

SPRINGS CIVIC PLAZA PROPOSAL SCOPING AGREEMENT

This Proposal Scoping Agreement (this "Agreement") is entered into as of _____, 2022 (the "Effective Date") by and between the County of Sonoma, a political subdivision of the State of California, (the "County"), KS Mattson Partners, LP, a California limited partnership (the "Developer"), (the County and the Developer shall collectively be referred to as the "Parties" herein), with reference to the following facts:

RECITALS

A. The County owns or controls that certain real property commonly known as the Springs parking plaza, located at the intersection of Highway 12 and Boyes Boulevard in the unincorporated community of Boyes Hot Springs. This Agreement refers to a portion of the parcel, consisting of the surface parking area and containing approximately .41 acres (which area has not been officially surveyed) (the "Property"), as depicted on Exhibit A hereto.

B. Developer owns or controls interests in adjacent properties located at and commonly known as: 22 Boyes Blvd., Boyes Hot Springs (APN 056-402-001) improved with two buildings totally 9,265 sq. ft. and containing approximately 11,750 sq. ft. of land; and 18010 Hwy. 12, Boyes Hot Springs (APN 056-385-002) unimproved property containing approximately .28 acres ("Developer's Adjacent Properties"). The Developer seeks to improve the Developer's Adjacent Properties in conjunction with improvements to the Property.

C. Consistent with applicable law, the County is interested in exploring the community interest in and feasibility of redevelopment of the Property creating a civic plaza with underground parking accessible to the public through a ground lease and /or other agreement (generally referred to herein as a "master agreement"), which redevelopment may generally include, but is not limited to, design and construction of an at-grade civic plaza and underground parking garage (the "Proposal").

D. Other third-party property owners with land adjacent to the Property may also be interested in a proposal and conducting feasibility investigations regarding their respective properties as said properties relate to the civic plaza redevelopment. Said third-party owned properties include the "Freiberg Parcel" containing approximately .22 acres (APN 056-402-029) and the "Primavera Nueva Parcel" containing approximately .30 acres (APN 056-402-019) (collectively the "Other Properties"). Either or both of the Parties may contact the owner(s) of the Other Properties to discuss possible redevelopment efforts and participating in feasibility investigations.

E. The Developer has offered to undertake a community engagement process to determine the community interest in the Proposal generally, and the potential features thereof that would provide benefit to the community. The County may negotiate with the Developer

for the possible lease of a portion of the Property, or other similar agreement, as allowed by law, including but not limited to authority under Government Code Section 25536, which authorizes the Board of Supervisors, by a four-fifths vote, to enter into leases, concession or managerial contracts for all or any part of county-owned, leased, or managed property devoted to park or recreation purposes, or vehicle parking, without complying with other competitive leasing procedures. Any future agreement or negotiations may be subject to other requirements imposed by state or local law, including but not limited to the California Surplus Lands Act (Cal. Gov. Code § 54220 et seq.), and Developer acknowledges that County is required to comply with all such requirements.

F. The purpose of this Agreement is to establish procedures and standards for the creation and implementation of a community outreach and engagement plan, and subsequent potential negotiation by the County and the Developer of a nonbinding term sheet describing the terms of a possible transaction potentially allowing the Proposal at the Property, subject to full review and entitlement process as appropriate (the "Term Sheet"). As more fully set forth in Section 4.1, the Developer acknowledges and agrees that this Agreement does not obligate the County to lease any portion of the Property to the Developer, nor does it grant the Developer the right to develop any part of the Property. This Agreement does not obligate any party to undertake any activities or incur costs to develop any part of the Proposal, except for the community outreach as described herein, and the preliminary analysis and negotiations contemplated by this Agreement. The County further acknowledges and agrees that nothing in this Agreement commits the Developer to develop the Proposal or otherwise take any action with respect to the Property.

G. The Parties agree that this Agreement does not obligate the Developer to pay any funds to the County other than the reimbursement of the County costs as set forth in Section 1.5 below.

H. The Parties acknowledge that nothing in this Agreement limits the County's discretion with respect to any of the entitlements or agreements that are required to develop the Proposal and that the County is not making any commitment to approve any portion of the Proposal. The Parties acknowledge that approvals from the County and other public agencies or utilities may be required for the Proposal, that such jurisdictions will also require compliance with CEQA, and that nothing in this Agreement limits the discretion of such agencies to determine the type of CEQA review required for any portion of the Proposal.

