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Sent by email to ellis@cityofpetaluma.org and atrippel@cityofpetaluma.org May 7, 2023

Re: Public Comment for Planning Commission Meeting May 9, 2023, concerning Item 2, OYSTER COVE MIXED USE NEIGHBORHOOD INITIAL STUDY - MITIGATED NEGATIVE DECLARATION PREPARED BY: CITY OF PETALUMA, 11 ENGLISH STREET PETALUMA, CA 94952 APRIL 2023

Dear Ms. Ellis, Mr. Trippel and Commissioners:

This letter conveys my Public Comments concerning Item 2 on the agenda of the Planning Commission for its May 9 meeting. Ms. Ellis, please distribute my letter to the Commissioners and Council Liaison and include it in the public record. I also plan to attend the public hearing and address the Commission about this matter.

1. Summary.

To summarize, the Initial Study – Mitigated Negative Declaration (hereafter “IS-MND”) identified above does not meet the requirements of the California Environmental Quality Act and should not be certified by the City of Petaluma. Instead the City must prepare a full Environmental Impact Report. Accordingly I respectfully request that you not adopt the proposed resolution referred to in Item 2, namely “Resolution recommending the City Council adopt or approve entitlements etc.”

The IS-MND does not meet the requirements of CEQA in a number of ways.

2. The Oyster Cove Project fails the “fair argument” test.

CEQA includes a fundamental principle which is usually called the fair argument test, and in this case the proposed IS-MND fails the fair argument test. The fair argument test is described in CEQA as follows: If there is substantial evidence that a project may have a significant effect on the environment, an MND is not adequate and an environmental impact report must be prepared. A key word here is “may”, and some courts have said that the fair argument test sets a low bar for requiring a full EIR to be prepared. In other words a full EIR is generally required if there is any likelihood of significant environmental impact from a project. Here’s what the California Supreme court said:

Said another way, if a lead agency is presented with a fair argument that a project may have a significant effect on the environment, the lead agency shall prepare an EIR even though it may also be presented with other substantial evidence that the project will not have a significant effect (No Oil, Inc. v. City of Los Angeles (1974) 13 Cal.3d 68).

I will discuss below some examples of how the proposed Oyster Cove project at least may have and probably will have a significant effect on the environment even after mitigation measures are imposed.

3. Some examples of how the project would likely have significant effects on the environment.

3.1 The project will likely have a significant effect on Sanitary Sewage Overflows.

Sanitary sewage generated by activities at the project site will be discharged to the City's sanitary sewage collection system. "Wastewater would be conveyed from the project site through new sanitary sewer pipes, to the existing sanitary sewer main within Hopper Street, and ultimately to the Ellis Creek water recycling facility." (IS-MND p. 6 – 13/129 and p. 95-96 – 102-103/129).

The IS-MND does not indicate that the environmental impact of such discharge will be significant.

6.19 (c) (Sufficient Wastewater Treatment Capacity) Less Than Significant Impact: Wastewater generated by the project is within the expected conveyance and treatment capacity anticipated by the General Plan and will not require the expansion of treatment facilities. . . . The project will direct effluent to the existing sewer trunk main within Hopper Street and will install onsite sewer pipelines, manholes, laterals, and tie-ins to collect and convey wastewater offsite. All wastewater generated onsite will be process [sic] through the City's municipal sanitary sewer system and treated at the Ellis Creek Water Recycling Facility. IS-MND p. 97 - 104/129

This is not correct, and the environmental impact of the sewage from the project at least may, and likely will, be significant.

The IS-MND does not even mention that the City's sanitary sewage collection system which will serve the project is subject to overflowing, i.e. sanitary sewage overflow (SSO), which results in raw, untreated sewage flowing onto surrounding streets and land and into the Petaluma River. And it does not discuss the impact of the project on these overflows.

The statement from IS-MND §6.19(c) above is incorrect in a number of ways. First, it states that all wastewater generated onsite will be treated at the City's Ellis Creek facility. However, this might be correct some of the time, but during SSOs untreated sewage will likely flow onto

Petaluma streets, surrounding property and into the Petaluma River. Furthermore, SSOs can be caused by leaky pipes in the collection system, and in dry weather raw sewage can leak out from leaky pipes which can cause problems such as contaminated groundwater. Furthermore, sewage from the project will be added to sewage already carried by the City's collection system and therefore the project will undoubtedly make the SSO problem worse than it is at present.

It is well documented that the City's sewage collection system is subject to the problem of SSO which sometimes occurs near the project site. Here is some background –

At the Petaluma City Council meeting on November 21, 2021, Public Works and Utilities Director Christopher Bolt presented a Re-Cap of a major storm event that occurred October 23-24, 2021. At 2:17:04 in the meeting video he showed a slide labeled "Flooding & SSOs", which I have attached. The slide shows the location of SSOs by 6 red triangles and also other "drainage issues" by yellow diamonds. He stated that the incidents indicated are only the ones the Public Works Department recorded, and there may have been others. It should be noted that an SSO is indicated at or very near the location of the Oyster Cove project.

I am attaching a SETTLEMENT AGREEMENT AND STIPULATION FOR ENTRY OF ADMINISTRATIVE CIVIL LIABILITY ORDER concerning the City of Petaluma which states:

This Order resolves the violations alleged herein by the imposition of administrative civil liability against the Discharger (the City of Petaluma) in the amount of \$235,200.

1. From July 31, 2012, through January 19, 2016, for sanitary sewer overflows (SSOs) less than 1,000 gallons . . .
2. On December 11, 2014, the Discharger discharged a total of 521,760 gallons of untreated sewage at four locations as the result of inadequate collection system capacity during a storm . . .

Thus it is clear that the City must prepare a full EIR to address this issue. The project will add a considerable volume of sewage to the City's collection system which may and likely will add to the existing problem of SSOs in the vicinity of the project.

3.2 The project will likely have cumulative impacts that are considerable, including flooding and SSOs.

The City is not legally entitled to certify or rely on the IS-MND because the project will have environmental effects that are cumulatively considerable. CEQA Guideline §15065 states, in part:

- (a) A lead agency shall find that a project may have a significant effect on the environment and thereby require an EIR to be prepared for the project where there is substantial evidence, in light of the whole record, that any of the following conditions may occur: . . .

(3) The project has possible environmental effects that are individually limited but cumulatively considerable. "Cumulatively considerable" means that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.

The cumulative impact on SSOs is discussed above. To explain the cumulative impact on flooding I will begin with the IS-MND which states:

The project site is located within the boundaries of a Special Flood Hazard Area (SFHA) as defined by FEMA and an "Area of Special Flood Hazard", regulated by the City of Petaluma under the Flood Plain-Combining District (FP- C)¹² and is subject to provisions of the City's municipal code and Implementing Zoning Ordinance (IZO). IS-MND pg. 65-66 (72-73/129 of pdf)

An "Area of Special Flood Hazard" is discussed in the City's Implementing Zoning Ordinance (IZO) in Chapter 6 titled "Floodway and Flood Plain Districts." Section 6.011 summarizes the significance of flooding as follows:

Findings of Fact.

A. The flood hazard areas of the City of Petaluma are subject to periodic inundation which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

B. These flood losses can be caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated, or otherwise protected from flood damage also contribute to the flood loss. Petaluma IZO §6.011

It is well known that flooding has long been a serious problem in Petaluma. I am sure that you all know this, but for the record I will point out some evidence of this fact. For example the current [Petaluma General Plan](#) states at p. 8-14, "Based on the historic records of flood events and the detail to which streams have been studied and floodplains delineated within the City by FEMA, it is clear that flooding is a significant problem." Also, the [Petaluma Local Hazard Mitigation Plan](#) of November 2020 discusses the flooding problem and indicates at p. 4-104 that it is likely to continue in the future although there have been efforts to mitigate it.

It is probably obvious that the flooding in Petaluma is caused by cumulative factors, but for the record I will provide some evidence. For example, the findings of fact in the Petaluma IZO at Section 6.011 quoted above state that flooding, “can be caused by the cumulative effect of obstructions in areas of special flood hazards.” The Oyster Cove project will add to such obstructions, and in fact the IS-MND discusses the flooding problem See for example pp. 65-66 (72-73/129) and mitigation being provided for flooding. and pp. 69-71 (76-77/129) 73

The mitigation measures concerning flooding provided in the IS-MND do not allow the City to avoid the need to prepare a full EIR.

Even if the mitigation in the IS-MND would reduce the impact of the project on flooding to an insignificant level (which it would not), a full EIR would nevertheless be required under CEQA Guidelines §15065 because the project’s effect on flooding is cumulative.

4. Additional feasible mitigation measures should be imposed.

It is clear that there are additional feasible mitigation measures, beyond those discussed in the IS-MND, that could be imposed which would further reduce the impact of the project on flooding. For this reason alone the IS-MND does not comply with CEQA. For example, the project site could be preserved in an undeveloped state either partially or completely, which would reduce its potential for causing flooding. The Petaluma General Plan states essentially that flooding in Petaluma can be reduced by restricting development - -

Policy 8-P-31. In accordance with the studies undertaken for the Corps Flood Protection Project, existing areas subject to periodic surface water inundation and containment, within the Corona and Denman Reaches (Lynch Creek confluence with the Petaluma River upstream to the Old Redwood Highway over-crossing of Willow Brook Creek), shall be preserved and enhanced where feasible to reduce localized flooding. Petaluma General Plan p. 8-18 - 180/280

Furthermore, contrary to the IS-MND the project is inconsistent with the Petaluma General Plan which states:

8-P-30 Within a 200’ setback from centerline of the Petaluma River, within the UGB, no additional development shall be permitted on lands within that 400’ wide corridor, given natural and physical constraints, unless the proposed development fully complies with the interim development standards as defined in 8-P-29 B, until such time as the study referred to in Policy 8-P-29-B is concluded and approved by the SCWA and City of Petaluma. Thereafter all lands affected shall set aside the necessary river and/ or creek corridor areas and, as development occurs,

shall undertake the identified surface water containment enhancement improvements. Petaluma General Plan p.8-17 - 179/280

Contrary to this requirement the project does not include the required 200 foot setback but instead some structures are located as close as about 20 feet from the Petaluma River.

In summary, the IS-MND fails the fair argument test and fails to meet the requirements of CEQA in other ways, and the City must prepare a full EIR.

Sincerely,
Hal Bohner

Attachments:

- 1) Slide Labeled "Flooding and SSOs"
- 2) SETTLEMENT AGREEMENT AND STIPULATION FOR ENTRY OF ADMINISTRATIVE CIVIL LIABILITY ORDER

Flooding & SOS

Live Transcription (Closed Captions) has been enabled. [Who can see this transcript?](#)



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**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION**

In the matter of:)	
)	
CITY OF PETALUMA)	SETTLEMENT AGREEMENT AND
)	STIPULATION FOR ENTRY OF
Violation of the Sanitary Sewer)	ADMINISTRATIVE CIVIL LIABILITY
Order: Failure to Comply with)	ORDER
Reporting Requirements and)	
Discharge of Untreated Sewage to)	ORDER No.
Surface Water)	

Section I: INTRODUCTION

This Settlement Agreement and Stipulation for Entry of Administrative Civil Liability Order (Order) is entered into by and between the Assistant Executive Officer of the California Regional Water Quality Control Board, San Francisco Bay Region (Regional Water Board) on behalf of the Regional Water Board Prosecution Staff (Prosecution Staff) and the City of Petaluma ("Discharger") (collectively, Parties). The Order is presented to the Regional Water Board, or its delegate, for adoption as an Order by settlement pursuant to Government Code section 11415.60. This Order resolves the violations alleged herein by the imposition of administrative civil liability against the Discharger in the amount of **\$235,200**.

Section II: RECITALS

1. From July 31, 2012, through January 19, 2016, for sanitary sewer overflows (SSOs) less than 1,000 gallons, the Discharger is alleged to have failed to comply with the reporting requirements of the amendments to the Monitoring and Reporting Program (MRP) of the Statewide General Waste Discharge Requirements for Sanitary Sewer Systems, State Water Resources Control Board (State Water Board) Order 2006-0003-DWQ (Sanitary Sewer Order). The details of those reporting violations are described in Attachment A to this Order, which is hereby incorporated by reference.
2. On December 11, 2014, the Discharger discharged a total of 521,760 gallons of untreated sewage at four locations as the result of inadequate collection system capacity during a storm and failed to timely submit a technical report for the SSOs by the due date of January 25, 2015, as required by Provision C.5 of State Water Board Order WQ 2013-0058-EXEC (2013 MRP).¹ The SSOs discharged to the Petaluma River, a water of the United States. Prohibition C.1 of the Sanitary Sewer Order prohibits any SSO that results in a discharge of untreated or partially treated wastewater to waters of the United States. See Attachment A for more detail.

¹ The State Water Board adopted Order WQ 2013-0058-EXEC on August 6, 2013, which amended the monitoring, record keeping, reporting, and public notification requirements for the Sanitary Sewer Order, and became effective on September 9, 2013.

3. These alleged violations of the Sanitary Sewer Order and MRP constitute violations of the California Water Code (Water Code) for which discretionary penalties may be assessed pursuant to Water Code sections 13385 and 13268.
4. The Parties have engaged in settlement negotiations and agree to settle this matter without administrative or civil litigation by presenting this Order to the Regional Water Board, or its delegate, for adoption as an order pursuant to Government Code section 11415.60. To resolve by consent the alleged violations of the Water Code without further administrative or civil proceedings, the Parties agree to the imposition of **\$235,200** in administrative civil liability. The administrative civil liability imposed for the Water Code violations is the proposed liability the Prosecution Team calculated and asserted using Steps 1 through 10 of the State Water Resources Control Board's Water Quality Enforcement Policy (May 2010) (Enforcement Policy) as shown in Attachment A.
5. The Prosecution Staff asserts that the resolution of the alleged violations is fair, is reasonable, and fulfills its enforcement objectives such that no further action is warranted concerning the specific violations alleged except as provided in this Order, and that this Order is in the best interest of the public.

