an existing connection are one-time fees that are ordinarily calculated by multiplying the applicable connection fee times the factor set forth in the City’s Standardized Use Table, provided for in Chapters 13.16 and 13.18. The Standardized Use Table projects the annual acre foot of water usage and wastewater production of new development based upon the type of land use involved. However, in the absence of an applicable type of use in the Standardized Use

Table, the City has relied upon an engineering analysis to project water usage and wastewater production of a new development.

- G. Given that the New Facilities have several uses that are distinct from the uses identified in the City's Standardized Use Table, the Parties each prepared engineering analyses to project the water usage and wastewater production of the New Facilities. The projected water demand for the New Facilities ranged from a low of 1.44 acre feet per year to a high of 2.6 acre feet per year. The New Facilities projected wastewater demand ranged from a low of 1.29 acre feet of wastewater production to a high of 2.3 acre feet of production. The determination of wastewater demand is made by multiplying the water demand by 90%.
- H. Pending an agreement that would more fully establish the terms for applying and paying the connection fees and to ensure timely construction of the New Facilities, the District paid \$40,000 to the City on July 26, 2012, as an initial deposit towards the total connection fees owed to the City ("**Deposit**") in order for the City to process the encroachment permits necessary for construction on the New Facilities to proceed. At the time, the connection fees were \$33,170 per acre foot of water use per year and \$97,777 per acre foot of wastewater production per year. From the deposit, \$10,946 was applied towards 0.33 acre feet of water demand ("**Initial Water Allocation**") and \$29,054 was applied towards 0.297 acre feet of wastewater demand ("**Initial Wastewater Allocation**").
- I. Once the New Facilities are completed and occupied, the District is committed to mitigating additional usage/production, if any. Following periodic usage/production analyses, the District has agreed to pay any additional connection fees that may be required if the actual usage/production exceeds the Initial Water Allocation or the Initial Wastewater Allocation. The City has agreed to refund any excess connection fees that may have been collected if the actual usage/production is less than the Initial Water Allocation or the Initial Wastewater Allocation.
- J. Given these unique facts and circumstances, the Parties wish to establish the terms and conditions upon which water usage and wastewater production will be allocated to the New Facilities and the connection fees therefor will be paid to the City.

AGREEMENT

NOW, THEREFORE, in consideration of their mutual covenants and conditions, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. **Recitals.** The above recitals are true and correct and material to this Agreement.
2. **Nature of New Facilities.** Except as otherwise expressly provided herein, the New Facilities are not equivalent to the use types listed in the Standardized Use Table. As a result, the water and wastewater service allocations shall be based upon the actual water demand and actual wastewater demand and the terms of payment of the connection fees shall be established by this Agreement.
3. **Domestic and Emergency Potable Water.**
 - 3.1. **Initial Water Allocation.** In exchange for the previous payment of a connection fee of \$10,946, the City shall provide the New Facilities with an initial allocation

of 0.33 annual acre feet of water demand (“**Initial Water Allocation**”), for a total initial baseline allocation of 3.74 annual acre feet of water for the entire School Property (“**Total Water Allocation**”).

3.2. Initial Water Connection Fee.

For the Initial Water Allocation, the water connection fee shall be based upon the projected 0.33 annual acre feet of water demand. The City shall credit 0.33 acre feet of water demand towards the Actual Water Demand, as established in Section 3.3. Applying the 2012 water connection fee of \$33,170 per acre foot to the 0.41 annual acre feet results in a connection fee of \$10,946 (“**Initial Water Connection Fee**”), which the District has paid in full.

3.3. Check-In. District has taken occupancy of the New Facilities (“**Actual Occupancy**”). Starting on the date of July 2, 2014, for a period of 24 months, the City shall annually review the School Property’s average actual annual demand (365-day year) of water supplies based upon peak demand. The determination of average actual annual water demand shall be made by the City based upon review of its metering devices for the entire School Property (“**Actual Water Demand**”); provided however, that City shall provide District with documentation of its determination and District may protest the determination to the City Manager in the event the District believes there to have been a reading or calculation error. The City shall provide the District with written notice of its determination of the Actual Water Demand (“**Water Notice**”) by August 1, 2016. The District’s receipt of the Water Notice shall trigger any applicable connection fee reconciliation obligations under Sections 3.5 and 3.6 of this Agreement.