I. The Proposal and/or any lease or other agreement granting use of the Property by Developer shall undergo environmental review, to the extent required, in full compliance with the California Environmental Quality Act ("CEQA"), and nothing in this Agreement limits the County's discretion to determine the type of CEQA review required for any portion the Proposal, nor limit the County's discretion to refuse to approve and/or certify any CEQA document(s) prepared to analyze the impacts of the same.

J. This Agreement is, among other things, an expression of the Parties' mutual interest in exploring the County's, and community's interest in a Proposal to redevelop a portion of the Property. It does not constitute approval, but rather a process for initiating community dialogue, and the conditions for an opportunity to enter into preliminary discussions and Proposal scoping for a potential Proposal, and the terms and conditions thereof. This Agreement does not grant any vested development entitlements. It is understood that any agreement reached as a result of this Agreement will:

- Be conditioned on compliance with CEQA;
- Not bind any party, or commit to any definite course of action, prior to CEQA compliance;
- Not restrict the County or any lead agency from considering any feasible mitigation measures and alternatives, including the "no Proposal" alternative; and
- Not restrict the County or any lead agency from denying the Proposal.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein and for other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties mutually agree as follows:

ARTICLE 1

EXCLUSIVE NEGOTIATING RIGHT

Section 1.1 Community Outreach.

(a) Developer shall develop and implement a program for community outreach in order to gain community involvement and opinions with respect to the Proposal, including to determine what features are of most interest to the community, including community-identified features, and to obtain information regarding what community impacts of a redevelopment of the Property would be of most interest or most concern to those impacted by the changes. Developer shall complete no less than 3 meetings with community stakeholders during the term of this Agreement and will communicate to the County regarding the input received as a result of those meetings. It is the expectation of the parties that the Developer will duly consider community input regarding the Proposal in its ultimate scoping of its proposed Proposal in conjunction with its due diligence review of same.

(b) The County and Developer shall reasonably cooperate in planning, organizing, and facilitating these meetings. The County will hire an independent facilitator ("Facilitator") to conduct the public meetings. The County and Developer will cooperate with the Facilitator to

conduct public outreach, establish an agenda for the meetings, and establish protocols for the meetings intended to fulfill the purpose of this Agreement.

(c) At least seven (7) business days prior to the first meeting, Developer shall provide a complete summary of the Proposal that will be presented at the meetings for public comment.

Section 1.2 Good Faith Negotiations. The County, and the Developer shall negotiate and communicate in good faith during the “Term”, described in Section 1.3 below. If, and to the extent, the County and the Developer desire to move forward with a transaction to complete the Proposal on the Property, the parties shall develop a mutually acceptable, nonbinding term sheet.

Among the issues anticipated to be addressed in such negotiations are Proposal scope, as developed using community input, land use and control of the site, financial arrangements, physical improvements, parking, financing, development schedule, management, design, accounting, liability, aesthetic considerations, the provision of public improvements, and operational responsibilities related to the Proposal.

Section 1.3 Agreement Term. The “Term” under this Agreement shall be six months (6) from the date of this Agreement, subject to extension as provided below. If, during the Term, negotiations with the Developer have progressed sufficiently to the point where there is a draft Term Sheet, then the County Administrator may grant one extension of the Term, but in no event shall such extension exceed six (6) months. The Developer understands that such extension in no way obligates the County to approve a Term Sheet.

If a Term Sheet has not been executed by the Parties by the expiration of the Term, including any extensions, then this Agreement shall terminate and neither Party shall have any further rights or obligations under this Agreement except as set forth in Sections 1.5 and 3.3. Notwithstanding the foregoing, the indemnities described in Sections 3.6, 3.10, and 4.5 shall survive the termination or expiration of this Agreement.

If a Term Sheet is executed by the Parties, then upon such execution, this Agreement shall terminate, and all rights and obligations of the Parties shall be as set forth in the executed Term Sheet.

Section 1.4 Exclusive Negotiations. During the Term, the County shall not negotiate nor proactively reach out to any business entity, other than the Developer or the owners of the Other Properties, to discuss or explore other development proposals on the Property, the Developer’s Adjacent Properties and/or the Other Properties or any portion thereof or solicit or entertain bids or proposals to do so. The County nevertheless reserves its rights to fulfill its

obligations to comply with any Public Records Act request or similar inquiry for records relating to this Agreement, and to disclose the substance of the Proposal, this Agreement, and any related documents, in the course of fulfilling its duties under the Brown Act and in public discussions surrounding the Proposal, as it deems appropriate.