Section III: STIPULATIONS

The Parties stipulate to the following:

6. **Administrative Civil Liability:** The Discharger hereby agrees to a Stipulated Administrative Civil Liability totaling **TWO HUNDRED THIRTY FIVE THOUSAND TWO HUNDRED DOLLARS (\$235,200)**. Of the Stipulated Administrative Civil Liability, one hundred seventeen thousand and six hundred dollars (\$117,600) shall be remitted by check made payable to the *State Water Pollution Cleanup and Abatement Account* no later than 30 days following the execution of this Order. The check shall reference the Order number indicated on page one of this Order. The Discharger shall send the original signed check to the following address and shall send notification of payment to the Office of Enforcement (email to naomi.kaplowitz@waterboards.ca.gov) and the Regional Water Board (email to michael.chee@waterboards.ca.gov).

State Water Resources Control Board
1001 I Street 18th Floor
Sacramento, California 95814
ATTN: Accounting Office

7. **Supplemental Environmental Project:** The Parties agree that one hundred seventeen thousand and six hundred dollars (\$117,600) of the Stipulated Administrative Civil Liability shall be suspended pending the completion of the Supplemental Environmental Project ("SEP") described in this paragraph and Attachment B. The suspended portion shall be referred to as the SEP Amount and treated as a Suspended Administrative Civil Liability until project completion for purposes of this Order. The Regional Water Board is entitled to recover any SEP funds not expended in accordance with this Order or Attachment B.

Detailed project descriptions, including milestones, budget, and performance measures, are attached hereto as Attachment B – SEP Proposal and incorporated herein by reference.

- A. **Proposed SEP “Petaluma River Cleanup Program: A Partnership of Citizens and the City of Petaluma”:** The Discharger proposes to enhance existing efforts to remove trash and debris from the Petaluma River and its watershed by expanding annual cleanup event efforts led by the Friends of the Petaluma River, and by supporting Petaluma Police Department’s (PPD’s) efforts to identify and cleanup homeless encampments. The SEP is a coordinated effort of the City Public Works & Utilities Department, PPD, Friends of the Petaluma River, and Petaluma Refuse & Recycling. The Discharger will substantially increase its level of involvement in the existing river cleanup events for two years, and improve existing infrastructure to assist in trash collection. The Discharger will also purchase equipment to allow PPD to expand its program to cleanup homeless encampments. The location of this SEP has a nexus to the locations of the violations. This SEP is being proposed as part of the settlement of multiple SSOs that occurred in 2014 and 2016, and subsequent failures to submit SSO reports. The violations occurred within the City of Petaluma and resulted in discharges of sewage to the City’s stormwater system and then to the Petaluma River.
- B. **Representation of the Discharger:** As a material consideration for the Regional Water Board’s acceptance of this Order, the Discharger represents that it will use the funds outlined in Paragraph 7 to implement the SEP in accordance with the SEP Proposal set forth in Attachment B and this Order. The Discharger understands that its promise to implement the SEP in accordance with the schedule for implementation is a material condition of this settlement of liability between the Parties.
- C. **Request for Extension of SEP Completion Deadlines:** If the Discharger cannot meet any of the SEP completion deadlines due to circumstances beyond Discharger’s anticipation or control, the Discharger shall notify the Executive Officer and the Regional Water Board representative designated in Paragraph 9 in writing within 30 days of the date the Discharger first knows of the event or circumstance that caused or could cause a violation of this Order. The notice shall describe the reason for the nonperformance and specifically refer to this paragraph. The notice shall describe the anticipated length of time the delay may persist, the cause or causes of the delay, the measures taken or to be taken by the Discharger to prevent or minimize the delay, the schedule by which the measures will be implemented, and the anticipated compliance date. The Discharger shall adopt all reasonable measures to avoid and minimize such delays.

The Executive Officer will determine whether the circumstances are beyond the reasonable control of the Discharger and its agents. Where the Executive Officer concurs that compliance was or is impossible despite the timely good faith efforts of the Discharger due to circumstances beyond the control of the Discharger that could not have been reasonably foreseen and prevented by the exercise of reasonable diligence by the Discharger, the Executive Officer shall establish a new compliance

deadline by written letter. The Executive Officer will endeavor to grant a reasonable time extension if warranted.

- D. **SEP Oversight:** The Discharger agrees to oversee implementation of its SEP as described in Paragraph 7 and Attachment B.
- E. **SEP Publicity:** If the Discharger publicizes the SEP or results of the SEP, it will state in a prominent manner that the project is being undertaken as part of a stipulated settlement of a Regional Water Board enforcement action.
- F. **Submission of SEP Monitoring Reports:** The Discharger agrees to submit reports to the Regional Water Board, a third party oversight organization (San Francisco Estuary Partnership), and the State Water Board's Office of Enforcement. Reports are due according to the schedule shown in Table 5 of Attachment B, starting with the first full calendar quarter after SEP approval and ending with the final report. Quarterly reports will include information relating to SEP implementation progress.
- G. **Audits and Certification of SEP Completion**
 - i. **Certification of Completion:**

Within 30 days of SEP completion, the Discharger shall submit a certified statement of SEP completion ("Certification of Completion"). The Discharger's authorized representative shall submit the Certification of Completion under penalty of perjury to the Regional Water Board representative designated in Paragraph 9 below.
 - ii. The Certification of Completion shall include the following:
 - a) **Certification of Expenditures:**

The Discharger shall certify documentation of all expenditures for which it pays. The expenditures may include external payments to outside vendors or contractors implementing the SEP. If applicable, the expenditures may include the costs of internal environmental management resources and internal business unit resources, provided that such expenditures are directly related to SEP development and implementation. The official making such certification may rely upon normal company and project tracking systems that capture employee time expenditures and external payments to outside vendors, such as environmental and information technology contractors or consultants. The Discharger shall provide any additional information requested by Regional Water Board staff that is reasonably necessary to verify SEP expenditures.
 - b) **Certification of Performance of Work:**

The Discharger shall certify documentation that the SEP has been completed in accordance with the terms of this Order. Such documentation may include photographs, invoices, receipts, certifications, and other material reasonably

necessary for the Regional Water Board to evaluate SEP completion and the SEP-related costs the Discharger incurs.

- c) Certification that Work Performed on the SEP Met or Exceeded Requirements of CEQA and other Environmental Laws (where applicable):

Unless the Discharger is exempt from compliance with CEQA, the Discharger shall, before the SEP implementation date, consult with other interested State agencies regarding potential environmental impacts of the SEP. Other interested State agencies may include, but may not be limited to, the California Department of Fish and Wildlife. To ensure compliance with CEQA where necessary, the Discharger shall provide the Regional Water Board with the following documents:

1. Categorical or statutory exemptions;
2. Negative Declaration (if there are no significant environmental impacts);
3. Mitigated Negative Declaration (if there are potentially significant environmental impacts but revisions to the project have been made to avoid or mitigate those impacts);
4. Environmental Impact Report (if there are significant environmental impacts).

iii. Third Party Audit:

If the Regional Water Board representative designated in Paragraph 9, below, obtains information that causes the representative to reasonably believe that the Discharger has not expended money in the amounts claimed by the Discharger, or has not adequately completed any of the work in the agreed upon SEP, the designated representative may require, and the Discharger shall submit, at its sole cost, a report prepared by an independent third party stating that, in its professional opinion, the Discharger has expended money in the amounts claimed by the Discharger. In the event of such an audit, the Discharger agrees that it will provide the third party auditor with access to all documents the auditor requests. The Discharger shall provide such information to the designated representative within three months of the completion of the Discharger's SEP obligations.

- H. **Regional Water Board Acceptance of Completed SEP:** Upon the Discharger's satisfaction of its obligations under this Order, including the completion of the SEP and any audit, the Regional Water Board representative designated in Paragraph 9 shall request that the Regional Water Board, or its delegate, issue a "Satisfaction of Order." The issuance of the Satisfaction of Order shall terminate any further obligation of the Discharger under this Order.

- I. **Failure to Expend All Suspended Administrative Civil Liability Funds on the Approved SEP:** In the event that the Discharger is unable to demonstrate to the reasonable satisfaction of the Regional Water Board representative designated in Paragraph 9 that the SEP amount listed in Paragraph 7 has been spent for the SEP, the Discharger shall pay the difference between the SEP amount at issue and the amount the Discharger can demonstrate was actually spent on the SEP as an administrative civil liability.
- J. **Failure to Complete the SEP:** If the SEP is not fully implemented within the corresponding completion period required by this Order and the Executive Officer has not granted an extension pursuant to Paragraph 7.C above, the Regional Water Board representative designated in Paragraph 9 shall issue a Notice of Violation. As a consequence, the Discharger shall be liable to pay the entire Suspended Liability or, some portion thereof. Alternatively, the Discharger may be compelled to complete the SEP. The Prosecution Staff may act as follows:

- i. The Prosecution Team may elect payment of the Suspended Liability

The Discharger may not be entitled to any credit, offset, or reimbursement from the Regional Water Board for SEP expenditures made prior to the date of the “Notice of Violation.” The amount of the Suspended Liability owed shall be determined via a “Motion for Payment of Suspended Liability” before the Regional Water Board or its delegate. In the event that the Discharger is liable for payment of the Suspended Liability, the Regional Water Board will not include in the amount of the Suspended Liability owed that portion of the SEP amount that the Regional Water Board finds to have been expended in a timely manner in compliance with the SEP described in Attachment B. Upon a Regional Water Board determination of the amount of the Suspended Liability assessed, the Discharger shall pay the amount owed to the *State Water Pollution Cleanup and Abatement Account* within 30 days after receipt of service of the Regional Water Board’s determination. In addition, the Discharger, in the event that it is liable for Suspended Liability, shall also be liable for the Regional Water Board’s reasonable enforcement costs, including but not limited to legal costs and expert witness fees. Payment of the assessed amount will satisfy the Discharger’s obligation to implement the SEP.

- ii. The Prosecution Staff may elect to enforce the SEP

The Prosecution Staff may file a Motion to Enforce the SEP before the Regional Water Board or its delegate against the Discharger. Upon Regional Water Board identification of the remaining SEP work to be performed, the Discharger agrees that the Regional Water Board may order the Discharger to perform that work.

- iii. Claims between the Discharger and its contractors

Any claims for reimbursement, costs (other than the payment by the Discharger of the SEP Amount pursuant to Paragraph 7), or disputes between the Discharger

and any of its contractors are outside the scope of this Order and shall be handled as between the Discharger and the contractor.

- K. **Regional Water Board Not Liable:** Neither the Regional Water Board members nor Regional Water Board staff, attorneys, or representatives shall be liable for any injury or damage to any person or property resulting from acts or omissions by the Discharger or its directors, officers, employees, agents, representatives, or contractors in carrying out activities pursuant to this Order. Neither the Regional Water Board members nor Regional Water Board staff, attorneys, or representatives shall be held as parties to, or guarantors of, any contract entered into by the Discharger or its directors, officers, employees, agents, representatives, or contractors in carrying out activities pursuant to this Order.
- L. **Covenant Not to Sue:** The Discharger covenants not to sue or pursue any administrative or civil claim or claims against any State agency or the State of California, or their officers, employees, representatives, agents, or attorneys arising out of or relating to any matter expressly addressed by the allegations, this Order, or the SEP. This provision does not preclude the Discharger from opposing a Notice of Violation or Motion brought under Paragraph 7.J.
8. **Compliance with Applicable Laws:** The Discharger understands that payment of the administrative civil liability in accordance with the terms of this Order does not relieve the Discharger of its need to comply with applicable laws and that new violations of the type alleged may subject it to further enforcement, including additional administrative civil liability.
9. **Party Contacts for Communications related to the Order:**

For the Regional Water Board Staff:

Michael Chee, Water Resource Control Engineer
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, California 94612
michael.chee@waterboards.ca.gov
(510) 622-2300

Naomi Kaplowitz, Attorney
Office of Enforcement
State Water Resources Control Board
801 K Street, Suite 2300
Sacramento, CA 95814
Naomi.Kaplowitz@waterboards.ca.gov
(916) 341-5677

For the Discharger:

Kent Carothers, City Engineer
City of Petaluma
202 N. McDowell Blvd
Petaluma, CA 94954
kcarothers@ci.petaluma.ca.us
(707) 778-4580

Chelsea Thompson, Environmental Analyst
City of Petaluma
3890 Cypress Drive
Petaluma, CA 94954
cthompson@ci.petaluma.ca.us
(707) 776-3728

Jordan Green, Assistant City Attorney
City of Petaluma
11 English Street
Petaluma, CA 94952
jgreen2ci.petaluma.ca.us
(707) 778-4565

10. **Attorney's Fees and Costs:** The Discharger shall bear its own attorneys' fees and costs arising from its own counsel in connection with the matters set forth in this Order. The Regional Water Board shall bear its own fees and costs beyond the amounts paid pursuant to this Order and shall not seek them from the Discharger.
11. **Matters Addressed by Order:** Upon the Regional Water Board's adoption of this Order, this Order represents a final and binding resolution and settlement of all the violations alleged, and all other claims, violations, or causes of action that could have been asserted against the Discharger by the Prosecution Staff as of the effective date of this Order based on the specific facts alleged in this Order. The provisions of this paragraph are expressly conditioned on the payment of the administrative civil liability and the SEP funding as provided above.
12. **Public Notice:** The Discharger understands that the Regional Water Board will conduct a 30-day public review and comment period prior to consideration and adoption of the Order. If significant new information is received that reasonably affects the propriety of presenting this Order to the Regional Water Board for adoption, the Assistant Executive Officer may unilaterally declare this Order void and decide not to present it to the Regional Water Board. The Discharger agrees that it may not rescind or otherwise withdraw its approval of this proposed Order.
13. **Addressing Objections Raised During Public Comment Period:** The Parties agree that the procedure contemplated for the Regional Water Board's adoption of this settlement by the Parties and review by the public, as reflected in this Order, will be adequate.

