

**AMENDMENT NO. 11 OF
NAPA COUNTY FLOOD PROTECTION AND WATERSHED
IMPROVEMENT AUTHORITY AGREEMENT NO. 19
and
CITY OF CALISTOGA AGREEMENT NO. 0042
MEASURE A FUNDING AGREEMENT**

THIS AMENDMENT NO. 11 OF NAPA COUNTY FLOOD PROTECTION AND WATERSHED IMPROVEMENT AUTHORITY AGREEMENT NO. 19 and CITY OF CALISTOGA AGREEMENT NO. 0042 (“Agreement”) is made and entered into as of this _____ of _____, 2013, by and between the NAPA COUNTY FLOOD PROTECTION AND WATERSHED IMPROVEMENT AUTHORITY, a public authority established pursuant to section 7285.5 of the Revenue and Taxation Code (“NCFPWIA”) and the CITY OF CALISTOGA (“CITY”);

RECITALS

WHEREAS, on or about November 18, 2003, NCFPWIA and CITY entered into the Agreement for funding by NCFPWIA to CITY of proceeds from the Flood Protection Sales Tax, a voter-approved special tax authorized by Measure A, for the purpose of providing One Hundred Eighty Five Thousand Dollars (\$185,000) for the Kimball Reservoir Treatment Plant Maintenance Dredging Project; and

WHEREAS, on or about July 13, 2004, NCFPWIA and CITY amended the Agreement to extend the term of the Agreement (“Amendment No. 1”); and

WHEREAS, on or about April 19, 2005, NCFPWIA and CITY amended the Agreement to extend the term of the Agreement and add \$85,408 in Measure A funding for the purpose of funding the Grant Street Drainage Improvements (“Amendment No. 2”); and

WHEREAS, on or about October 4, 2005, NCFPWIA and CITY amended the Agreement to add \$34,315 in additional Measure A funding for the Grant Street Drainage Improvements, for a new maximum amount of Measure A funding of CITY’s projects in the amount of \$304,723 (“Amendment No. 3”); and

WHEREAS, on or about July 5, 2006, NCFPWIA and CITY amended the Agreement to extend the term of the Agreement (“Amendment No. 4”); and

WHEREAS, on June 24th, 2008, NCFPWIA and CITY amended the Agreement to extend the term and to add \$16,000 in additional Measure A funding for culvert repair at Fischer and Lake Streets for a new maximum amount of Measure A funding in the amount of \$320,723 (“Amendment No. 5”); and

WHEREAS, on June 23, 2009, NCFPWIA and CITY amended the Agreement further extending the term through FY 2017/2018 to provide \$3,161,700 Measure A funds for a USDA loan debt service payment for Phase I and II of the Kimball Reservoir Water Treatment Plant reliability

improvements and a onetime cost-share payment of \$2,700,000 for construction of a water storage tank for a new maximum amount of \$6,182,423 (“Amendment No. 6”); and

WHEREAS, on June 29, 2010, NCFPWIA and CITY amended the Agreement because only \$405,000 of the \$2,700,000 cost share disbursement for the 1.5 million gallon water tank was expended in FY 2009/10. The Agreement as amended allowed the remaining balance of \$2,295,000 be paid out in future Fiscal Years (“Amendment No. 7”); and

WHEREAS, on October 5, 2010, NCFPWIA and CITY amended the Agreement adding \$600,000 in additional Measure A funds for FY 2010/11 to provide for a drainage improvement project to reduce flooding in Southeastern Calistoga for existing and future developments. New maximum amount under the Agreement as amended is \$6,782,423 (“Amendment No. 8”); and

WHEREAS, on August 9, 2011, NCFPWIA and CITY amended the Agreement to add \$1,100,000 in additional Measure A funds for the Kimball Dam Intake Tower, Drain Valve, Bypass Structure, and Water Rights Protection project. The amendment also adjusted the maximum allowances for completed projects 1 and 2 as referenced in Exhibit A-5 to reflect actual project costs. New maximum amount under the Agreement as amended is \$7,876,190 (“Amendment No. 9”);