Section 1.5 Deposit. In consideration for the County execution of this Agreement, the Developer has, prior to execution of this Agreement by the County, provided to the County a cash deposit of Fifty Thousand Dollars (\$50,000.00) (the "Cash Deposit"), which shall be retained by the County during the term of this Agreement. County shall be entitled to draw against said deposit on the terms described herein. During the term of this Agreement, the County shall hold the Cash Deposit in the County Treasury.

The deposit is intended to pay for the County's reasonable costs and expenses related to the community outreach process, and negotiating and preparing the contemplated Term Sheet. Developer hereby agrees to pay all reasonable costs incurred by the County throughout the community outreach process, and the negotiation and approval of any resulting Term Sheet, at the rates set forth in Exhibit B hereto, commencing with drafting of this Agreement. Such costs shall include actual staff time expended in connection with the community outreach process, and negotiation and drafting of any resulting agreements. "Staff time" also includes, but is not limited to, time spent reviewing agreement draft materials, attending community outreach meetings (with such any such meeting attendance limited to two staff people, unless agreed in advance by Developer and County) or assisting in the planning or administration thereof, responding by phone or correspondence to inquiries from Developer, Developer's representatives and/or interested parties, attendance and participation at meetings and public hearings, review of any notices prepared by Developer or its agents, review and comment on questions, presentations, or analyses of public feedback obtained through the outreach process, preparation of staff reports and other correspondence, legal review of any related documents, including this one, processing or drafting of any required documentation, responding to public records act requests or responding to any legal challenges related to this Agreement. "Staff" includes any employee of the County inclusive of all its departments and offices which County, in its sole discretion, determines appropriate for purposes of this Agreement.

County shall provide Developer with an invoice of charges against the Cash Deposit on a quarterly basis. The first quarter will begin on the first (1) day of the month following full execution of this Agreement. The invoice shall include a brief description of all charges incurred in connection with performance of this Agreement during the billing period. County may withdraw the billed charges from the Cash Deposit as they are incurred. County's failure to provide Developer a timely invoice of charges shall not preclude County from collecting the charges set forth herein. If at any time prior to the full performance of the terms of this Agreement, or its termination, the balance of funds on deposit reaches Two Thousand Five

Hundred Dollars (\$2,500.00) or less and the County has incurred or continues to incur expenses Developer has agreed to pay hereunder, Developer shall place an additional amount on deposit equal to the good faith estimate of the County of the remaining required funds. Should such an additional deposit be required, County shall prepare an estimate of remaining work and costs to be charged, and shall provide it in writing to Developer. Developer shall provide the required additional deposit funds to County not more than thirty (30) days after receipt of such estimate. Upon the expiration or termination of this Agreement, any Cash Deposit funds not required to reimburse County expenses as set forth under this Section shall be returned to Developer within 30 days of such termination or expiration, with an accounting of all funds drawn down by the County.

The Developer acknowledges that the County will incur additional costs in connection with the planning, design, engineering and environmental review (collectively, the "Transaction Documents") that will be required to administer their rights and obligations under the Term Sheet, if one is successfully negotiated pursuant to this Agreement. Such costs and expenses may include reasonable fees and services of third party consultant(s) selected by the County relating to the preparation of the Transaction Documents ("Consultant Costs"), with the County combining their review and jointly retaining a consultant(s) to avoid duplication and additional costs. Developer understands that the County will require full reimbursement from Developer for all Consultant Costs that the County incurs in connection with administration of the Term Sheet, if one is completed. Notwithstanding the foregoing, the Parties agree that the costs and expenses contained in this Section 1.5, including costs and expenses associated with this Agreement and any future Term Sheet, shall not exceed One Hundred Fifty Thousand Dollars (\$150,000.00) without the Developer's agreement in writing.

Section 1.6 County Logo; Independence in Review. Developer will not use the County's logo, nor represent itself as speaking for the County in any of its outreach or marketing materials unless approved in advance, in writing, by the County's designated representative. The County reserves all rights to interpret or supplement the community feedback obtained through Developer's outreach process, with an eye ensuring toward full and broad community and intergovernmental engagement, and using its own independent and rigorous analysis of the feedback obtained.

ARTICLE 2

THE DEVELOPER

Section 2.1 Identification of Representatives. The Developer, its address, and its authorized representatives to negotiate this Agreement with the County are as follows:

KS Mattson Partners, LP

KS Mattson Partners, LP
PO Box 5490
Vacaville CA 95696
Representatives: Ken Mattson, Daniel Crowley, or other person
designated in writing by Ken Mattson.