14. **Denial of Liability:** Neither this Settlement Agreement (including all Attachments), nor any payment made pursuant to the Order, shall constitute evidence of, or be construed as, a finding, adjudication, or acknowledgement of any fact, law, or liability, and shall not be construed as an admission by the Discharger that it violated any law, rule, or regulation. However, this Order and/or any payments pursuant to this Order may constitute evidence in actions seeking compliance with this Order. The Water Boards may also use this Order as evidence of a history of violations in future enforcement actions by the Water Boards against the Discharger.
15. **No Waiver of Right to Enforce:** The failure of the Prosecution Staff or the Regional Water Board to enforce any provision of this Order shall in no way be deemed a waiver of such provision, nor in any way affect the validity of the Order. The failure of the Prosecution Staff or Regional Water Board to enforce any such provision shall not preclude it from later enforcing the same or any other provision of this Order.
16. **Procedural Objections:** The Parties agree that the procedure contemplated for adopting the Order by the Regional Water Board and review of this Order by the public is lawful and adequate. In the event that procedural objections are raised prior to the Order becoming effective, the Parties agree to meet and confer concerning any such objections, and may agree to revise or adjust the procedure as necessary or advisable.
17. **Interpretation:** This Order shall be construed as if the Parties prepared it jointly. Any uncertainty or ambiguity shall not be interpreted against any one Party.
18. **Modification:** This Order shall not be modified by any of the Parties by oral representation made before or after its execution. All modifications must be in writing, signed by all Parties, and approved by the Regional Water Board.
19. **If Order Does Not Take Effect:** In the event that this Order does not take effect because it is not approved by the Regional Water Board or is vacated in whole or in part by the State Water Board or a court, the Parties acknowledge that they expect to proceed to a contested evidentiary hearing before the Regional Water Board on a future date, after reasonable notice and opportunity for preparation, to determine whether to assess administrative civil liabilities for the underlying alleged violations, unless the Parties agree otherwise. The Parties agree that all oral and written statements and agreements made during the course of settlement discussions will not be admissible as evidence in such a hearing. The Parties agree to waive any and all objections based on settlement communications in this matter, including, but not limited to, the following:
 - A. Objections related to prejudice or bias of any Regional Water Board members or their advisors, and any other objections that are premised in whole or in part on the fact that the Regional Water Board members or their advisors were exposed to some of the material facts and the Parties' settlement positions as a consequence of reviewing the Order, and therefore may have formed impressions or conclusions prior to any contested evidentiary hearing on the allegations in this matter; or,

- B. Laches or delay or other equitable defenses based on the time period for administrative or judicial review to the extent that this period has been extended by these settlement proceedings.
20. **Waiver of Hearing:** The Discharger has been informed of the rights provided by California Water Code section 13323(b) and, subject to this paragraph, hereby waives its right to a hearing before the Regional Water Board prior to the adoption of this Order. This waiver will not apply if the Order does not take effect.
21. **Waiver of Right to Petition:** The Discharger hereby waives its right to petition the Regional Water Board's adoption of this Order as written for review by the State Water Board, and further waives its rights, if any, to appeal the same to a California Superior Court and/or any California appellate-level court. This waiver will not apply if the Order does not take effect.
22. **Authority to Bind:** Each person executing this Order in a representative capacity represents and warrants that he or she is authorized to execute this Order on behalf of and to bind the entity on whose behalf he or she executes the Order.
23. **No Third Party Beneficiaries:** Except as described in this Order, this Order is not intended to confer any rights or obligations on any third party or parties, and no third party or parties shall have any right of action under this Order for any cause whatsoever.
24. **Effective Date:** This Order shall be effective and binding on the Parties on the date that the Regional Water Board enters the Order.
25. **Counterpart Signatures:** This Order may be executed and delivered in any number of counterparts, each of which when executed and delivered shall be deemed to be an original, but such counterparts shall together constitute one document.
26. **Severability:** The provisions of this Order are severable, and if any provision is found invalid, the remainder shall remain in full force and effect.

IT IS SO STIPULATED

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION, PROSECUTION TEAM**



Date: July 6, 2017


By:

Thomas Mumley
Assistant Executive Officer

Settlement Agreement and Stipulation for Entry of Administrative Civil Liability Order
City of Petaluma

CITY OF PETALUMA

Date: 7/6/17

By: 
John Brown, City Manager
City of Petaluma

ATTACHMENT A: Administrative Civil Liability Factors
ATTACHMENT B: SEP Proposal

Section IV: Findings of the Regional Water Board²

27. The Regional Water Board incorporates Paragraphs 1 through 26 above by this reference as if set forth fully herein.
28. In accepting this settlement, the Regional Water Board has considered, where applicable, each of the factors prescribed in California Water Code sections 13327. The Regional Water Board's consideration of these factors is based upon information obtained by Regional Water Board staff in investigating the allegations.
29. This is an action to enforce the laws and regulations administered by the Regional Water Board. The Regional Water Board finds that issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code section 21000 et seq.) in accordance with section 15321(a)(2), Title 14, of the California Code of Regulations.
30. The Regional Water Board's Executive Officer is hereby authorized to refer this matter directly to the Attorney General for enforcement if the Discharger fails to perform any of its obligations under this Order.
31. Fulfillment of the Discharger's obligations under this Order constitutes full and final satisfaction of any and all liability for each claim in accordance with the terms of this Order.
32. The attached Agreement between the Assistant Executive Officer and the Discharger is approved pursuant to Government Code section 11415.60 and is incorporated by reference into this Order.

IT IS HEREBY ORDERED pursuant to Water Code section 13323 and Government Code section 11415.60, on behalf of the California Regional Water Quality Control Board, San Francisco Bay Region.

Bruce H. Wolfe
Executive Officer
California Regional Water Quality Control Board
San Francisco Bay Region

Date

² These findings by the Board or its delegate may be modified prior to adoption without requiring amendment of the settlement agreement between the Parties.

Attachment A
to
Settlement Agreement and Stipulation
for Entry of Administrative Civil Liability Order
City of Petaluma

Factors in Determining Administrative Civil Liability

CITY OF PETALUMA SANITARY SEWER OVERFLOWS (SSOs) AND REPORTING VIOLATIONS PETALUMA, SONOMA COUNTY

The State Water Resources Control Board Water Quality Enforcement Policy (Enforcement Policy) establishes a methodology for assessing administrative civil liability. Use of the methodology addresses the factors required by Water Code sections 13327 and 13385, subdivision (e). Each factor in the Enforcement Policy and its corresponding category, adjustment, and amount for the alleged violation is presented below. The Enforcement Policy should be used as a companion document in conjunction with this administrative civil liability assessment since the penalty methodology and definition of terms are not replicated herein. The Enforcement Policy is at:

http://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/enf_policy_final111709.pdf

ALLEGED VIOLATIONS

- I. From July 31, 2012, through January 19, 2016, for SSOs less than 1,000 gallons, the City of Petaluma (Discharger) failed to do the following as required by amendments to the Monitoring and Reporting Program (MRP) of the Statewide General Waste Discharge Requirements for Sanitary Sewer Systems, State Water Resources Control Board (State Water Board) Order 2006-0003-DWQ (Sanitary Sewer Order¹):
 - a. Timely report and certify four Category 1² SSOs with estimated discharges of 15 to 400 gallons. Provision A.4 of Order WQ 2008-0002-EXEC (2008 MRP³) of the Sanitary Sewer Order required the Discharger to submit an initial report of a Category 1 SSO into CIWQS within three business days of the Discharger becoming aware of the SSO, and then to certify the report within 15 calendar days of the conclusion of response and remediation. Provisions C.4.i.a and C.4.i.b of Order WQ 2013-0058-EXEC (2013 MRP⁴) of the Sanitary Sewer Order continues this requirement by requiring the Discharger to submit a draft report of a Category 1 SSO into CIWQS within three business days of the Discharger becoming aware of the SSO, and then to certify the report within 15 days of the SSO end date. For this assessment, penalties are included for the report certification

¹ The Sanitary Sewer Order requires reporting to the Regional and State Water Boards through the California Integrated Water Quality System (CIWQS).

² Order WQ 2008-0002-EXEC (2008 MRP) defines a Category 1 SSO as a discharge of sewage that (A) equals or exceeds 1,000 gallons, (B) results in a discharge to a drainage channel and/or surface water, or (C) discharges to a storm drainpipe and was not fully captured and returned to the sanitary sewer system. The 2013 MRP defines a Category 1 SSO as a discharge of sewage that (a) reaches surface water and/or a drainage channel tributary to surface water, or (b) reaches a municipal separate stormwater sewer system (MS4) and is not fully captured and returned to the sanitary sewer system or not otherwise captured and disposed of properly. Any volume of sewage not recovered from the MS4 is considered to have reached surface water unless the storm drain system discharges to a dedicated stormwater or groundwater infiltration basin.

³ The 2008 MRP was effective February 20, 2008, to September 8, 2013.

⁴ The 2013 MRP became effective September 9, 2013.

violations only, not for the initial report requirement, because the two violations are substantially similar.

- b. Timely report five Category 2 SSOs with estimated discharges of 6 to 30 gallons.⁵ Provision A.5 of the 2008 MRP required the Discharger to report a Category 2 SSO into CIWQS within 30 days after the end of the calendar month in which the SSO occurred.
- c. Timely submit certified reports for 21 Category 3⁶ SSOs with estimated discharges of 1 to 50 gallons. Provision C.4.ii of the 2013 MRP requires the Discharger to submit certified Category 3 SSO reports into CIWQS within 30 calendar days of the end of the calendar month in which the SSO occurred.

The violations related to Category 2 and 3 SSOs are similar.⁷ For assessment purposes, penalties are assessed for the 8 most recent violations out of the 26 total violations (i.e., those occurring after January 1, 2015). While the Regional Board has the discretion to assess administrative civil liability for all 26 of these violations, the Prosecution Team believes that assessing liability for 8 of the 26 violations is just and will serve to create an appropriate deterrent against future violations.

- II. On December 11, 2014, the Discharger discharged a total of 521,760 gallons of untreated sewage at four locations due to inadequate collection system capacity during a storm, resulting in two violations of the Sanitary Sewer Order as described below:
 - a. The Discharger failed to timely submit a technical report for the SSOs by the due date of January 25, 2015. Provision C.5 of the 2013 MRP required the Discharger to submit an SSO Technical Report into CIWQS for any SSO in which at least 50,000 gallons is spilled to surface waters. The discharges at the four locations were each greater than 50,000 gallons and each constitutes an individual SSO. But since these four SSOs were due to a single cause—insufficient collection system capacity resulting from the same storm—for assessment purposes, penalties are included for one of these four reporting violations.
 - b. The SSOs discharged to the Petaluma River, a water of the United States. Prohibition C.1 of the Sanitary Sewer Order prohibits any SSO that results in a discharge of untreated or partially treated wastewater to waters of the United States.

Table 4 provides details of each SSO reporting and certification violation described in section I; Table 5 provides details of the December 11, 2014, SSOs and related technical report violations described in section II. Subsequent to a February 9, 2016, audit by Regional Water Board staff, the Discharger corrected its SSO reporting and certification violations on March 1, 2016, and submitted the required technical report on June 30, 2016.

For the above violations, the Discharger is subject to administrative civil liabilities pursuant to Water Code sections 13268(b)(1) and 13385.

⁵ The 2008 MRP defines a Category 2 SSO as an SSO not classified as a Category 1 SSO; it does not require a separate certification.

⁶ The 2013 MRP defines a Category 3 SSO as an SSO with a volume of less than 1,000 gallons that does not reach surface water; it requires only a certified report instead of both a draft and certified report as required for Category 1 SSOs.

⁷ Category 2 and 3 SSOs are less than 1,000 gallons and do not reach surface water.

Table 1 – Penalty Factors Steps 1-4 for Reporting Violations

PENALTY FACTOR	ASSESSMENT	DISCUSSION
Per Day Factor for Non-Discharge Violations	0.3	<p>The following assessment is based on Table 3 of the Enforcement Policy, which addresses the degree of deviation from requirement and the potential for harm.</p> <p><u>Violation I - Failure to timely report and certify SSOs:</u></p> <p>Deviation from Requirement — Major A “major” deviation from requirement is selected for the reporting and certification violations. The Enforcement Policy defines “major” deviation as “the requirement has been rendered ineffective.” The Discharger did not report and certify these SSOs until the violations were noted during a Regional Water Board audit.</p> <p>The main purpose of the reporting requirement is to allow Regional Water Board staff to assess the cause and potential impacts from an SSO to determine whether additional information or follow-up actions may be necessary. Failing to report SSOs prevents the Regional Water Board from making such determinations. Therefore, the reporting requirement was rendered ineffective.</p> <p>The main intent of the timely certification requirement is to ensure accurate and complete information in CIWQS, such as the Discharger’s SSO rate.⁸ The State and Regional Water Boards convert this SSO information into various metrics to assess and compare collection system performance, which, in turn, guides Water Board priorities for follow up actions. This intent was rendered ineffective by the Discharger’s failure to report.</p> <p>Potential for Harm — Minor A “minor” potential for harm is selected because all the SSOs involved in the violations were small in volume (1 to 400 gallons) and posed only a minor threat to beneficial uses.</p> <p>For the four Category 1 SSOs, the lower range Per Day Factor of 0.3 is selected because the reporting violations were associated with small volumes of sewage that discharged to surface water (15 to 400 gallons). For the eight Category 2 and 3 SSOs, the same Per Day Factor is selected because the related reporting violations were associated with SSOs that discharged to land (1 to 50 gallons).</p> <p><u>Violation II.a- Failure to timely submit technical report:</u></p> <p>Deviation from Requirement — Major A “major” deviation from requirement is selected because the Discharger did not timely submit the Technical Report until 522 days after the due date, and therefore, the reporting requirement was rendered ineffective in its essential function.</p> <p>One of the primary intents of the Technical Report requirement is for a discharger to timely conduct within 45 days a detailed analysis to determine the SSO cause and identify corrective and preventative measures so as to plan collection system improvements to reduce and prevent future SSOs. Another intent of the technical report is for a discharger to investigate and report on the water quality impacts from an SSO greater than 50,000 gallons. This type of information is valuable to</p>

⁸ The SSO rate is the number of SSOs per 100 miles of collection system pipe.