WHEREAS, on January 10, 2012, NCFPWIA AND CITY amended the Agreement to adjust the yearly allocations of the \$1,100,000 Kimball Dam Intake Tower, Drain Valve, Bypass Structure, and Water Rights previously approved by this Board with Amendment 9, to reflect expenditures in FY 10/11 and to request approval to pay invoices for this project which are over one year old. The maximum amount under the Agreement as amended remains at \$7,876,190 (“Amendment No. 10”);

WHEREAS, NCFPWIA and CITY now desire to amend the Agreement to decrease the authorized maximum amount for certain completed projects and debt service payments; increase the budget for the Kimball Dam Intake Tower, Drain Valve, Bypass Structure, and Water Rights project; and adding three new projects that comply with the Measure A Ordinance for funding. The new maximum amount under the Agreement as amended is \$7,016,110.31 (“Amendment No. 11”).

TERMS

NOW, THEREFORE, NCFPWIA and CITY hereby amend the Agreement as follows:

1. Sections 2 of the Agreement are hereby amended to read in full as follows:
 2. **Funding.** NCFPWIA hereby agrees to transfer to CITY the amounts of Measure A funds corresponding to the Project Costs for each of the Projects described in Exhibit A-7 (for Projects 1 through 10), attached and incorporated into the Agreement by such reference, replacing in full the previous exhibits denoted as Exhibits A and A-1 through A-6, all inclusive. The total amount of such disbursements for all of the described Projects shall not exceed a maximum of Seven Million Sixteen Thousand One Hundred Ten Dollars and Thirty-One Cents (\$7,016,110.31). The amounts of the Project Costs shall be disbursed for the Fiscal Years noted in Exhibit A-7 in accordance with Section 3 (Disbursal of Funds) of the Agreement, as reimbursement to CITY for expenditures CITY has made or is legally committed to make in connection with the described Projects. On and after the effective date of Amendment No. 11, all references in the Agreement to Exhibits A or A-1 through A-6 (all inclusive) shall mean Exhibit A-7.

Notwithstanding the foregoing, the maximum amounts noted in Exhibit A-7 are not guaranteed sums, and such amounts shall be disbursed only as set forth in Section 3 (Disbursal of Funds) as reimbursement to CITY for expenditures it has made or is legally committed to make.

2. This Amendment No. 11 shall be effective as of the date first above written.
3. Except as provided in (1) and (2), above, the terms and provisions of the Agreement shall remain in full force and effect as last amended.

IN WITNESS WHEREOF, the duly authorized representatives of the parties to this Agreement have executed this Amendment No. 11 as of the date first above written.

NAPA COUNTY FLOOD PROTECTION AND
WATERSHED IMPROVEMENT AUTHORITY

By _____

BRAD WAGENKNECHT, Chair of the
NCFPWIA

“NCFPWIA”

ATTEST: GLADYS I. COIL,
Secretary of the NCFPWIA

APPROVED BY THE GOVERNING
BOARD OF THE NCFPWIA

By: _____

Date: _____

APPROVED AS TO FORM
NCFPWIA Legal Counsel

By: *Robert Paul* (e-signature)

Date: August 5, 2013

Processed By:

Deputy Clerk

CITY OF CALISTOGA

By _____

RICHARD D. SPITLER, City Manager

“CITY”

ATTEST:
AMANDA DAVIS,
Calistoga City Clerk

By _____

APPROVED AS TO FORM:
MICHELLE KENYON,
Calistoga City Attorney

By _____

EXHIBIT A-7

PROJECT DESCRIPTIONS

Project #1 - Stabilization and Enhancement of Kimball Reservoir (Project Completed)

The Kimball Canyon Dam was constructed for flood control and to provide a water supply for the community of Calistoga. The original storage capacity was estimated to be 409 acre-feet. Since its construction, Kimball Reservoir has accumulated sediment and debris, especially during periods of high runoff. Reservoir soundings taken in 1991 indicated sedimentation had reduced the reservoir capacity to about 312 acre-feet. This sedimentation accumulation has reached a level that is affecting the operation of the intake facilities for the water treatment plant and degrading water quality.