The County, its address, and its authorized representatives to negotiate the term sheet with the Developer are as follows:

County of Sonoma
2300 County Center Drive, A200
Santa Rosa CA 95403
Representatives: Real Estate Manager, or other person designated in
writing by the Director of General Services; County Counsel Deputies as
Assigned

Section 2.2 Development Entity. At the time that the final Term Sheet is ready for execution, if at all, the Developer shall make full disclosure to the County of all information deemed by County to be pertinent to the ownership, control and financial capacity of the development entity that is proposed to serve as developer under the Agreement.

ARTICLE 3

INFORMATION GATHERING AND PROPOSAL SCOPING

Section 3.1 Right of Entry. The County hereby grants Developer a right of entry for the term of this Agreement to enter the Property to perform non-invasive testing, surveys and assessments. The right to perform additional testing or obtain additional access to the Property by Developer in excess of that which is set forth herein may be granted in writing by the General Services Director, which permission shall be subject to all terms of this Agreement and which shall not be unreasonably withheld. Developer shall indemnify, defend (with counsel reasonably acceptable to County) and hold harmless the County, and their directors, board members, officers, contractors, agents and employees against any claims made against them which arise out of the activities of Developer or its, contractors, subcontractors, agents, employees, licensees, invitees or guests on or concerning the Property and/or this Agreement. The foregoing indemnity shall survive termination of this Agreement, but shall not extend to any claim arising solely from the County's gross negligence or intentional acts, or to any hazardous materials merely discovered by Developer during its investigation to the extent not contributed to or exacerbated by Developer or its, contractors, subcontractors, agents, employees, licensees, invitees or guests.

Section 3.2 Developer Requests for Documents. Upon Developer's request, County shall make available all public records, studies, and other documents in their possession as deemed reasonably necessary by Developer to perform Developer's analysis of the Property, subject to charges for reasonable costs of research and duplication. Developer understands and agrees that County makes no representations or warranties whatsoever regarding the completeness or accuracy of such information and Developer must perform its own independent analysis.

Section 3.3 Reports. Developer may create or commission reports regarding the Property as part of its scoping and analysis of the Proposal. The County acknowledges that any and all documents and reports produced by Developer, including but not limited to any design documents, during the term of this Agreement are the property of the Developer and, subject to Developer's compliance with the procedures described in Section 3.5 shall not be disclosed to any third parties unless the Developer agrees to such disclosure in writing, and such agreement may be withheld in Developer's sole and absolute discretion. As set out further below, if the County is subject to a Public Records Act request for any such documents, the County's sole obligation shall be to notify the Developer promptly so that Developer may seek a judicial protective order. If a protective order is not obtained, then the County may disclose any documents that in its sole discretion it believes are required to be disclosed under the Public Records Act and shall have no liability to Developer for such disclosure. The Developer shall provide the County with copies of all third-party reports, studies, analyses, and similar documents, prepared or commissioned by the Developer regarding the Property and the Proposal, promptly upon their completion. The County shall provide the Developer with copies of all reports, studies, analyses, and similar documents prepared or commissioned by the County with respect to this Agreement, the Property and the Proposal, promptly upon their completion. Nothing in this Agreement obligates the County to undertake any reports, studies, analyses or similar documents or to pay Developer for any such documents which it prepares or commissions.

Section 3.4 Utilities. The Developer shall consult with the utility companies serving the Property to determine if existing utility facilities require expansion, relocation or underground installation in connection with development of the Proposal. The County shall participate with the Developer in such consultations.

Section 3.5 Non-disclosure.

(a) Generally. County will work with the Developer to maintain the confidentiality of Confidential Information (as defined below), including properly-marked drafts and proprietary information, subject to the requirements imposed on the County by the Public Records Act (Government Code Sections 6250 et seq.). The Developer acknowledges that the County may share Confidential Information provided by the Developer with third party consultants and Board members as part of the negotiation and decision-making process, and

that such disclosures shall not, in and of themselves, violate this Agreement, provided that all individuals receiving such materials agree to protect their confidentiality to the extent allowed by law. If the County is subject to a Public Records Act request for any such documents, however, the County's sole obligation shall be to notify the Developer promptly so that Developer may seek a judicial protective order. If a protective order is not obtained, then the County may disclose any documents that in its sole discretion it believes are required to be disclosed under the Public Records Act and shall have no liability to Developer for such disclosure. If this Agreement is terminated without the execution of a Term Sheet, the County shall return to the Developer any information submitted to them under this Agreement.