City of Petaluma SSOs and Reporting Violations
Attachment A - Administrative Civil Liability Factors

PENALTY FACTOR	ASSESSMENT	DISCUSSION
	0.35	<p>the Water Board and public.</p> <p>Analyzing an SSO so many days after the fact reduces the effectiveness of the analysis and delays future planning and implementation of necessary corrective actions.</p> <p>Potential for Harm — Minor A “minor” potential for harm is selected because, although the delay in submitting the December 11, 2014, SSO Technical Report denied the Water Board and public an opportunity to assess the water quality impact in a timely fashion, the actual harm or threat of harm to beneficial uses was likely minor. Insufficient capacity during wet weather would be short-term, and SSOs would be diluted with inflow and infiltration, and quickly diluted by high Petaluma River flows. Further, the Discharger has previously identified and is implementing capital improvement program projects that will address insufficient capacity during wet weather, which was the cause of the December 11, 2014, SSOs. The Discharger’s SSO Technical Report would only have reiterated issues the Discharger had already identified.</p>
Total Days	3034; 1684; 522	<p>The violation periods for each of the four late-certified Category 1 SSO CIWQS reports run from the report due dates of January 7, 2013; April 10, 2013; December 19, 2013; and February 3, 2016; through March 1, 2016, when the Discharger certified the reports. The days of violation total 3,877.</p> <p>The violation periods for the late-certified Category 2 and 3 SSO CIWQS reports run from the report due dates of the eight most recent violations: January 30, 2015; April 30, 2015; April 30, 2015; July 30, 2015; July 30, 2015; September 30, 2015; December 30, 2015, and; January 30, 2016. The periods end March 1, 2016, when the Discharger certified the reports. The days of violation total 1,684.</p> <p>The violation period for the late SSO technical report submittal runs from January 25, 2015 (the due date) through June 30, 2016, when the Discharger submitted the report into CIWQS. The days of violation totals 522.</p>
Multiple Day Violation Reduction	143; 103; 23	<p>In accordance with the Enforcement Policy, the reporting and certification violations qualify for a multiple day violation adjustment because they lasted more than 30 days and did not result in an economic benefit on a daily basis (see “Economic Benefit” below).</p> <p>For the multiple day violation adjustment, the Enforcement Policy provides that an initial liability shall, at a minimum, be assessed for the first day of violation, plus each five-day period until the 30th day, plus each 30-day period of violation thereafter.</p> <p>Applying this alternative calculation results in reductions from 3,877 days to 143 days, 1684 days to 103 days, and 522 to 23 days.</p>
Statutory Max Per Day	\$1,000	The statutory maximum per-day liability is \$1,000 per Water Code section 13268.
Initial Liability	\$81,850	<p>The initial liability is determined by adding the liability for each violation group as follows: Each liability = (per day factor) x (maximum per day liability, \$1,000) x (number of adjusted days of violation).</p> <p>$\\$81,850 = (0.3 \times 246 \text{ days} \times \\$1,000/\text{day}) + (0.35 \times 23 \text{ days} \times \\$1,000/\text{day})$</p>

PENALTY FACTOR	ASSESSMENT	DISCUSSION
Adjustments for Discharger Conduct		
Culpability	1.1	A higher than neutral culpability is appropriate because the Discharger is responsible for compliance with the Sanitary Sewer Order, including the timely submittal of reports, and the Order has been in effect for nearly a decade. While the definitions and timeframes for reporting have changed slightly over the years (e.g., in 2008 and 2013), the Sanitary Sewer Order's essential requirements have applied to all SSOs, including SSOs less than 1,000 gallons, since its adoption back in 2006.
Cleanup and Cooperation	1	A neutral cleanup and cooperation factor is appropriate because the Discharger returned to compliance by submitting the final certified SSO reports into CIWQS for the 30 SSOs within a couple weeks after Regional Water Board staff informed the Discharger of these violations. In addition, the Discharger submitted the required Technical Report on June 30, 2016.
History of Violations	1	A neutral history of violations factor is appropriate because available evidence does not indicate that the Discharger has a history of SSO non-reporting.
Total Base Liability	\$90,035	Each applicable factor relating to the Discharger's conduct is multiplied by the initial liability for each violation to determine the Total Base Liability . \$90,035 = (\$81,850 x 1.1 x 1 x 1)

Table 2 – Penalty Factors Steps 1-4 for December 11, 2014, SSOs

PENALTY FACTOR	ASSESSMENT	DISCUSSION
Harm or Potential Harm to Beneficial Uses for Discharge Violations	1	Harm or Potential for Harm — Minor A “minor” potential for harm is selected for the four capacity-related SSOs because the impacts fit the Enforcement Policy definition for minor harm (“no observed impacts but potential impacts ... with no appreciable harm”). The San Francisco Bay Water Quality Control Plan designates the following beneficial uses of the Petaluma River: cold freshwater habitat (COLD), estuarine habitat (EST), fish migration (MIGR), preservation of rare and endangered species (RARE), fish spawning (SPWN), warm freshwater habitat (WARM), wildlife habitat (WILD), water contact recreation (REC1), noncontact water recreation (REC2), and navigation (NAV). The discharges were diluted with high wet weather river flows, thus minimizing impacts to aquatic life and habitat uses in the river. Recreational uses are typically less during wet weather.
Physical, Chemical, Biological, or Thermal Characteristics (Degree of Toxicity)	3	Degree of Toxicity — Above Moderate An “above moderate” degree of toxicity is selected because the capacity-related SSOs, though diluted with infiltration and inflow, were not treated, potentially toxic to aquatic organisms, and contained bacteria at levels exceeding human health standards. Therefore, the discharges posed an above moderate risk to potential receptors.
Susceptibility to Cleanup or Abatement	1	Susceptibility to Cleanup — No Less than 50 percent of the capacity-related SSOs was amenable to cleanup or containment because the collection system, storm drains, and river were fully flowing at the time.

PENALTY FACTOR	ASSESSMENT	DISCUSSION
Per Gallon Factor for Discharge Violations	0.15	<p>The following assessment is based on Table 2 of the Enforcement Policy, which addresses the degree of deviation from requirement and the potential for harm.</p> <p><u>Violation II.b – Discharge to Surface Water:</u></p> <p>Deviation from Requirement — Major Prohibition C.1 of the Sanitary Sewer Order prohibits discharge of untreated sewage to waters of the United States. By discharging to waters of the United States, the SSOs rendered this prohibition ineffective in its essential functions.</p>
Adjustment for High Volume Discharges	\$2/gal	The Enforcement Policy allows for an adjustment of the liability to as low as \$2 per gallon, rather than \$10 per gallon, for high volume discharges, such as can occur for sewage spills, provided the adjustment “...does not result in an inappropriately small penalty.” The four SSOs totaled over 0.5 million gallons, which is a high volume. Application of an adjusted liability of \$2 per gallon does not result in an inappropriately small penalty.
Per Day Factor	0.15	<p>The following assessment is based on Table 3 of the Enforcement Policy, which addresses the degree of deviation from requirement and the potential for harm.</p> <p>Deviation from Requirement — Major Prohibition C.1 of the Sanitary Sewer Order prohibits discharge of untreated sewage to waters of the United States. By discharging to waters of the United States, the SSOs rendered this prohibition ineffective in its essential functions.</p>
Days	4	One day of violation was calculated for each of the four SSOs.
Statutory Max Per Day	\$10,000	The statutory maximum per-day liability is \$10,000 per Water Code section 13385.
Initial Liability	\$161,328	The initial liability is determined by adding liability for each of the four SSOs as follows: Each liability = [(per gallon factor) x (gallons discharged to surface water minus 1,000 gallons)] + [(per day factor) x (maximum per day liability, \$10,000) x (days of SSO duration)].
Adjustments for Discharger Conduct		
Culpability	1.0	A neutral culpability is appropriate because the Discharger is currently taking steps to address its insufficient capacity by implementing a capital improvement project (Petaluma Boulevard South Sewer Trunk Main) scheduled for completion by June 30, 2017. While implementing the project earlier may have prevented the violations, the project time schedule is reasonable. Therefore, the Discharger acted with the due standard of care.
Cleanup and Cooperation	1	A neutral cleanup and cooperation factor is appropriate because the Discharger was cooperative during investigations and submitted the Technical Report for the SSOs on June 30, 2016.
History of Violations	1	A neutral history of violations factor is appropriate because the Regional Water Board has not previously taken enforcement against the Discharger for SSOs.
Total Base Liability	\$161,328	Each applicable factor relating to the Discharger’s conduct is multiplied by the initial liability for each violation to determine the Total Base Liability .

Table 3. Penalty Methodology Steps 5-10 for All Violations

Sum of Total Base Liabilities	\$251,363	The sum of the Total Base Liabilities from Tables 1 (\$90,035) and 2 (\$161,328) is \$251,363.
Ability to Pay and Continue in Business	No adjustment	The Discharger operates a wastewater enterprise fund for operation and maintenance of its collection system. According to the Discharger's 2015 Consolidated Annual Financial Statement, the fund operates with a positive net operating income of approximately \$295,000. At the time that the financial statement was published, the fund had cash assets in excess of \$33 million, with an unrestricted fund balance of \$29.5 million. Based on this information, the Discharger has the ability to pay the proposed liability.
Other Factors as Justice May Require	Decrease by \$16,200	<p>Staff Costs (None) The costs of investigation and enforcement could be added to the liability amount. However, the Prosecution Team has chosen not to include these staff costs.</p> <p>Private Sewer Lateral Program (Decrease by \$12,600) The Prosecution Team has decreased the proposed penalty by 5 percent because the Discharger has a lateral replacement program designed to assist homeowners in replacing defective laterals. Since 2012, on its own initiative, the Discharger has allocated \$50,000 per year to fund this program. Regional Water Board Resolution R2-2005-0059 declares support for local programs that inspect and rehabilitate private sewer laterals, and states that the Regional Water Board will consider existence of such programs as an important factor when considering SSO enforcement.</p> <p>California Water Environment Association Certification (Decrease \$3,600) The Prosecution Team credits the Discharger for 4 of its 8 collection system staff having California Water Environment Association certification. This certification is not a State requirement and indicates the Discharger's commitment to proper collection system operation. The basic standard of California Water Environment Association certification is that all certificate holders perform at a level of basic competence that enables them to perform the essential duties of their job safely, effectively, without close supervision, and without further training.</p>
Economic Benefit	\$17,263	<p>Pursuant to Water Code section 13385(e), civil liability, at a minimum, must be assessed at a level that recovers the economic benefit, if any, derived from the acts that constitute a violation. The Discharger repeatedly failed to submit required reports to the Regional Water Board by the deadlines specified in the 2008 and 2013 MRPs. As a result, the Discharger had an economic benefit related to delayed reporting. In addition, the Discharger delayed assessment and construction of major capacity enhancing capital improvement projects that would have prevented or minimized several SSOs that have occurred to date. The delay provided a significant economic benefit associated with the delayed capital outlay. U.S. Environmental Protection Agency's BEN⁹ financial model was used to compute the economic benefit of noncompliance. Tables 6 through 9 detail cost estimate and other assumptions. The general assumptions used to determine the economic benefit are summarized below.</p> <p>The Prosecution Team determined that 30 SSOs were reported beyond the</p>

⁹ U.S. EPA's Economic Benefit Model (BEN) calculates a discharger's economic benefit of noncompliance from delaying or avoiding compliance with environmental regulations. See <https://www.epa.gov/enforcement/penalty-and-financial-models> for additional information.

City of Petaluma SSOs and Reporting Violations
Attachment A - Administrative Civil Liability Factors

		<p>required deadline detailed in the 2008 and 2013 MRPs. The economic benefit for each report was determined based on the date the report was due and the date the report was uploaded and certified in CIWQS. In summary, the economic benefit of delayed SSO reporting totaled \$445. In addition to the SSO reporting, a technical report was required to be completed for any SSO over 50,000 gallons that reached surface water. Four SSO events starting on December 11, 2014, were caused by the same capacity-related issue and should have had a technical report completed 45 days following the SSOs. The technical report related to this event was received approximately 17 months late. As a result, the Discharger received an economic benefit related to the delayed reporting of approximately \$138.</p> <p>The Prosecution Team contends that several SSOs were the result of limited capacity in the collection system, a cause noted in several of the SSO reports. The Discharger provided correspondence dated December 8, 2016, which identified a project necessary to address capacity-related issues. The project addressed an area of concern determined to be a contributing factor of the 2014 SSOs. Had the Discharger properly assessed wet weather flows within the collection system prior to these events, the December 2014 SSOs could have been minimized or eliminated. The delayed project, at a cost of \$493,685, resulted in an economic benefit to the Discharger. With a completion date of March 18, 2016, the Discharger has enjoyed an economic benefit of at least \$16,681 related to delaying the project approximately 15 months.</p> <p>For computational purposes, the penalty payment date was established as the projected hearing date, November 1, 2016. Changes to this date, or the compliance date of the actions described above, would affect the total economic benefit. Based on the assumptions within the model, the total economic benefit of noncompliance was determined to be \$17,263.</p>
Maximum Liability	\$11,300,600	<p>Water Code section 13268 allows up to \$1,000 for each day in which a reporting violation occurs.</p> <p>Water Code section 13385 allows up to \$10,000 for each day in which the discharge occurs, and \$10 for each gallon exceeding 1,000 gallons that is discharged and not cleaned up. The maximum liability is determined by adding the maximum liability for each of the four SSOs as follows:</p> <p>Each maximum liability = (maximum per day liability) x (number of days of violation) + (SSO volume discharged but not cleaned up exceeding 1,000 gallons) x (maximum liability per gallon) = (\$10,000) x (1) + (SSO volume discharged but not cleaned up exceeding 1,000 gallons) x (\$10).</p>
Minimum Liability	\$18,989	<p>The Enforcement Policy states that the total liability shall be at least 10 percent higher than the economic benefit “so that liabilities are not construed as the cost of doing business and the assessed liability provides meaningful deterrent to future violations.” Therefore, the minimum total liability associated with the economic benefit of \$17,263 is \$18,989.</p>
Final Liability	\$235,200 (rounded)	<p>The final liability is the total base liability after appropriate adjustments for ability to pay, economic benefit, other factors, and minimum and maximum liability.</p>