3.4. Additional Reserved Water. During the first 24 months following Actual Occupancy, City shall reserve an additional 2.19 acre feet of domestic and emergency potable water for the District (“**Reserved Water Allocation**”). This Reserved Water Allocation shall be in addition to the Initial Water Allocation, but the District shall not be obligated to make any payment associated with the Reserved Water Allocation, unless otherwise set forth herein.

3.5. Water Reconciliation Request. In the event that Actual Water Demand exceeds the Total Water Allocation, within 60 days of receipt of the Water Notice, the District shall provide the City with written notice of its request for all, or a portion, of the Reserved Water Allocation, based on demonstrated need (“**Water Reconciliation Request**”). The Water Reconciliation Request shall be granted by the City, provided that the applicable connection fee is paid as provided for in Section 3.6. In the event that the District needs more water than the Reserved Water Allocation, such request shall be subject to review based upon applicable City codes, regulations and rates in effect at the time.

3.6. Water Connection Fee Reconciliation.

a. In the event that Actual Water Demand exceeds the Total Water Allocation, then within 60 days of the City approving a Water Reconciliation Request, District shall pay the City an additional connection fee for the portion of the Reserved Water Allocation approved.

This connection fee shall be in an amount equal to the difference in the acre feet of water between the Actual Water Demand and the Total Water Allocation, multiplied by the 2015 water connection fee applying the rates in effect at the time of the payment. (Water connection fee reconciliation = (Actual Water Demand – 3.74 acre feet) x current water connection fee of \$36,312.) Upon payment of the additional water connection fee, the water baseline for the School Property inclusive of the New Facilities will be adjusted accordingly and documented in writing by the City.

- b. If the Actual Water Demand is less than the Total Water Allocation, then within 60 days after issuing the Water Notice, the City shall issue a rebate to the District. The rebate shall be in an amount calculated as follows:
 - i. If the Actual Water Demand is less than or equal to 3.41 annual acre feet, the City shall rebate the District’s Initial Water Connection Fee in full.
 - ii. If the Actual Water Demand is more than 3.41 annual acre feet, the District’s rebate shall be equal to the rate paid by District per acre foot (which rate is \$33,170 per acre foot) multiplied by the difference between the Total Water Allocation and the Actual Water Demand, without fee, fine or penalty. (Water connection fee refund = \$33,170 x (3.74 acre feet – Actual Water Demand).) Once the rebate has been made, the water baseline for the School Property inclusive of the New Facilities will be adjusted accordingly.

4. **Wastewater.**

- 4.1. **Initial Wastewater Allocation.** In exchange for the previous payment of a connection fee of \$29,054, the City shall provide the New Facilities with an initial annual allocation of 0.297 acre feet of wastewater demand (“**Initial Wastewater Allocation**”), for a total initial baseline allocation of 3.36 annual acre feet of wastewater for the entire School Property (“**Total Wastewater Allocation**”).
- 4.2. **Initial Wastewater Connection Fee.** For the Initial Wastewater Allocation, the wastewater connection fee shall be based upon the projected 0.297 annual acre feet of wastewater demand. The City shall credit 0.297 acre feet of wastewater demand towards the Actual Wastewater Demand, as established in Section 4.3. Applying the 2012 wastewater connection fee of \$97,777 per acre foot to the 0.27 annual acre feet results in a connection fee of \$29,054 (“**Initial Wastewater Connection Fee**”), which the District has paid in full.
- 4.3. **Check-In.** District has taken occupancy of the New Facilities. Starting on the date of July 1, 2014, for a period of 24 months, the City shall annually review the School Property’s average actual annual demand (365-day year) on water supplies based upon peak demand year. The determination of actual annual wastewater demand shall be made by the City based upon review of its metering devices for the entire School Property; provided however, that City shall provide District with documentation of its determination and District may protest the determination to the City Manager in the event the District believes there to have been a reading or

calculation error. The actual wastewater demand determination shall be made by multiplying the Actual Water Demand by 90% (“**Actual Wastewater Demand**”). The City shall provide the District with written notice of its determination of the Actual Wastewater Demand (“**Wastewater Notice**”) by August 1, 2016. The District’s receipt of the Wastewater Notice shall trigger reconciliation obligations under Sections 4.5 and 4.6 of this Agreement.