(b) *Procedures and Indemnification*. The parties shall take all reasonable measures to prevent the unauthorized or improper disclosure or use of Confidential Information (as defined below). Any written Confidential Information that is shared or exchanged will be clearly marked by the disclosing party as "Confidential."

The Parties agree to notify one another promptly of any requests or demands by subpoena, discovery request, the California Public Records Act, or otherwise, for disclosure of any Confidential Information provided to one another. If a party may be legally compelled to disclose any Confidential Information to outside parties, the following procedures shall be followed:

1. Within five business (5) days of a request for disclosure of Confidential Information, the party that received the request or demand shall notify the other parties and initially determine whether the requested or demanded Confidential Information can be protected pursuant to law. The other parties shall have five business (5) days from the date they receive such notice to in turn notify the party that received the request or demand that they object to the disclosure of any specific Confidential Information. Such objection must be in writing and must include a specific legal basis for protection of the requested information. Failure to specifically object to the disclosure shall be construed as consent to the disclosure.
2. **INDEMNIFICATION AND RIGHT TO COSTS AND FEES:** Any party shall have the right to seek a protective order to prevent disclosure of the requested material. Any legal action to enjoin or limit disclosure shall be the objecting party's sole obligation and at that party's sole cost and expense. If a party disputes the release of any Confidential Information and a court of competent jurisdiction (including appellate courts) rules against that party and orders release of the Confidential Information, then such party agrees to defend, indemnify and hold harmless all other responsive parties for all costs (including, without limitation, all attorneys' fees, whether in-house or outside counsel) incurred by such parties in any legal

action related to disclosure of Confidential Information. If a party disputes the release of any Confidential Information and a court of competent jurisdiction (including appellate courts) rules in favor of that party, then that party will hold the other parties harmless for all costs (including, without limitation, all attorneys' fees, whether in-house or outside counsel) incurred by that party.

3. If such an order is sought, the Party that received the request or demand will use its best efforts to refrain, to the extent provided by law, from disclosing the requested or demanded Confidential Information until such time as a final disclosure agreement or judicial determination is made concerning the request or demand.

(c) Exclusions. The restrictions of this Agreement on the use and disclosure of Confidential Information shall not apply to information that:

1. Is or becomes publicly known or available by actions not in violation of this Agreement;
2. Is required to be disclosed pursuant to any applicable statute, law, rule or order of any governmental authority or pursuant to any order of any court of competent jurisdiction. In cases where there is a question as to whether Confidential Information consists of non-disclosable, privileged documents or communications, or whether it constitutes a public record or is exempt from disclosure under the California Public Records Act, the Party considering the disclosure of such documents or information shall comply with Section 3.5 (b) of this Agreement;
3. Is disclosed with the prior written consent of the disclosing party.

(d) Definition. Subject to the exclusions listed above, "Confidential Information" means any non-public information or data disclosed by, or on behalf of, a party to this Agreement at any time, in whatever form or medium disclosed, relating to the matters at issue in the implementation of this Agreement, provided it is clearly marked "Confidential" by the disclosing party, if that document so marked is concurrently provided with a written legal basis for treating the document as confidential. The County reserves the right to return and not use any such documents if the legal basis provided for the confidential treatment is in doubt. Acceptance of any such documents, however, does not constitute agreement with the legal conclusion of confidentiality.

Section 3.6 Insurance. Licensee shall obtain and maintain in full force and effect at its own expense during the term of this Agreement the insurance coverages set forth in Exhibit C. All insurance coverages referenced in Exhibit C shall be evidenced by one or more certificates of

coverage, a copy of which shall be filed with the Director of General Services or Transportation and Public Works on or before the Effective Date of this Agreement.

ARTICLE 4

GENERAL PROVISIONS

Section 4.1 Limitation on Effect of Agreement. This Agreement shall not obligate either the County or the Developer to enter into a Term Sheet or to enter into any particular agreement. By execution of this Agreement, the County is not committing itself to or agreeing to undertake acquisition, disposition, or exercise of control over the Property or any portion of the Property. Execution of this Agreement by the County is merely an agreement to conduct a period of exclusive negotiations in accordance with the terms hereof, reserving for subsequent Board of Supervisors' action the final discretion and approval regarding the execution, if any, of a Term Sheet, and all proceedings and decisions in connection therewith. Any Term Sheet resulting from negotiations pursuant to this Agreement shall become effective only if and after such Term Sheet has been considered and approved by the Board of Supervisors, in accordance with all legally required procedures and policies.