Attachment A

Table 4 - SSO reporting and certification violations

SSO Event ID	SSO Initial report date	SSO Initial/Draft report due Date	Original Certification Date	SSO Category	SSO Volume (gallons)	SSO Volume discharged to Surface Water (gallons)	SSO START Date	Notification Date	SSO End Date	SSO Response Completion Date	Final Certified SSO report Due Date
822163	2/22/2016	NA	3/1/2016	Category 3	15	0	12/28/2015	12/28/2015	12/28/2015		1/30/2016
822164	2/22/2016	NA	3/1/2016	Category 3	1	0	11/3/2015	11/3/2015	11/3/2015		12/30/2015
822175	2/22/2016	NA	3/1/2016	Category 3	8	0	8/26/2015	8/26/2015	8/26/2015		9/30/2015
822169	2/22/2016	NA	3/1/2016	Category 3	10	0	6/25/2015	6/25/2015	6/25/2015		7/30/2015
822173	2/22/2016	NA	3/1/2016	Category 3	40	0	6/2/2015	6/2/2015	6/2/2015		7/30/2015
822167	2/22/2016	NA	3/1/2016	Category 3	10	0	3/25/2015	3/25/2015	3/25/2015		4/30/2015
822166	2/22/2016	NA	3/1/2016	Category 3	5	0	3/15/2015	3/15/2015	3/15/2015		4/30/2015
822207	2/23/2016	NA	3/1/2016	Category 3	2	0	12/20/2014	12/20/2014	12/20/2014		1/30/2015
822208	2/23/2016	NA	3/1/2016	Category 3	30	0	11/12/2014	11/12/2014	11/12/2014		12/30/2014
822210	2/23/2016	NA	3/1/2016	Category 3	50	0	11/12/2014	11/12/2014	11/12/2014		12/30/2014
822216	2/24/2016	NA	3/1/2016	Category 3	4	0	11/10/2014	11/10/2014	11/10/2014		12/30/2014
822212	2/24/2016	NA	3/1/2016	Category 3	2	0	9/17/2014	9/17/2014	9/17/2014		10/30/2014
822217	2/24/2016	NA	3/1/2016	Category 3	5	0	9/4/2014	9/4/2014	9/4/2014		10/30/2014
822211	2/24/2016	NA	3/1/2016	Category 3	4	0	6/23/2014	6/23/2014	6/23/2014		7/30/2014
822220	2/24/2016	NA	3/1/2016	Category 3	5	0	5/29/2014	5/29/2014	5/29/2014		6/30/2014
822259	2/25/2016	NA	3/1/2016	Category 3	10	0	12/27/2013	12/27/2013	12/27/2013		1/30/2014
822255	2/25/2016	NA	3/1/2016	Category 3	7	0	10/26/2013	10/26/2013	10/26/2013		11/30/2013
822251	2/25/2016	NA	3/1/2016	Category 3	40	0	10/25/2013	10/25/2013	10/25/2013		11/30/2013
822253	2/25/2016	NA	3/1/2016	Category 3	30	0	10/25/2013	10/25/2013	10/25/2013		11/30/2013
822246	2/24/2016	NA	3/1/2016	Category 3	6	0	10/24/2013	10/24/2013	10/24/2013		11/30/2013
822242	2/24/2016	NA	3/1/2016	Category 3	10	0	10/21/2013	10/21/2013	10/21/2013		11/30/2013
822228	2/24/2016	NA	3/1/2016	Category 2	10	0	6/13/2013	6/13/2013	6/13/2013		7/30/2013
822269	2/25/2016	NA	3/1/2016	Category 2	8	0	10/14/2012	10/14/2012	10/14/2012		11/30/2012
822267	2/25/2016	NA	3/1/2016	Category 2	10	0	9/4/2012	9/4/2012	9/4/2012		10/30/2012
822270	2/25/2016	NA	3/1/2016	Category 2	30	0	8/25/2012	8/25/2012	8/25/2012		9/30/2012
822266	2/25/2016	NA	3/1/2016	Category 2	6	0	7/31/2012	7/31/2012	7/31/2012		8/30/2013
822153	2/22/2016	1/22/2016	3/1/2016	Category 1	100	100	1/19/2016	1/19/2016	1/19/2016	1/19/2016	2/3/2016
822257	2/25/2016	12/9/2013	3/1/2016	Category 1	100	90	12/4/2013	12/4/2013	12/4/2013	12/4/2013	12/19/2013
822226	2/24/2016	3/31/2014	3/1/2016	Category 1	15	5	3/26/2013	3/26/2013	3/26/2013	3/26/2013	4/10/2013
822271	2/25/2016	12/26/2012	3/1/2016	Category 1	400	400	12/23/2012	12/23/2012	12/23/2012	12/23/2012	1/7/2013

Attachment A

Table 5 - SSO Technical Reports

SSO Event ID	SSO Start Date	SSO End Date	SSO Volume (gal)	SSO Technical Report Due Date	Submittal Date	Days Late
812085	12/11/2014	12/11/2014	183,600	1/25/2015	6/30/2016	522
812245	12/11/2014	12/11/2014	144,720			
812248	12/11/2014	12/11/2014	120,000			
812253	12/11/2014	12/11/2014	73,440			

Attachment A: Table 6

**Economic Benefit Summary
City of Petaluma**

Sum of Economic Benefit	
Page 1	\$ 17,054
Page 2	\$ 171
Page 3	\$ 38
Total Economic Benefit	\$ 17,263

Attachment A: Table 7

Economic Benefit Analysis City of Petaluma																	
Compliance Action	Capital Investment				One-Time Non-Depreciable Expenditure				Annual Cost			Non-Compliance Date	Compliance Date	Penalty Payment Date	Discount Rate	Benefit of Non-Compliance	
	Amount	Basis	Date	Delayed?	Amount	Basis	Date	Delayed?	Amount	Basis	Date						
Petaluma Boulevard South CIP SSO Technical Report (ID 812085, 812245, 812248, 812253)		ECI	1/1/2015	Y	\$ 493,685	GDP	2/9/2016	Y		ECI	1/1/2015	12/11/2014	3/18/2016	11/1/2016	3.80%	\$ 16,681	
SSO Certified Report (ID 822153)		ECI	1/1/2015	Y	\$ 4,223.20	ECI	1/1/2016	Y		ECI	1/1/2015	1/25/2015	6/30/2016	11/1/2016	3.60%	\$ 138	
SSO Certified Report (ID 822257)		ECI	1/1/2015	Y	\$ 422.32	ECI	1/1/2016	Y		ECI	1/1/2015	2/3/2016	3/1/2016	11/1/2016	3.40%	\$ 1	
SSO Certified Report (ID 822246)		ECI	1/1/2015	Y	\$ 422.32	ECI	1/1/2016	Y		ECI	1/1/2015	12/19/2013	3/1/2016	11/1/2016	3.90%	\$ 18	
SSO Certified Report (ID 822226)		ECI	1/1/2015	Y	\$ 422.32	ECI	1/1/2016	Y		ECI	1/1/2015	11/8/2013	3/1/2016	11/1/2016	3.90%	\$ 20	
SSO Certified Report (ID 822271)		ECI	1/1/2015	Y	\$ 422.32	ECI	1/1/2016	Y		ECI	1/1/2015	4/10/2013	3/1/2016	11/1/2016	3.90%	\$ 26	
SSO Certified Report (ID 822228)		ECI	1/1/2015	Y	\$ 422.32	ECI	1/1/2016	Y		ECI	1/1/2015	1/7/2013	3/1/2016	11/1/2016	3.90%	\$ 28	
SSO Certified Report (ID 822269)		ECI	1/1/2015	Y	\$ 422.32	ECI	1/1/2016	Y		ECI	1/1/2015	7/30/2013	3/1/2016	11/1/2016	3.90%	\$ 23	
SSO Certified Report (ID 822267)		ECI	1/1/2015	Y	\$ 422.32	ECI	1/1/2016	Y		ECI	1/1/2015	11/30/2012	3/1/2016	11/1/2016	3.90%	\$ 27	
SSO Certified Report (ID 822270)		ECI	1/1/2015	Y	\$ 422.32	ECI	1/1/2016	Y		ECI	1/1/2015	10/30/2012	3/1/2016	11/1/2016	3.90%	\$ 29	
SSO Certified Report (ID 822266)		ECI	1/1/2015	Y	\$ 422.32	ECI	1/1/2016	Y		ECI	1/1/2015	9/30/2012	3/1/2016	11/1/2016	3.90%	\$ 29	
SSO Certified Report (ID 822163)		ECI	1/1/2015	Y	\$ 422.32	ECI	1/1/2016	Y		ECI	1/1/2015	8/30/2012	3/1/2016	11/1/2016	3.90%	\$ 31	
SSO Certified Report (ID 822164)		ECI	1/1/2015	Y	\$ 422.32	ECI	1/1/2016	Y		ECI	1/1/2015	1/30/2016	3/1/2016	11/1/2016	3.40%	\$ 0	
SSO Certified Report (ID 822175)		ECI	1/1/2015	Y	\$ 422.32	ECI	1/1/2016	Y		ECI	1/1/2015	12/30/2015	3/1/2016	11/1/2016	3.60%	\$ 2	
		ECI	1/1/2015	Y	\$ 422.32	ECI	1/1/2016	Y		ECI	1/1/2015	9/30/2015	3/1/2016	11/1/2016	3.60%	\$ 3	
<div>Income Tax Schedule: Municipality</div> <div>USEPA BEN Model Version: Version 5.6.0 (April 2016)</div> <div>Analyst: Bryan Elder</div> <div>Date/Time of Analysis: 1/9/2017 10:52</div> <div>Total Benefit: \$ 17,054</div> <div>Assumptions:</div> <div><div>1 Hydraulic capacity study and capacity enhancement project estimate provided by City.</div><div>SSO Technical Report based on 40 hours of staff time for entry, review, and certification using an estimated labor rate for City of Petaluma Operations Manager. Labor rate estimated based on salary obtained from Transparent California (2015). Labor rate includes a multiplier of 2.0 to account for additional employee expenses including employer-paid benefits, overhead expenses, etc.</div><div>2 California (2015). Labor rate includes a multiplier of 2.0 to account for additional employee expenses including employer-paid benefits, overhead expenses, etc.</div><div>SSO Discharge Reports based on 4 hours of staff time for entry, review, and certification using an estimated labor rate for City of Petaluma Operations Manager. Labor rate estimated based on salary obtained from Transparent California (2015). Labor rate includes a multiplier of 2.0 to account for additional employee expenses including employer-paid benefits, overhead expenses, etc.</div><div>3 California (2015). Labor rate includes a multiplier of 2.0 to account for additional employee expenses including employer-paid benefits, overhead expenses, etc.</div><div>4 Non-compliance date for Petaluma Boulevard CIP assumed to be date of SSO (12/11/2014).</div><div>5 Non-compliance date for reports is due date as described by the SSS Order and associated MRPs for each SSO event.</div><div>6 Compliance date for Petaluma Boulevard CIP is assumed to be 6/30/2017, the expected date of project completion.</div><div>7 Compliance date for reports is certification date for each report as reported in CIWQS.</div><div>8 Penalty payment date assumed to be 11/1/2016 for computational purposes.</div></div>																	

Attachment A: Table 8

Economic Benefit Analysis																	
City of Petaluma																	
Compliance Action	Capital Investment				One-Time Non-Depreciable Expenditure				Annual Cost			Non-Compliance	Compliance	Penalty Payment	Discount Rate	Benefit of Non-Compliance	
	Amount	Basis	Date	Delayed?	Amount	Basis	Date	Delayed?	Amount	Basis	Date	Date	Date	Date			
SSO Certified Report (ID 822169)		ECI	1/1/2015	Y	\$ 422.32	ECI	1/1/2016	Y		ECI	1/1/2015	7/30/2015	3/1/2016	11/1/2016	3.60%	\$ 6	
SSO Certified Report (ID 822173)		ECI	1/1/2015	Y	\$ 422.32	ECI	1/1/2016	Y		ECI	1/1/2015	7/30/2015	3/1/2016	11/1/2016	3.60%	\$ 6	
SSO Certified Report (ID 822167)		ECI	1/1/2015	Y	\$ 422.32	ECI	1/1/2016	Y		ECI	1/1/2015	4/30/2015	3/1/2016	11/1/2016	3.60%	\$ 7	
SSO Certified Report (ID 822166)		ECI	1/1/2015	Y	\$ 422.32	ECI	1/1/2016	Y		ECI	1/1/2015	4/30/2015	3/1/2016	11/1/2016	3.60%	\$ 7	
SSO Certified Report (ID 822207)		ECI	1/1/2015	Y	\$ 422.32	ECI	1/1/2016	Y		ECI	1/1/2015	1/30/2015	3/1/2016	11/1/2016	3.60%	\$ 11	
SSO Certified Report (ID 822208)		ECI	1/1/2015	Y	\$ 422.32	ECI	1/1/2016	Y		ECI	1/1/2015	12/30/2014	3/1/2016	11/1/2016	3.80%	\$ 10	
SSO Certified Report (ID 822210)		ECI	1/1/2015	Y	\$ 422.32	ECI	1/1/2016	Y		ECI	1/1/2015	12/30/2014	3/1/2016	11/1/2016	3.80%	\$ 10	
SSO Certified Report (ID 822216)		ECI	1/1/2015	Y	\$ 422.32	ECI	1/1/2016	Y		ECI	1/1/2015	12/30/2014	3/1/2016	11/1/2016	3.80%	\$ 10	
SSO Certified Report (ID 822212)		ECI	1/1/2015	Y	\$ 422.32	ECI	1/1/2016	Y		ECI	1/1/2015	10/30/2014	3/1/2016	11/1/2016	3.80%	\$ 12	
SSO Certified Report (ID 822217)		ECI	1/1/2015	Y	\$ 422.32	ECI	1/1/2016	Y		ECI	1/1/2015	10/30/2014	3/1/2016	11/1/2016	3.80%	\$ 12	
SSO Certified Report (ID 822211)		ECI	1/1/2015	Y	\$ 422.32	ECI	1/1/2016	Y		ECI	1/1/2015	7/30/2014	3/1/2016	11/1/2016	3.80%	\$ 15	
SSO Certified Report (ID 822220)		ECI	1/1/2015	Y	\$ 422.32	ECI	1/1/2016	Y		ECI	1/1/2015	6/30/2014	3/1/2016	11/1/2016	3.80%	\$ 13	
SSO Certified Report (ID 822259)		ECI	1/1/2015	Y	\$ 422.32	ECI	1/1/2016	Y		ECI	1/1/2015	1/30/2014	3/1/2016	11/1/2016	3.80%	\$ 16	
SSO Certified Report (ID 822255)		ECI	1/1/2015	Y	\$ 422.32	ECI	1/1/2016	Y		ECI	1/1/2015	11/30/2013	3/1/2016	11/1/2016	3.90%	\$ 19	
SSO Certified Report (ID 822251)		ECI	1/1/2015	Y	\$ 422.32	ECI	1/1/2016	Y		ECI	1/1/2015	11/30/2013	3/1/2016	11/1/2016	3.90%	\$ 19	
<div><div>Income Tax Schedule:</div><div>USEPA BEN Model Version:</div><div>Assumptions:</div></div> <div><div>Municipality</div><div>Version 5.6.0 (April 2016)</div></div> <div><div>Analyst:</div><div>Date/Time of Analysis:</div></div> <div><div>Bryan Elder</div><div>1/9/2017 10:53</div></div> <div><div>Total Benefit:</div><div>\$ 171</div></div> <div><div>1 Hydraulic capacity study and capacity enhancement project estimate provided by City.</div><div>SSO Technical Report based on 40 hours of staff time for entry, review, and certification using an estimated labor rate for City of Petaluma Operations Manager. Labor rate estimated based on salary obtained from Transparent</div><div>2 California (2015). Labor rate includes a multiplier of 2.0 to account for additional employee expenses including employer-paid benefits, overhead expenses, etc.</div><div>SSO Discharge Reports based on 4 hours of staff time for entry, review, and certification using an estimated labor rate for City of Petaluma Operations Manager. Labor rate estimated based on salary obtained from Transparent</div><div>3 California (2015). Labor rate includes a multiplier of 2.0 to account for additional employee expenses including employer-paid benefits, overhead expenses, etc.</div><div>4 Non-compliance date for Petaluma Boulevard CIP assumed to be date of SSO (12/11/2014).</div><div>5 Non-compliance date for reports is due date as described by the SSS Order and associated MRPs for each SSO event.</div><div>6 Compliance date for Petaluma Boulevard CIP is assumed to be 6/30/2017, the expected date of project completion.</div><div>7 Compliance date for reports is certification date for each report as reported in CIWQS.</div><div>8 Penalty payment date assumed to be 11/1/2016 for computational purposes.</div></div>																	