- 4.4. Additional Reserved Wastewater Capacity.** During the first 24 months following Actual Occupancy, City shall reserve an additional 2.03 acre feet of wastewater capacity for the District (“**Reserved Wastewater Allocation**”). This Reserved Wastewater Allocation shall be in addition to the Total Wastewater Allocation and represents 90% of the Reserved Water Allocation, but the District shall not be obligated to make any payment associated with the Reserved Wastewater Allocation, unless otherwise set forth herein.
- 4.5. Wastewater Reconciliation Application.** In the event that Actual Wastewater Demand exceeds the Total Wastewater Allocation, within 60 days of receipt of the Wastewater Notice, the District shall provide the City with written notice of its request for all, or a portion, of the Reserved Wastewater Allocation, based on demonstrated need (“**Wastewater Reconciliation Request**”) determined by the following calculation: Actual Water Demand x 90% = Actual Wastewater Demand. The Wastewater Reconciliation Request shall be granted by the City, provided that the applicable connection fee is paid as provided for in Section 4.6. In the event that the District needs more wastewater capacity than the Reserved Wastewater Allocation, such request shall be subject to review based upon applicable City codes, regulations and rates in effect at the time.
- 4.6. Wastewater Connection Fee Reconciliation.**

 - a. In the event that Actual Wastewater Demand exceeds the Total Wastewater Allocation, then within 60 days of the City approving a Wastewater Reconciliation Request, District shall pay the City an additional connection fee for the portion of the Reserved Water Allocation approved. This connection fee shall be in an amount equal to the difference in the acre feet of wastewater between the Actual Wastewater Demand and the Total Wastewater Allocation, multiplied by the 2015 wastewater connection fee applying the rates in effect at the time of the payment. (Wastewater connection fee reconciliation = (Actual Wastewater Demand – 3.36 acre feet) x current wastewater connection fee (\$36,312.) Upon payment of the additional wastewater connection fee, the wastewater baseline for the School Property inclusive of the New Facilities will be adjusted accordingly.
 - b. If the Actual Wastewater Demand is less than the Initial Wastewater Allocation, then within 60 days after issuing the Wastewater Notice, City shall issue a rebate to the District. The rebate shall be in an amount calculated as follows:

- i. If the Actual Wastewater Demand is less than or equal to 3.07 annual acre feet, the City shall rebate the District's Initial Wastewater Connection Fee in full.
- ii. If the Actual Wastewater Demand is more than 3.07 annual acre feet, the District's rebates shall be equal to rate paid by District per acre foot (which rate is \$106,019 per acre foot) multiplied by the difference between the Total Wastewater Allocation and the Actual Wastewater Demand, without fee, fine or penalty. Wastewater connection fee refund = (\$106,019 x (3.36 acre feet – Actual Wastewater Demand) = wastewater connection fee refund.) Once the rebate has been made, the wastewater baseline for the School Property inclusive of the New Facilities will be adjusted accordingly.

5. Will Serve Obligation.

- 5.1. Effect of Connection Fee Payment.** Payment of water and wastewater connection fees will entitle the New Facilities on the School Property to qualify for water and wastewater service from the City on the same terms and conditions applicable to existing customers/ratepayers, except as otherwise set forth herein. The Parties agree that this Agreement does not relate to water or wastewater service rates, which shall continue to be governed by applicable City codes, regulations and rates in effect at the time.
- 5.2. Baseline Adjustments.** The allocations of water and wastewater capacity set forth in Sections 3.1 and 4.1 shall constitute the “will serve” obligation of City with respect to the New Facilities. For the first 24 months, the Initial Water Allocation and Initial Wastewater Allocation shall constitute the baseline (as defined in Municipal Code Section 13.16.060) for the New Facilities. Thereafter, the baseline shall be adjusted as provided for in Sections 3.6(b) and 4.6(b). Thereafter, any water and wastewater usage that exceeds established baselines must comply with applicable City codes, regulations and rates in effect at that time, including, but not limited to, surcharge fees per Calistoga Municipal Code Section 13.16.060.
- 5.3. No Vested Rights.** Nothing in this Agreement is intended to or shall grant the District any vested right to water or wastewater service. Notwithstanding any other provision of this Agreement to the contrary, the Parties agree that the current rates are currently appropriate for satisfaction of the estimated economic burdens caused by the connections necessitated by the New Facilities. The City expressly reserves the right to adopt and apply to the New Facilities any and all City ordinances or resolutions which (a) may increase the costs for the necessary connections upon a showing that such ordinances or resolutions are reasonably necessary to prevent the City from bearing any costs from City funds, in which case the District will pay any increased costs beyond the current fees, as demonstrated by generally accepted engineering principles, or (b) are reasonably to protect the public health and safety.