Section 4.2 Notices. Formal notices, demands and communications between the County and the Developer shall be sufficiently given if, and shall not be deemed given unless, dispatched by certified mail, postage prepaid, return receipt requested, or sent by express delivery or overnight courier service, with signature required, to the office of the parties shown as follows, or such other address as the parties may designate in writing from time to time:

County: County of Sonoma
2300 County Center Drive, A200
Santa Rosa, CA 95403
Attn: Real Estate Manager

Developer: KS Mattson Partners, LP
PO Box 5490
Vacaville CA 95696

With copies
to: Daniel Crowley
450 West Spain Street
Sonoma CA 95476

Such written notices, demands and communications shall be effective on the date shown on the delivery receipt as the date delivered or the date on which delivery was refused.

Section 4.3 Waiver of Lis Pendens. It is expressly understood and agreed by the parties that no lis pendens shall be filed against the Property, or any portion of the Property, with respect to this Agreement or any dispute or act arising from it.

Section 4.4 No Commissions. The County shall not be liable for any real estate commissions or brokerage fees that may arise from this Agreement or any agreement that may result from this Agreement. The County each represent that they have engaged no broker, agent or finder in connection with this transaction, and the Developer shall indemnify, defend and hold the County harmless from any claims by any broker, agent or finder retained by the Developer.

Section 4.5 Default and Remedies.

(a) Default. Failure by either party to negotiate in good faith as provided in this Agreement shall constitute an event of default hereunder. The non-defaulting party shall give written notice of a default to the defaulting party, specifying the nature of the default and the required reasonable action to cure the default. If a default remains uncured thirty (30) days after receipt by the defaulting party of such notice, the non-defaulting party may exercise the remedies set forth in subsection (b).

(b) Remedies. In the event of an uncured default by the County, the Developer's sole remedy shall be to terminate this Agreement. Following such termination, neither party shall have any further right, remedy or obligation under this Agreement; provided, however, the Developer's indemnification obligations pursuant to Sections 3.1, 3.5(b), and 4.4, and the Developer's right to be refunded, and the County's entitlement to retain, any unused portion of the Cash Deposit pursuant to Section 1.5 shall survive such termination.

In the event of an uncured default by Developer, the County's sole remedy shall be to terminate this Agreement. Following such termination, neither party shall have any right, remedy or obligation under this Agreement; provided, however, that the Developer's obligation to turn over work pursuant to Section 3.5(a), the Developer's indemnification obligations pursuant to Sections 3.1, 3.5(b), and 4.4, and the Developer's right to be refunded any unused portion, and the County's entitlement to retain, any encumbered portion of the Cash Deposit pursuant to Section 1.5 shall survive such termination.

Except as expressly provided in this Agreement, neither party shall have any liability to the other for damages or otherwise for any default, nor shall either party have any other claims with respect to performance under this Agreement. Each party specifically waives and releases any such rights or claims they may otherwise have at law or in equity.

Section 4.6 Assignment. The Developer may not transfer or assign any or all of its rights or obligations hereunder except with the prior written consent of the County, which consent shall not be unreasonably withheld, and any such attempted transfer or assignment without the prior written consent of County shall be void. Developer shall provide documentation that any proposed transferee or assignee has the financial capability and real estate development experience at least equal to Developer, including an audited balance sheet and income statement.

Section 4.7 No Third-Party Beneficiaries. This Agreement is made and entered into solely for the benefit of the County, and the Developer and no other person shall have any right of action under or by reason of this Agreement.

Section 4.8 Construction of Agreement. Each party to this Agreement has had an equal opportunity to consult with its attorneys. Therefore, the usual construction of an agreement against the drafting party shall not apply to this Agreement.

Section 4.9 Governing Law; Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of California. Venue shall be in Sonoma County, California.

Section 4.10 Entire Agreement. This Agreement constitutes the entire agreement of the parties regarding the subject matter of this Agreement. This Agreement may be modified only in writing and only if approved and signed all parties.

Section 4.11 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same agreement. The Parties hereby agree and acknowledge and agree that facsimile signatures or signatures transmitted by electronic mail in so-called "pdf" format shall be legal and binding and shall have the same full force and effect as if an original of this Agreement had been delivered.

REMAINDER OF PAGE LEFT BLANK

Section 4.12 Authority to Execute. The undersigned represent and warrant they are each duly authorized to execute this Agreement on behalf of their respective organization.

WHEREFORE, the Parties have executed this Agreement on or as of the date first above written.