Attachment A: Table 9

Economic Benefit Analysis City of Petaluma																	
Compliance Action	Capital Investment				One-Time Non-Depreciable Expenditure				Annual Cost			Non-Compliance Date	Compliance Date	Penalty Payment Date	Discount Rate	Benefit of Non-Compliance	
	Amount	Basis	Date	Delayed?	Amount	Basis	Date	Delayed?	Amount	Basis	Date						
SSO Certified Report (ID 822253)		ECI	1/1/2015	Y	\$ 422.32	ECI	1/1/2016	Y		ECI	1/1/2015	11/30/2013	3/1/2016	11/1/2016	3.90%	\$	19
SSO Certified Report (ID 822242)		ECI	1/1/2015	Y	\$ 422.32	ECI	1/1/2016	Y		ECI	1/1/2015	11/30/2013	3/1/2016	11/1/2016	3.90%	\$	19
<div>Income Tax Schedule: Municipality Analyst: Bryan Elder Total Benefit: \$ 38</div> <div>USEPA BEN Model Version: Version 5.6.0 (April 2016) Date/Time of Analysis: 1/9/2017 10:54</div> <div>Assumptions:</div> <div><div>1 Hydraulic capacity study and capacity enhancement project estimate provided by City.</div><div>SSO Technical Report based on 40 hours of staff time for entry, review, and certification using an estimated labor rate for City of Petaluma Operations Manager. Labor rate estimated based on salary obtained from Transparent California (2015). Labor rate includes a multiplier of 2.0 to account for additional employee expenses including employer-paid benefits, overhead expenses, etc.</div><div>2 California (2015). Labor rate includes a multiplier of 2.0 to account for additional employee expenses including employer-paid benefits, overhead expenses, etc.</div><div>SSO Discharge Reports based on 4 hours of staff time for entry, review, and certification using an estimated labor rate for City of Petaluma Operations Manager. Labor rate estimated based on salary obtained from Transparent California (2015). Labor rate includes a multiplier of 2.0 to account for additional employee expenses including employer-paid benefits, overhead expenses, etc.</div><div>3 California (2015). Labor rate includes a multiplier of 2.0 to account for additional employee expenses including employer-paid benefits, overhead expenses, etc.</div><div>4 Non-compliance date for Petaluma Boulevard CIP assumed to be date of SSO (12/11/2014).</div><div>5 Non-compliance date for reports is due date as described by the SSS Order and associated MRPs for each SSO event.</div><div>6 Compliance date for Petaluma Boulevard CIP is assumed to be 6/30/2017, the expected date of project completion.</div><div>7 Compliance date for reports is certification date for each report as reported in CIWQS</div><div>8 Penalty payment date assumed to be 11/1/2016 for computational purposes.</div></div>																	

ATTACHMENT A

FRIENDS OF THE PETALUMA RIVER CLEANUP EVENTS

FRIENDS OF THE PETALUMA RIVER CLEANUP EVENTS





PETALUMA RIVER CLEANUP

LIVE MUSIC! BBQ! RAFFLE!
SATURDAY, SEPT 17, 2016
STEAMER LANDING PARK (D St & Copeland)
REGISTRATION & SAFETY: 9:00AM
BBQ: NOON

for more information, to register online, or become a site leader visit
boardofthepetalumariver.org/project/cleanup/