6. Term and Termination.

6.1. Term. The term of this Agreement shall continue from the Effective Date until terminated as provided for herein.

6.2. Termination. The Parties may terminate this Agreement by mutual written agreement. In the event of default on the part of the District of any of the terms of this Agreement, which default continues after 10 days written notice from the City, City may immediately terminate this Agreement. In the event of default on the part of the City of any of the terms of this Agreement, which default continues after 10 days' written notice from the District, District may immediately terminate this Agreement. Upon such termination, the Parties agree and acknowledge that: (1) all rights and obligations of the Parties set forth in this Agreement shall terminate and be of no further force and effect, unless expressly stated otherwise, and (2) all water and/or wastewater allocations and ongoing City monitoring shall be governed by applicable ordinances, policies and practices in effect at the time.

7. Indemnity/Liability.

7.1. Indemnity.

a. Mutual Indemnity re: Damages or Breach Arising from Implementation of Agreement.

- i. District shall indemnify, hold harmless, and defend (with counsel chosen by City) City, its officers, elected officials, employees, agents, volunteers, and consultants ("City Parties") from and against any and all actions, claims, demands, damages, disability, losses, and expenses including, but not limited to, attorney's fees and other defense costs and liabilities of any nature that may be asserted by any person or entity, to the extent arising out of the negligent act or omission from implementation of the Agreement, or breach of the Agreement, by the District, its officers, elected officials, employees, agents, volunteers, and consultants ("District Parties"). The District's obligations pursuant to this Section 7.1 shall not apply to any liabilities caused solely by the negligence or willful misconduct of the City Parties. District's duty to indemnify and hold harmless, as set forth herein, shall include the duty to defend as set forth in California Civil Code § 2778.
- ii. City shall indemnify, hold harmless, and defend (with counsel chosen by District) the District Parties from and against any and all actions, claims, demands, damages, disability, losses, and expenses including, but not limited to, attorney's fees and other defense costs and liabilities of any nature that may be asserted by any person or entity, to the extent arising out of the negligent act or omission from implementation of the Agreement, or breach of the Agreement, by the City Parties. The City's obligations pursuant to this Section 7.1 shall not apply to any liabilities caused solely by the negligence or willful misconduct of the District Parties. City's duty to indemnify and hold

harmless, as set forth herein, shall include the duty to defend as set forth in California Civil Code § 2778.

- b. Indemnity re: Third Party Challenge to Authority to Enter Agreement. If any third party to this Agreement files a lawsuit against any City Parties and/or District Parties (whether a petition for a writ of mandate, complaint for declaratory and/or injunctive relief, or other lawsuit) which challenges the legality of this Agreement and/or any City Parties' and/or District Parties' authority to enter into this Agreement, District and City agree to cooperate in the defense of such lawsuit and to share equally litigation expenses (e.g., attorney's fees, costs, and expert witness fees, if any) incurred in defending against the lawsuit (50% each of the aggregate, out-of-pocket collective expenses). The City and the District shall have the right to choose their own counsel to represent their respective interests in any such lawsuit; however, the City and the District will meet and confer to determine whether either's counsel should take the lead in defending against such lawsuit. The City and the District will periodically exchange invoices reflecting their litigation expenses, will promptly calculate the aggregate total litigation expenses collectively incurred as of a reasonably-practicable recent date, and will make payments to each other so as to ensure that they share the aggregate litigation expenses equally (50% each). In addition, the District and the City shall be equally responsible for all damages, liabilities, or losses arising out of any lawsuit described in this Section 7.1(b).
- c. Misc. This Section 7.1 shall survive termination of this Agreement. The indemnification obligations are not limited in any way by any limitation on the amount or type of damages or compensation payable to or for the Parties or their agents under insurance policies or workers' compensation acts, disability benefits acts or other employee's benefits acts.

7.2. Acts of God. Neither City nor District shall have liability for damages or delays due to fire, explosion, lightning, pest damage, power surge or failures, flood, drought, earthquakes, acts of God, the elements, war, civil disturbances, or acts of civil or military authorities or the public enemy.

8. General Provisions.

- 8.1. Entire Agreement.** This Agreement is intended by the Parties as the final expression of their agreement with respect to such terms as are included herein and as the complete and exclusive statement of its terms and may not be contradicted by evidence of any prior agreement or of a contemporaneous oral agreement, nor explained or supplemented by evidence of consistent additional terms.
- 8.2. Amendments.** The terms of this Agreement shall not be waived, altered, modified, supplemented or amended in any manner whatsoever except by written agreement signed by both City and District.