County has executed this Agreement pursuant to that certain Board Approval granted under Agenda Item ___, dated ___, 2022.

APPROVED AS TO FORM FOR COUNTY: COUNTY OF SONOMA, a political subdivision of the State of California

By: _____

Deputy County Counsel

By: _____

Director, General Services Department

KS Mattson Partners, LP, a California limited partnership

By: _____

Name: _____

Title: _____

Exhibit A

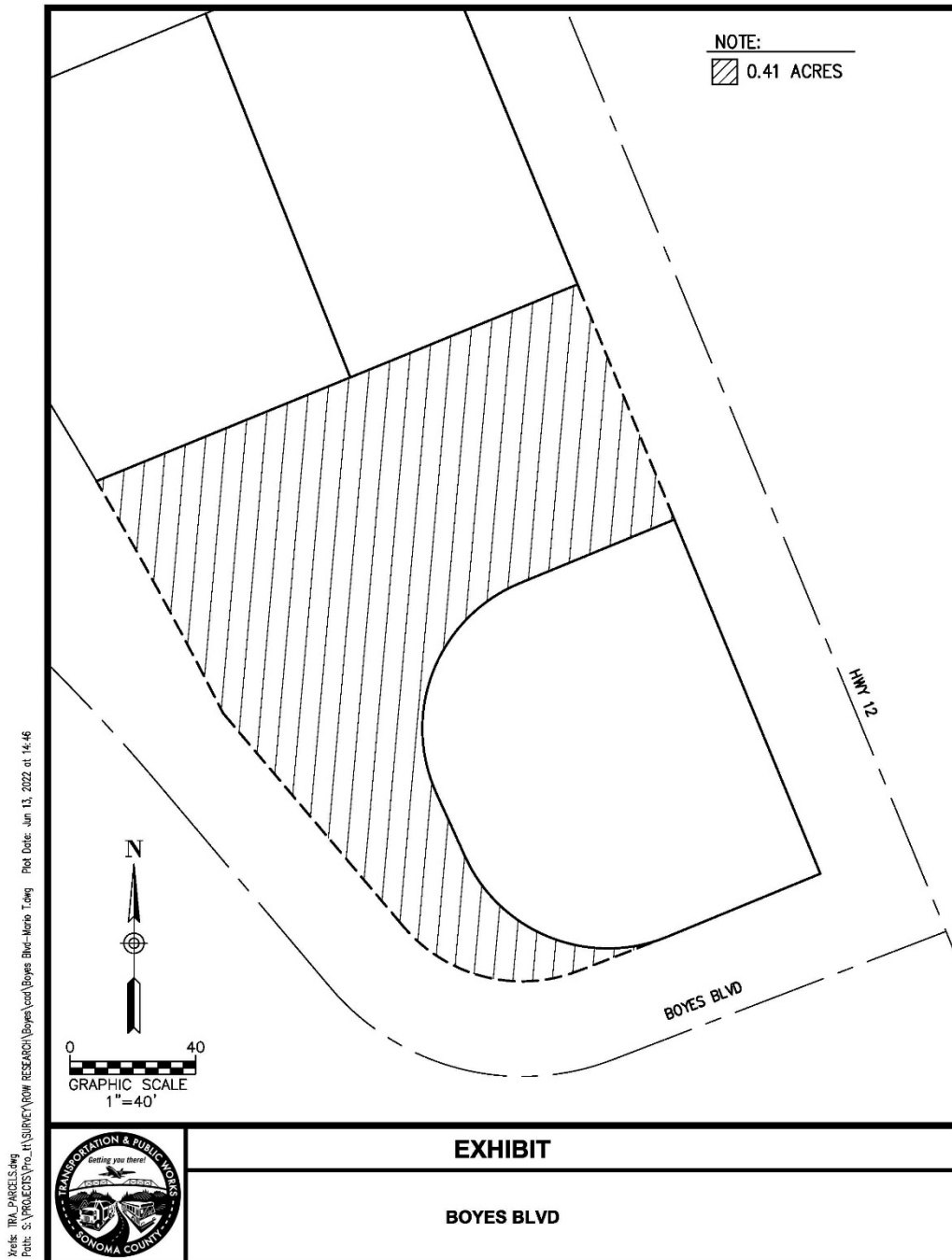


Exhibit B

Title	Hourly Rate
Deputy Director	\$208
Project Specialist	\$176
Senior Project Specialist	\$188
Capital Project Manager	\$199
Real Estate Manager	\$159
Real Estate Specialist	\$137
County Counsel	\$282
Admin Aide	\$152

Exhibit C

With respect to performance of work under this Agreement, Developer shall maintain and shall require all of its subcontractors, consultants, and other agents to maintain insurance as described below unless such insurance has been expressly waived by the attachment of a *Waiver of Insurance Requirements*. Any requirement for insurance to be maintained after completion of the work shall survive this Agreement.