ATTACHMENT B

**PETALUMA POLICE DEPARTMENT HOST PROGRAM
ALMAN MARSH CLEANUP IN SHOLLENBERGER PARK**

**PETALUMA POLICE DEPARTMENT HOST PROGRAM
ALMAN MARSH CLEANUP IN SHOLLENBERGER PARK**



Before





During





After

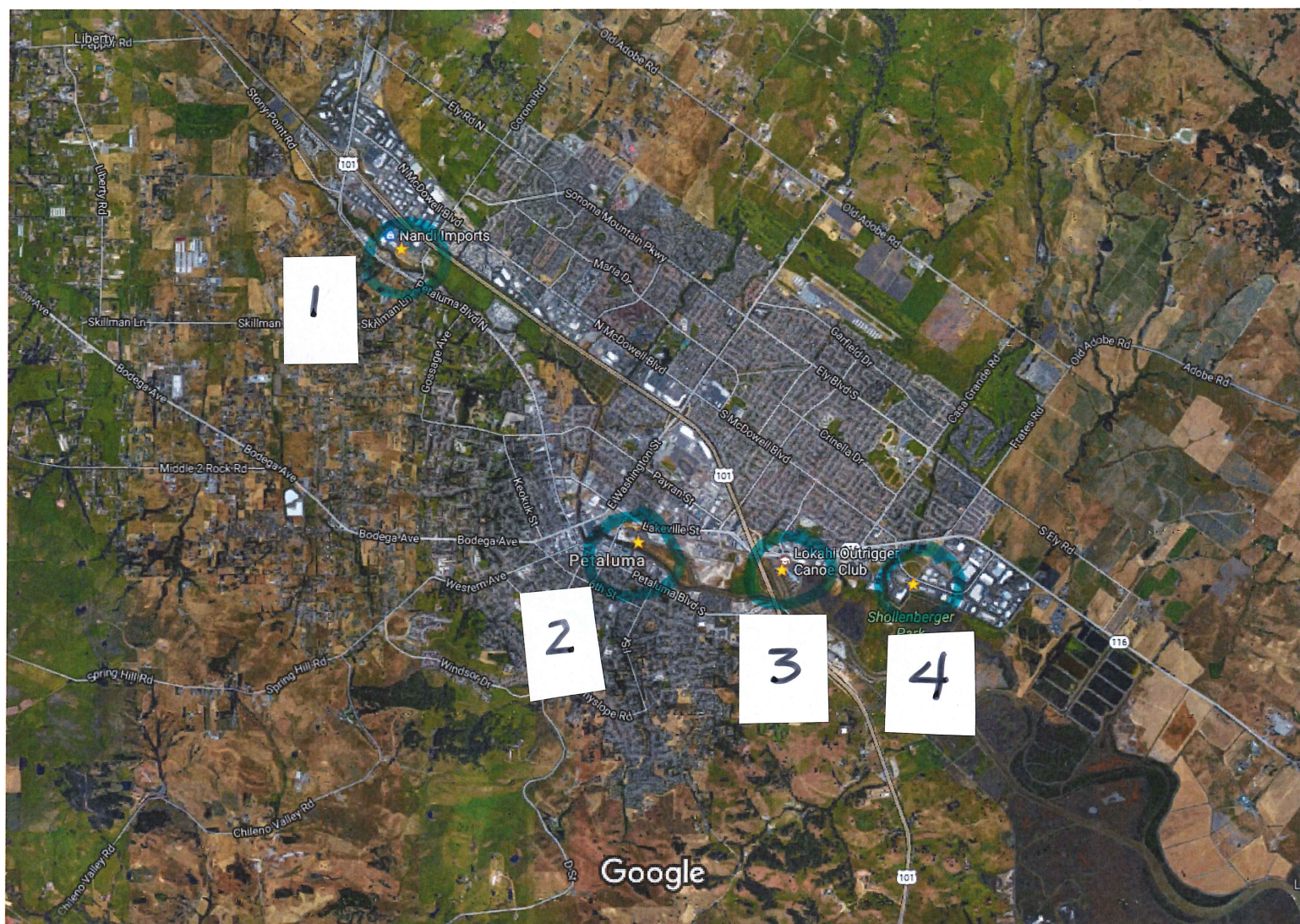


ATTACHMENT C

MAP OF COLLECTION SITES, AND INDIVIDUAL SITE MAPS



Petaluma River Cleanup Collection Sites

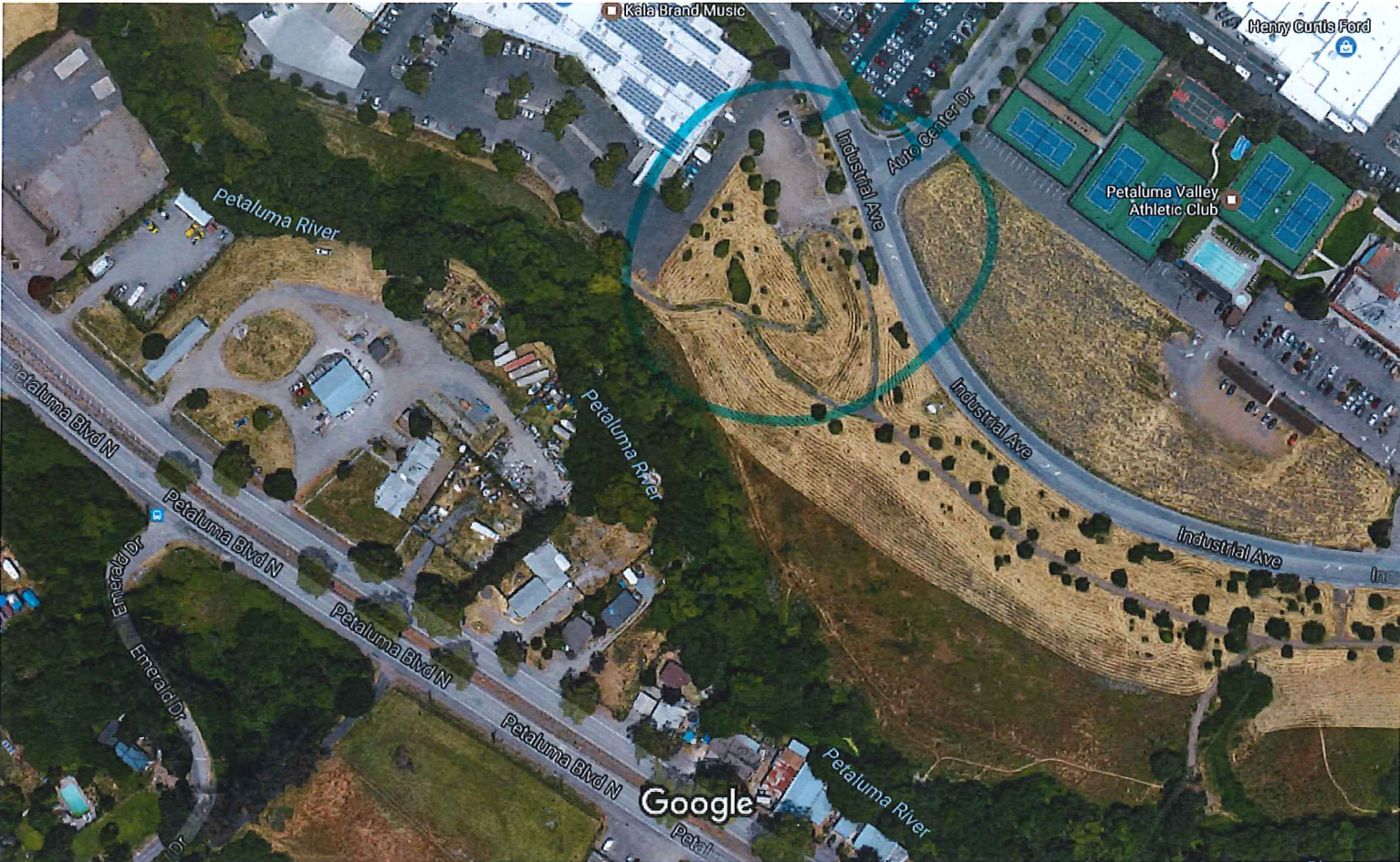


Imagery ©2017 Google, Map data ©2017 Google 2000 ft

1. Denman Reach
2. Steamer Landing Park
3. Petaluma Marina
4. Shollenberger Park

COLLECTION & SORTING
SITE

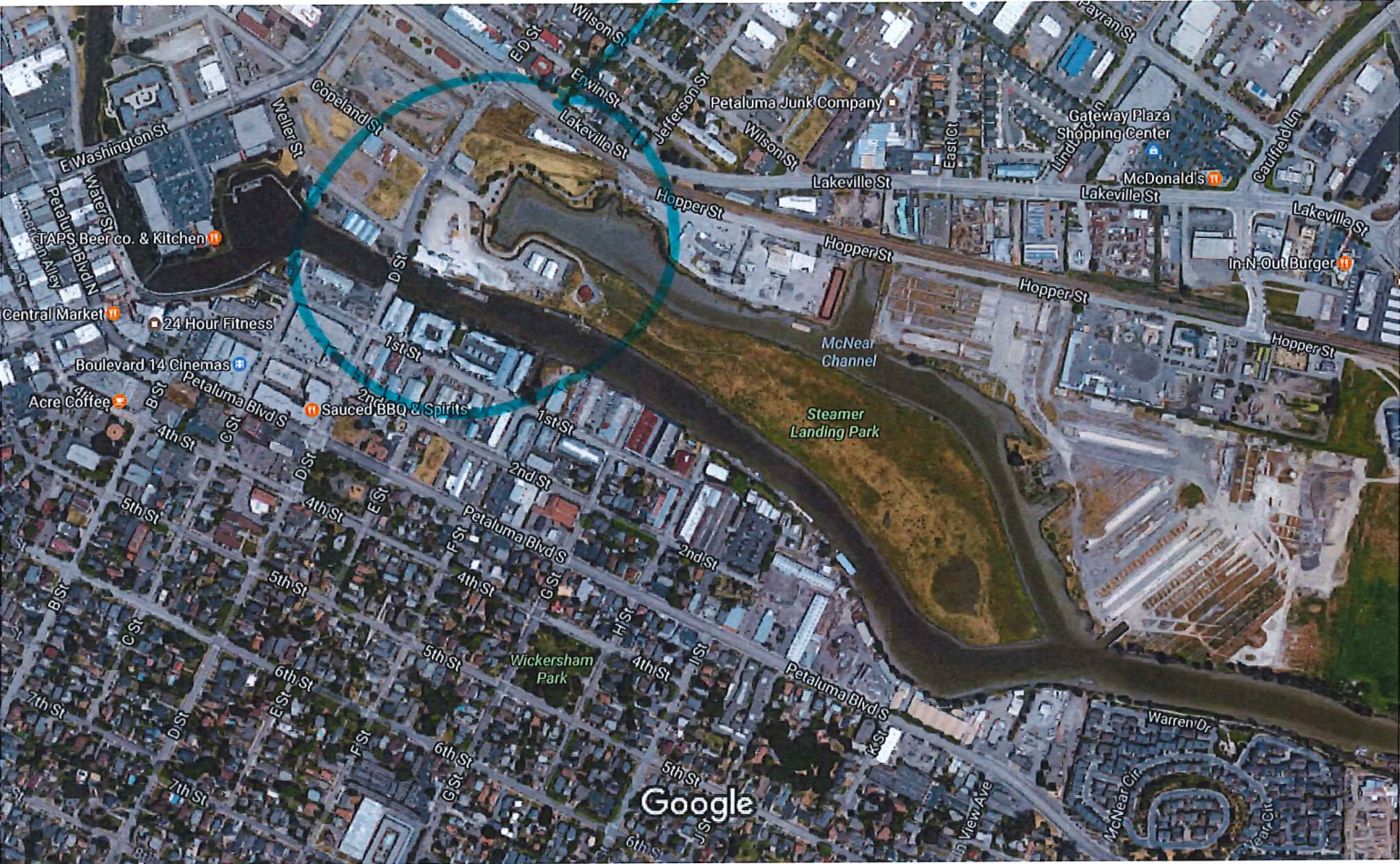
Google Maps Denman Reach



Imagery ©2017 Google, Map data ©2017 Google 100 ft

Google Maps Steamer Landing Park
Steamer Landing Park

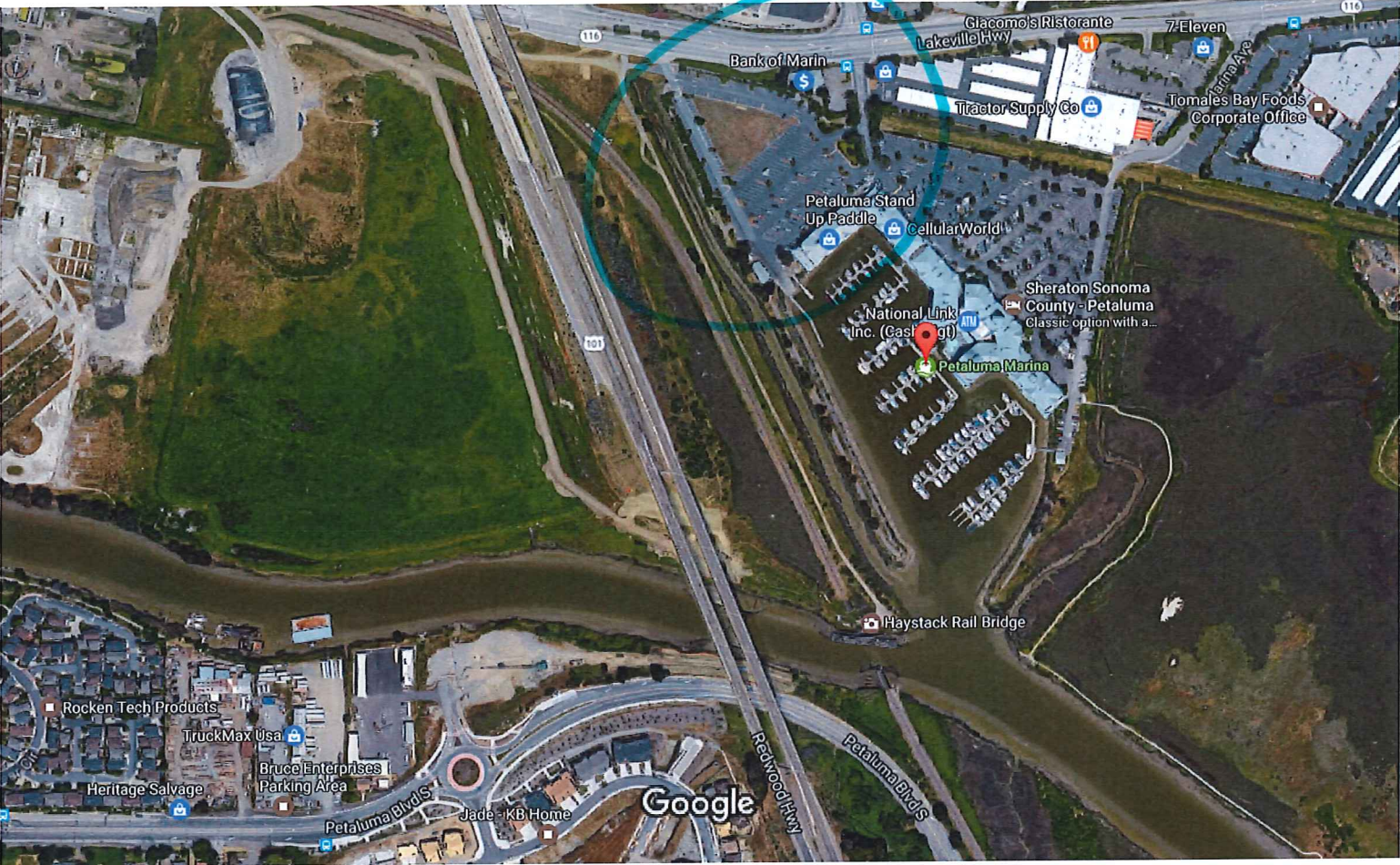
COLLECTION SITE



Imagery ©2017 Google, Map data ©2017 Google 500 ft

COLLECTION & SORTING
SITE

Google Maps Petaluma Marina
Petaluma Marina



Imagery ©2017 Google, Map data ©2017 Google 200 ft

COLLECTION SITE



Shollenberger Park
Shollenberger Park



Imagery ©2017 Google, Map data ©2017 Google 500 ft

ATTACHMENT D

EQUIPMENT PURCHASE ESTIMATES AND SPECIFICATIONS

LOWE



» ROUGHNECK 1650 SC

SPECS

Deadrise: 3.5°

Prop Maximum Horsepower: 60 (44.74 kw)

Prop Minimum Horsepower: 25hp (18.64 kw)

Overall Length: 16' (4.88 m)

Beam: 74" (187.96 cm)

Bottom Width: 50" (127.00 cm)

Max HP Capacity: 60 hp (44.74 kw)

Approx. Basic Hull Weight: 680 lb (308.44 kg)

Max Person Capacity: 4

Max Person Weight Capacity: 500 lb (226.80 kg)

Max Weight Capacity: 1,001 lb (454.05 kg)

Fuel Capacity: Portable (Portable)

Hull Gauge: .100" (2.54 mm)

Side Depth: 21" (53.34 cm)

Transom Height: 20" (50.80 cm)

DESCRIPTION

Roughneck 1650 SC

Put yourself in command with the tough and sturdy Roughneck 1650 SC, featuring a convenient side helm console with remote outboard steering. Built to commercial-grade standards, the Roughneck 1650 SC bests typical jons with plenty of prowess for hunting, fishing, work applications and more. Maximum strength and durability are ensured with Lowe Boat's top-quality all-welded, all-aluminum construction. You can count on this jon boat to deliver you to the action!

** Exact product configuration may vary, optional features may be shown. All colors are simulated. Prices excludes destination, taxes, title and registration fees. Starting at price refers to the base model, optional equipment not included. A more expensive model may be shown. Pricing and offers may change at any time without notification. To get full pricing details, see your local dealer.*

A SMALL FISHING BOAT

8935 FRUITRIDGE RD
SACRAMENTO, CA 95826
916-737-2628

PURCHASE AGREEMENT

SUBJECT TO THE TERMS AND CONDITIONS STATED ON BOTH SIDES OF THIS AGREEMENT.
SELLER AGREES TO SELL AND THE BUYER AGREES TO BUY THE FOLLOWING DESCRIBED PROPERTY.

SOLD TO		HOME PHONE		BUS. PHONE		DATE	
City of Petaluma		707 778 4155					
ADDRESS		CITY		STATE		ZIP	
11 English St Petaluma		CA		94952			
SALESPERSON		DELIVERY DATE		DELIVERY INSTRUCTIONS			
A							
STOCK NO.	COLOR	LOA	BEAM	DRAFT	DECK	HULL	INTERIOR
MAKE OF BOAT	YEAR	MODEL & SIZE		SERIAL NO.		<input type="checkbox"/> NEW <input type="checkbox"/> USED	\$
Low	2017	2x1650 SC					
MAKE OF MOTOR / ENGINE #1	YEAR	MODEL, HP & FUEL TYPE		SERIAL NO.	DRIVE #1	<input type="checkbox"/> NEW <input type="checkbox"/> USED	\$
Mercury	2017	40 HP 1800 or 2000					
MAKE OF MOTOR / ENGINE #2	YEAR	MODEL, HP & FUEL TYPE		SERIAL NO.	DRIVE #2	<input type="checkbox"/> NEW <input type="checkbox"/> USED	\$
MAKE OF TRAILER	YEAR	MODEL & SIZE		SERIAL NO.		<input type="checkbox"/> NEW <input type="checkbox"/> USED	\$
Karavan	2017	LTS 1800-60-5T BIK					
OPTIONAL EQUIPMENT/ACCESSORIES				AMOUNT		TOTAL PURCHASE ABOVE	
Wind Screen				\$68		\$15,995	
2 Bank battery charger				122		OPTIONAL EQUIPMENT/ACCESSORIES	
portable fuel tank				170		390	
Pumpkin spray				462		SALES TAX (if applicable)	
metallic black with						1458.80	
green/red seats				726		DEALER PREP.	
						450	
						LABOR / INSTALL	
						DEL. AND / OR LAUNCHING	
						FREIGHT	
dock 3 Fish Finder				\$176		1000	
Lite Tactels 4				\$40			
Anchor 1 rope				\$99		SUB-TOTAL	
						\$	
Fenders				\$40		TOTAL TRADE-IN ALLOWANCE	
dock lines 10x2				\$20		LESS BALANCE DUE ON ABOVE	
Throw cushion				\$15		NET ALLOWANCE	
						NET SALE	
						\$	
						SALES TAX (if not included above)	
						TITLE / REGISTRATION / OFFICE FEES	
						257	
TOTAL OPTIONAL EQUIPMENT/ACCESSORIES				\$			
DESCRIPTION OF TRADE-IN				CASH SALE PRICE		\$19750.80	
BOAT MAKE	YEAR	SIZE	SERIAL NO.	LESS TOTAL PAYMENTS			
MOTOR #1 MAKE	YEAR	SIZE	SERIAL NO.				
MOTOR #2 MAKE	YEAR	SIZE	SERIAL NO.				
TRAILER MAKE	YEAR	SIZE	SERIAL NO.				
AMOUNT OWING	TO WHOM			UNPAID BALANCE OF CASH SALE PRICE		\$	
TOTAL TRADE-IN ALLOWANCE				\$			
TRADE-IN DEBT TO BE PAID BY				<input type="checkbox"/> DEALER <input type="checkbox"/> CUSTOMER			
TITLE TO THE ABOVE DESCRIBED EQUIPMENT SHALL BE TRANSFERRED TO BUYER WHEN BUYER HAS MADE PAYMENT IN FULL FOR THE EQUIPMENT.				<input type="checkbox"/> WHEN THIS BOX IS CHECKED, THE UNIT WHICH IS THE SUBJECT OF THIS CONTRACT IS BEING SOLD ON AN "AS IS" BASIS. THE ENTIRE RISK AS TO THE QUALITY AND PERFORMANCE OF THIS UNIT IS WITH THE PURCHASER.			
THE PARTIES TO THIS AGREEMENT ARE AWARE THAT THE TRADE-IN ALLOWANCE OR THE PURCHASE PRICE SHOWN ABOVE MAY REQUIRE ADJUSTMENTS PURSUANT TO THE PROVISIONS OF PARAGRAPHS 5, 6, 7, AND 11 OF THE TERMS AND CONDITIONS ON THE REVERSE SIDE OF THIS DOCUMENT.				SPECIAL TERMS AND CONDITIONS			
Buyer certifies that he/she has read the Terms and Conditions on the back of this document and agrees that they shall be incorporated as part of this Agreement.							
Buyers certifies the following: 1) he/she is of legal age to enter into this Agreement; 2) the above described equipment and insurance (if applicable) have been purchased voluntarily; 3) the trade-in is free from all liens and encumbrances other than those listed herein.							
Buyers agrees that all provisions to this Agreement (including the Terms and Conditions on the reverse side hereof) are severable. If any provision is held to be invalid, it shall not affect the other provisions, which shall be given full force and effect.							
I, OR WE, HEREBY ACKNOWLEDGE RECEIPT OF A COPY OF THIS ORDER AND THAT I, OR WE, HAVE READ THE BACK OF THIS AGREEMENT.				A SMALL FISHING BOAT		DEALER	
I, OR WE, ALSO AGREE THAT THE BALANCE WILL BE PAID BY <input type="checkbox"/> CASH, <input type="checkbox"/> BANK DRAFT, <input type="checkbox"/> CERTIFIED CHECK, OR BY THE EXECUTION OF A RETAIL INSTALLMENT CONTRACT, OR A SECURITY AGREEMENT AND ITS ACCEPTANCE BY A FINANCING AGENCY				By		Approved, Subject to Acceptance of Financing by Bank or Finance Company	
X _____ BUYER X _____ BUYER							