Measure A funds will be utilized to hire a contractor to complete CEQA documents, secure permits, secure grant funding applications and deliver a bid package including plans, specifications and estimates to complete the dredging of Kimball Reservoir by the end of Fiscal year 2005-2006.

Total Amount Authorized for Project #1 prior to Amendment No. 11 is \$185,000.00.

Actual Amount Spent:

FY 03/04	-	\$104,500.61	
FY 04/05	-	\$ 17,713.53	
FY 05/06	-	\$ 3,524.17	
Total Amount Spent as of 6/30/2011			\$125,738.31

Balance as of July 1, 2013: \$59,261.69

Amendment No. 11 – Calistoga requests to close out Project #1 as dredging was determined to not be cost effective. Amendment No. 11 will amend the amount previously authorized from \$185,000 to **\$125,738.31**.

Project #2 - Flood Protection and Drainage Improvements in the Grant Street Area (Project Completed)

The drainage improvements in the area of Grant Street from Stevenson Street to Lake Street consist of an open swale that carries water to the drainage system. Installation of approximately 670' of 12" storm drain improvements will direct water to an underground piping system and will help prevent street flooding in this area.

Total Amount Authorized for Project #2 is \$117,470.04

Actual Amount Spent:

FY 06/07	-	\$117,470.04	
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Project #3 – 24” Culvert Repair - Fischer Street at Lake Street (Project Completed)

The culvert at Fischer Street and Lake Street is collapsing and slowing the flow of water through the drainage ditch. The project will repair/replace the 24” culvert to prevent the drainage ditch from overflowing and flooding the areas.

Total Amount Authorized for Project #3 is \$12,020.

Actual Amount Spent:

FY 08/09 - \$12,020

Project #4 – 1.5 Million Gallon Water Storage Tank (Project Completed)

The purpose of this Project is in accordance with CDPH Compliance Order 02-03-96CO-003 and to provide enhanced water supply reliability. The 1.5 million gallon water storage tank shall be used to store water from Kimball Reservoir and other sources and enhance water supply reliability from Kimball Reservoir While the total cost of water storage tank construction exceeds \$6 million, the City will use Measure A funds to cover a one-time cost share.

Total Amount Authorized for Project #4 is \$2,700,000.

Actual Amount Spent:

FY 09/10 - \$ 405,000
FY 10/11 - \$ 90,941
FY 11/12 - \$1,709,059
FY 12/13 - \$ 495,000

Total Spent as of July 1, 2013 \$2,700,000

Project #5 - Schedule of Debt Payments on \$2.5M USDA Loan for Phase I and II of the Kimball Water Facilities Improvement Project (Ongoing)

Total Amount Authorized for Project #5 prior to Amendment No. 11 is \$3,161,700

Actual Debt Payments:

FY 2008/09	\$ 125,659.00
FY 2009/10	\$ 379,850.00
FY 2010/11	\$ 368,993.00
FY 2011/12	\$ 117,880.00
FY 2012/13	\$ 113,068.00
Total Payments:	\$1,105,450.00
Balance as of July 1, 2013:	\$2,056,250 (\$3,161,700 - \$1,105,450)

Amendment No. 11: Calistoga was informed by USDA that accelerated payments are not possible. Therefore, Calistoga requests to revise its debt service payment schedule to reflect the original schedule it entered with USDA. The remainder of the payment schedule is as follows:

FY 2013/14	\$ 134,125
FY 2014/15	\$ 133,813
FY 2015/16	\$ 134,456
FY 2016/17	\$ 134,013
FY 2017/18	\$ 134,525

Revised Total Amount Requested for FY 2014 thru FY2018: \$670,932

Revised Total Amount for Project #5 with Amendment No. 11 is \$1,776,382 (\$1,105,450+\$670,932)

Project #6 – Drainage Improvements in Southeastern Calistoga (Completed Project)

A bypass culvert will be installed from Central Creek to the Main Ditch at a point downstream of the Chateau Calistoga Mobile Home Park for the purpose of handling increases in flows. Main Ditch will be widened to create a bottom of 15 feet and a 2:1 side slope on the east & north sides of the channel from the Chateau Calistoga Mobile Home Park south and east to the existing 48-inch culverts. Additionally, the Main Ditch will be widened to a 33-foot bottom, with a 2:1 side slope, from the existing two 48-inch diameter culverts to its outlet at the Napa River. The project will also include the replacement of two 48-inch diameter culverts with a bridge designed with a minimum width of 12 feet, concrete abutments and steel beams supporting a wood or metal deck.

Total Amount Authorized for Project #6 is \$600,000.

Actual Amount Spent -

FY 10/11 - \$600,000

Project #7 – Kimball Dam Intake Tower, Drain Valve, Bypass Structure, and Water Rights Protection (Ongoing)

This project will support water supply reliability for Kimball Reservoir. Certain dam structures are inadequate, and if not replaced, may result in catastrophic flooding from dam failure. City water rights for Kimball Reservoir were also challenged, requiring hydrology studies, fishery biologist studies, and legal support costs. The City’s bypass structure and level sensor need to be upgraded to better support fish habitat.

Total Amount Authorized for Project #7 is \$1,100,000

Actual Amount Spent -

FY 11-12 - \$ 700,000
FY 12-13 - \$ 0

Balance as of July 1, 2013 - \$400,000

Amendment No. 11 - The design and construction of the intake tower repairs and drain value replacement have yet to be completed, and is expected to cost more than initially planned. A survey of the bottom of the reservoir after it is drained is necessary and may require minimal dredging in and around the intake structure. Calistoga requests an additional \$250,000 for this Project. With the balance of \$400,000, the proposed budget will be as follows:

FY 13-14 - \$150,000
FY 14-15 - \$500,000

Revised Total Amount for Project #7 with Amendment No. 11 is \$1,350,000.

Proposed Project #8: Abandon Old Water Transmission Main from Kimball Reservoir and Connect Existing Water Services to New Water Transmission Main

This Project will complete the Kimball Water Transmission Main project along Bennett Lane by abandoning the old water transmission main that runs through vineyards to serve six existing City water customers. These customers will be reconnected to the new water line with a water line easement across APN 017-130-061. Relocation of these water services will provide water supply reliability.

Total Amount for Project #8 with Amendment No. 11 is \$152,000.

Proposed Project #9: Grant Street Culvert Repair between Redwood Avenue and Michael Way

This Project will replace a collapsed 24” x 36” drainage box culvert.

Total Amount for Project #9 with Amendment No. 11 is \$175,000

Proposed Project #10: Grant Street Napa River Outfall Repair

This Project will repair the erosion to support the outfall and pipe from further scour.

Total Amount for Project #10 with Amendment No. 11 is \$7,500.

FUNDING SUMMARY

Projects	Total Amount Authorized	
	Prior to Amendment #11	Proposed Amendment #11
1	\$185,000	\$125,738.31
2	\$117,470	\$117,470
3	\$12,020	\$12,020
4	\$2,700,000	\$2,700,000
5	\$3,161,700	\$1,776,382
6	\$600,000	\$600,000
7	\$1,100,000	\$1,350,000
8	0	\$152,000
9	0	\$175,000
10	0	\$7,500
	\$7,876,190.00	\$7,016,110.31