- 8.3. Compliance with Law.** Each and every provision of law and clause required by law to be inserted into this Agreement shall be deemed to be inserted herein and this Agreement shall be read and enforced as though it were included herein.
- 8.4. Construction of Agreement.** The terms and provisions of this Agreement shall be liberally construed to effectuate the purpose of this Agreement. In determining the meaning of, or resolving any ambiguity with respect to, any word, phrase or provision of this Agreement, no uncertainty or ambiguity shall be construed or resolved against either party under any rule of construction, including the party primarily responsible for the drafting and preparation of this Agreement. This Agreement shall be governed by and construed in accordance with the laws of the State of California and venue shall be in the appropriate court in Napa County, California. If any provision of this agreement is held invalid or unenforceable by a court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision of this Agreement.
- 8.5. Benefit of Counsel.** Each Party prior to entering into this Agreement has obtained the advice of legal counsel. Each Party executes this Agreement with full knowledge of its terms and conditions and their significance and with the express intention of affecting its legal consequences.
- 8.6. Waiver.** No failure on the part of either Party to exercise any right or remedy hereunder shall operate as a waiver of any other right or remedy that party may have hereunder.
- 8.7. Attorney Fees.** It is mutually agreed between the Parties that in the event that the interpretation or enforcement of any terms, provisions, rights or obligations contained in this Agreement become the subject of litigation between the Parties, the prevailing Party in any such litigation shall recover from the non-prevailing Party the prevailing Party's reasonable attorney fees and costs.
- 8.8. Execution of Other Documents.** City and District shall cooperate fully in the execution of any and all other documents and/or any additional actions necessary to give full force and effect to the terms of this Agreement.
- 8.9. Execution of Counterparts.** This Agreement may be executed in counterparts, each of which shall constitute an original of the Agreement. Signatures transmitted via portable document format (“pdf”) to the other Party to this Agreement shall be deemed equivalent to original signatures on counterparts.
- 8.10. Authority.** District hereby represents and warrants that it possesses the financial resources to discharge the responsibilities it has assumed under this Agreement. City hereby represents and warrants that it possesses the financial resources to discharge the responsibilities it has assumed under this Agreement.
- 8.11. No Assignment.** District may not assign its rights under this Agreement. Any attempted assignment is void and unenforceable.
- 8.12. Notices.** Any notice or communication to the other Party required under this Agreement must be in writing, and may be given either personally, by facsimile (with original forwarded by regular U.S. Mail), by registered or certified mail (return receipt requested), or by Federal Express or other similar courier providing

overnight delivery. If personally delivered, a notice will be deemed to have been given when delivered to the Party to whom it is addressed. If given by facsimile transmission, a notice or communication will be deemed to have been given and received upon actual physical receipt of the entire document by the receiving Party's facsimile machine. Notices transmitted by facsimile after 5:00 p.m. on a normal business day or on a Saturday, Sunday or holiday will be deemed to have been given and received on the next normal business day. If given by registered or certified mail, such notice or communication will be deemed to have been given and received on the first to occur of (i) actual receipt by any of the addressees designated below as the Party to whom notices are to be sent, or (ii) five days after a registered or certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. If given by Federal Express or similar courier, a notice or communication will be deemed to have been given and received on the date delivered as shown on a receipt issued by the courier. Any Party may at any time, by giving ten days written notice to the other Party, designate any other address in substitution of the address to which such notice or communication shall be given. Such notices or communications will be given to the Parties at their addresses set forth below:

CITY: Dylan Feik
City Manager
707-942-2844
City of Calistoga

1232 Washington St.
Calistoga, CA 94515

DISTRICT: Esmeralda Mondragon, Ed.D
Superintendent
707-942-4703
Calistoga Joint Unified School
District
1520 Lake Street
Calistoga, CA 94515

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the Effective Date.

CITY OF CALISTOGA

CALISTOGA JOINT UNIFIED SCHOOL
DISTRICT

By: _____
Dylan Feik
City Manager

By _____
Esmeralda Mondragon Ed.D
Superintendent

Date: _____

Date: _____

APPROVED AS TO FORM:

APPROVED AS TO FORM:

By: _____
City Attorney

By: _____
District Counsel