2016 PIONEER 700-4 SPECIFICATIONS*

ENGINE	
Engine Type	675cc liquid-cooled OHV single-cylinder four-stroke
Bore And Stroke	102.0mm x 82.6mm
Compression Ratio	9.2:1
Induction	Fuel Injection (PGM-FI), 40mm throttle body
Ignition	Full-transistorized with electronic advance
DRIVE TRAIN	
Clutch	Automatic
Transmission	Automotive-style with hydraulic torque converter, three forward gears and Reverse. Three drive modes include 2WD, 4WD and 4WD with differential lock
Driveline	Direct front and rear driveshafts
CHASSIS / SUSPENSION / BRAKES	
Front Suspension	Independent double-wishbone; 7.9 inches travel
Rear Suspension	Independent double-wishbone; 9.1 inches travel
Front Brake	200mm hydraulic disc
Rear Brake	170mm hydraulic disc
Front Tires	25 x 8-12
Rear Tires	25 x 10-12
DIMENSIONS	
Length	114.8 inches
Width	60.0 inches
Height	78.3 inches
Wheelbase	76.8 inches
Bed Capacity	1000 pounds
Towing Capacity	1500 pounds
Ground Clearance	10.5 inches
Turning Radius	14.8 feet
Curb Weight	1396 pounds
Fuel Capacity	8.2 gallons, including 1.2-gallon reserve
OTHER	
Note	Recommended for Drivers 16 years of age and older.
Available Colors	Red, Metallic Silver, Honda Phantom Camo®
Model Id	SXS700M4
FACTORY WARRANTY INFORMATION	
Duration	One Year
Description	Transferable limited warranty; extended coverage available with a Honda Protection Plan

Pioneer 700 4 seater

UTV

Northbay Motorsport

55 College Ave
www.northbaymotorsport.com
Santa Rosa, CA 95401
707-542-5355

Sales Deal Summary

Deal Number:

Date: 9/23/2016

Delivery Date: 9/23/2016

Finalized Date:

First Payment Due: 10/23/2016

Customer:

City of Petaluma

Major Units

Stock #	Year	Make	Model	Model Name	VIN
23096	2016	HONDA	SXS700M4	SXS700M4	1HFVE0267G4201587

Major Units

Fees & Insurance

Down Payment

Unit Price	\$11,980.00
Freight	\$485.00
Handling	\$395.00
Total Unit	\$12,860.00
<i>Full hd 100%</i>	
Parts and Accessories	\$400.00
Installation	\$0.00
Total Parts and Install	\$400.00
Tire Tax	\$7.00
Labor	\$0.00
CTPF	\$0.00
Title & Reg Fees	\$0.00
CA BPA Program	\$29.00
(not used)	\$0.00
Total Dealer Defined	\$7.00

Vehicle Tax	\$0.00
Sales Tax	\$1,099.31
Doc Fees	\$65.00
License Fees	\$52.00
Total Fees	\$1,216.31
Service Contract	\$0.00
Prop / Liab Insurance	\$0.00
Credit Life	\$0.00
Accident / Health	\$0.00
Total Insurance Taxes	\$0.00
Total Insurance	\$0.00
Theft Protection	\$0.00
Priority Maintenance	\$0.00
Gap Insurance	\$0.00
First Service	\$0.00
Total Dealer Defined	\$0.00

Total Previous Payments	\$0.00
Additional Pmt Today	\$0.00
Deferred Payment	\$0.00
Financing	\$0.00
Manuf to Cust Rebate	\$0.00
Total Down Payment	\$0.00
Trade Allowance	\$0.00
Less Trade Payoff	\$0.00
Trade Equity	\$0.00

Financing

Total Price	\$14,512.31	Term	1
Less Down	\$0.00	APR	0.000%
Amount Financed	\$14,512.31	Add-on	0.0%
Finance Charge	\$0.00	Extra	0.0%
Total of Payments	\$14,512.31	Monthly Payment	\$14,512.31

Trailer

Northbay Motorsport

55 College Ave
www.northbaymotorsport.com
Santa Rosa, CA 95401
707-542-5355

Sales Deal Summary

Deal Number:

Date: 9/23/2016

Delivery Date: 9/23/2016

Finalized Date:

First Payment Due: 10/23/2016

Customer:

City of Petaluma

Major Units

Stock #

Year

Make

Model

Model Name

VIN

7x12 Trailer w/ramp

Major Units

Fees & Insurance

Down Payment

Unit Price	\$1,580.00
Freight	\$0.00
Handling	\$0.00
Total Unit	\$1,580.00
Parts and Accessories	\$0.00
Installation	\$0.00
Total Parts and Install	\$0.00
Tire Tax	\$3.50
Labor	\$0.00
CTPF	\$0.00
Title & Reg Fees	\$0.00
CA BPA Program	\$29.00
(not used)	\$0.00
Total Dealer Defined	\$3.50

Vehicle Tax	\$0.00
Sales Tax	\$135.71
Doc Fees	\$65.00
License Fees	\$46.00
Total Fees	\$246.71
Service Contract	\$0.00
Prop / Liab Insurance	\$0.00
Credit Life	\$0.00
Accident / Health	\$0.00
Total Insurance Taxes	\$0.00
Total Insurance	\$0.00
Theft Protection	\$0.00
Priority Maintenance	\$0.00
Gap Insurance	\$0.00
First Service	\$0.00
Total Dealer Defined	\$0.00

Total Previous Payments	\$0.00
Additional Pmt Today	\$0.00
Deferred Payment	\$0.00
Financing	\$0.00
Manuf to Cust Rebate	\$0.00
Total Down Payment	\$0.00
Trade Allowance	\$0.00
Less Trade Payoff	\$0.00
Trade Equity	\$0.00

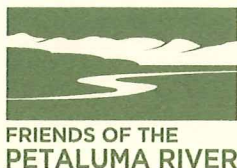
Financing

Total Price	\$1,859.21	Term	1
Less Down	\$0.00	APR	0.000%
Amount Financed	\$1,859.21	Add-on	0.0%
Finance Charge	\$0.00	Extra	0.0%
Total of Payments	\$1,859.21	Monthly Payment	\$1,859.21

ATTACHMENT E

LETTERS OF SUPPORT

**FRIENDS OF THE PETALUMA RIVER
PETALUMA POLICE DEPARTMENT**



March 8, 2017

Mr. Michael Chee
California Regional Water Quality Control Board
San Francisco Bay Region
1515 Clay Street, Suite 1400
Oakland, CA 94612

Subject: Letter of Support for the City of Petaluma's Supplemental Environmental Project

Mr. Chee:

I am writing to express my support for City of Petaluma and their Supplemental Environmental Project (SEP) Proposal to the Regional Water Quality Control Board to fund the Petaluma River Cleanup Program: A Partnership of Citizens and the City of Petaluma. This project will greatly improve water quality and habitat in the Petaluma Watershed while reducing the trash in the watershed from homeless encampments. I have worked closely with the City of Petaluma on past cleanup efforts and in supporting watershed education and therefore express my full support for the project. This project will have a lasting positive impact on the local environment and I strongly recommend accepting this proposal.

While the past river cleanup efforts have been successful, the event is operated using volunteers and limitations include transporting trash from collection sites to the central disposal area, providing restrooms at collection locations, and ensuring the safety of volunteers at collection sites. With the City providing equipment, staff time, and increased collection locations, Friends of the Petaluma River anticipates improved removal of trash from the Petaluma Watershed and ultimately the San Francisco Bay.

Thank you for your consideration for City of Petaluma and their SEP proposal for the Petaluma River Cleanup Program: A Partnership of Citizens and the City of Petaluma. This project will strongly benefit the environment in Southern Sonoma County and beyond by removing trash before it reaches the Bay, improving water quality and improving native habitat. As the Executive Director of Friends of the Petaluma River, I recommend the Regional Water Board approve the City's Project.

Respectfully,

Stephanie Bastianon, Executive Director
Friend of the Petaluma River

Tom Mumley, Assistant Executive Officer, Regional Water Quality Control Board
Robert C. Wilson, Environmental Services Supervisor, City of Petaluma



CITY OF PETALUMA

POST OFFICE BOX 61
PETALUMA, CA 94953-0061

David Glass
Mayor

Chris Albertson
Teresa Barrett
Mike Healy
Gabe Kearney
Dave King
Kathy Miller
Councilmembers

March 8, 2017

Mr. Michael Chee
California Regional Water Quality Control Board
San Francisco Bay Region
1515 Clay Street, Suite 1400
Oakland, CA 94612

Subject: Letter of Support for the City of Petaluma's Supplemental Environmental Project

Public Works & Utilities

City Engineer
11 English Street
Petaluma, CA 94952
Phone (707) 778-4303

Environmental Services
Ellis Creek Water
Recycling Facility
3890 Cypress Drive
Petaluma, CA 94954
Phone (707) 776-3777
Fax: (707) 656-4067

Parks & Facility
Maintenance
840 Hopper St. Ext.
Petaluma, CA 94952
Phone (707) 778-4303
Fax (707) 206-6065

Transit Division
555 N. McDowell Blvd.
Petaluma, CA 94954
Phone (707) 778-4421

Utilities & Field Operations
202 N. McDowell Blvd.
Petaluma, CA 94954
Phone (707) 778-4546
Fax (707) 206-6034

E-Mail: publicworks@ci.petaluma.ca.us

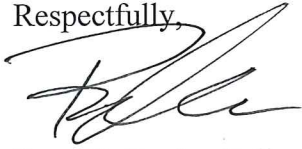
Mr. Chee:

I am writing to express my support for the Department of Public Works and Utilities supplemental Environmental Project (SEP) Proposal to the Regional Water Quality Control Board to fund the Petaluma River Cleanup Program: A Partnership of Citizens and the City of Petaluma. This project will greatly improve water quality and habitat in the Petaluma Watershed while reducing the trash in the watershed from homeless encampments. The City of Petaluma through the Homeless Outreach Services Team (HOST) works hand in hand with community groups to bring outreach services to the homeless through daily contacts on the streets. This project will have a lasting positive impact on the local environment and I strongly recommend accepting this proposal.

While the past HOST efforts have been successful, the City of Petaluma Police Department had difficulties removing trash from some encampments due to limited accessibility. Many of the encampments are along and within riparian environments mostly inaccessible with the HOST program's truck. By adding a watercraft and Utility Task Vehicle the Petaluma Police Department will be able to access the hard to reach encampments, provide services to the homeless and remove trash.

Thank you for your consideration for Department of Public Works and Utilities and their SEP proposal for the Petaluma River Cleanup Program: A Partnership of Citizens and the City of Petaluma. This project will strongly benefit the environment in Southern Sonoma County and beyond by removing trash before it reaches the Bay, improving water quality and improving native habitat. As the City's lead HOST Officer, I recommend the Regional Water Board approve the City's Project.

Respectfully,

A handwritten signature in black ink, appearing to read 'R. DeBaeke', written over the word 'Respectfully,'.

Ryan DeBaeke, Police Officer,
City of Petaluma

Tom Mumley, Assistant Executive Officer, Regional Water Quality Control Board
Robert C. Wilson, Environmental Services Supervisor, City of Petaluma

ATTACHMENT F

PRELIMINARY SITE IMPROVEMENT ESTIMATES

SEP Opinion of Probable Engineer's Estimate of Construction Cost

ITEM	QTY	UNIT	UNIT PRICE	TOTAL		NOTES
GENERAL						
Mobilization	1	LS	\$3,000	\$ 3,000.00		
Traffic Control	1	LS	\$1,000	\$ 1,000.00		
Trench Bracing and Shoring	1	LS	\$1,000	\$ 1,000.00		
Erosion Control	1	LS	\$1,500	\$ 1,500.00	\$ 6,500.00	Sub Total
Denman Reach						
Grading	1	LS	\$2,000	\$ 2,000.00		
Concrete with base Rock	600	SF	\$22	\$ 13,200.00		
Construct 8-inch PVC with Drain	50	LF	\$80	\$ 4,000.00		
Valve	2	LF	\$500	\$ 1,000.00		
Rainwater Outfall	1	EA	\$1,000	\$ 1,000.00		
Sump for Vac	1	EA	\$3,500	\$ 3,500.00		
Parking Lot Rock	1000	SF	\$2	\$ 2,000.00		
Bollards & Misc	1	LS	\$1,000	\$ 1,000.00	\$ 27,700.00	Sub Total
Marina Conversion						
Water Reconnection	1	LS	\$500	\$ 500.00		
Sewer Main	45	LF	\$90	\$ 4,050.00		
Diversion Box and valves	1	EA	\$6,000	\$ 6,000.00		
Bollards and Misc	1	LS	\$1,000	\$ 1,000.00	\$ 11,550.00	Sub Total
Shollenberger Park						
Drainage Diversion	1	LS	\$1,500	\$ 1,500.00		
Permanent BMPS	1	LS	\$800	\$ 800.00		
Bollards	1	LS	\$500	\$ 500.00		
Parking Lot Improvements	1	LS	\$2,000	\$ 2,000.00	\$ 4,800.00	Sub Total
Steamerlanding						
Parking Lot Grading	300	SF	\$10	\$ 3,000.00		
Permanent BMPS	1	LS	\$800	\$ 800.00		
Bollards	1	LS	\$1,500	\$ 1,500.00		
Parking Lot Improvements	1	LS	\$4,000	\$ 4,000.00	\$ 9,300.00	Sub Total
				Subtotal	\$ 59,850.00	
				Contingency (15%)	0.15 \$ 8,977.50	
				TOTAL	\$ 68,827.50	