County reserves the right to review any and all of the required insurance policies and/or endorsements, but has no obligation to do so. Failure to demand evidence of full compliance with the insurance requirements set forth in this Agreement or failure to identify any insurance deficiency shall not relieve Developer from, nor be construed or deemed a waiver of, its obligation to maintain the required insurance at all times during the performance of this Agreement.

1. Workers Compensation and Employers Liability Insurance

- a. Required if Developer has employees as defined by the Labor Code of the State of California.
- b. Workers Compensation insurance with statutory limits as required by the Labor Code of the State of California.
- c. Employers Liability with minimum limits of \$1,000,000 per Accident; \$1,000,000 Disease per employee; \$1,000,000 Disease per policy.
- d. Required Evidence of Insurance: Certificate of Insurance.

If Developer currently has no employees as defined by the Labor Code of the State of California, Developer agrees to obtain the above-specified Workers Compensation and Employers Liability insurance should employees be engaged during the term of this Agreement or any extensions of the term.

2. General Liability Insurance

- a. Commercial General Liability Insurance on a standard occurrence form, no less broad than Insurance Services Office (ISO) form CG 00 01.
- b. Minimum Limits: \$1,000,000 per Occurrence; \$2,000,000 General Aggregate; \$2,000,000 Products/Completed Operations Aggregate. The required limits may be provided by a combination of General Liability Insurance and Commercial Excess or Commercial Umbrella Liability Insurance. If Developer maintains higher limits than the specified minimum limits, County requires and shall be entitled to coverage for the higher limits maintained by Developer.
- c. Any deductible or self-insured retention shall be shown on the Certificate of Insurance. If the deductible or self-insured retention exceeds \$25,000 it must be approved in advance by County. Developer is responsible for any deductible or self-insured retention and shall fund it upon County's written request, regardless of whether Developer has a claim against the insurance or is named as a party in any action involving the County.
- d. The County of Sonoma, its officers, agents and employees shall be endorsed as additional insureds for liability arising out of operations by or on behalf of the Developer in the performance

of this Agreement.

- e. The insurance provided to the additional insureds shall be primary to, and non-contributory with, any insurance or self-insurance program maintained by them.
- f. The policy definition of “insured contract” shall include assumptions of liability arising out of both ongoing operations and the products-completed operations hazard (broad form contractual liability coverage including the “f” definition of insured contract in ISO form CG 00 01, or equivalent).
- g. The policy shall cover inter-insured suits between the additional insureds and Developer and include a “separation of insureds” or “severability” clause which treats each insured separately.
- h. Required Evidence of Insurance:
 - i. Copy of the additional insured endorsement or policy language granting additional insured status; and
 - ii. Certificate of Insurance.

3. Automobile Liability Insurance

- a. Minimum Limit: \$1,000,000 combined single limit per accident. The required limit may be provided by a combination of Automobile Liability Insurance and Commercial Excess or Commercial Umbrella Liability Insurance.
- b. Insurance shall cover all owned autos. If Developer currently owns no autos, Developer agrees to obtain such insurance should any autos be acquired during the term of this Agreement or any extensions of the term.
- c. Insurance shall cover hired and non-owned autos.
- d. Required Evidence of Insurance: Certificate of Insurance.

4. Standards for Insurance Companies

Insurers, other than the California State Compensation Insurance Fund, shall have an A.M. Best's rating of at least A:VII.

5. Documentation

- a. The Certificate of Insurance must include the following reference: Springs Civic Plaza Boyes Blvd., Boyes Hot Springs Proposal Scoping Agreement.
- b. All required Evidence of Insurance shall be submitted prior to the execution of this Agreement. Developer agrees to maintain current Evidence of Insurance on file with County for the entire term of this Agreement and any additional periods if specified in Sections 1, 2 or 3 above.
- c. The name and address for Additional Insured endorsements and Certificates of Insurance is: **County of Sonoma, Facilities Management, 2300 County Center Drive, Suite A220, Santa Rosa, CA 95403.**
- d. Required Evidence of Insurance shall be submitted for any renewal or replacement of a policy that already exists, at least ten (10) days before expiration or other termination of the existing policy.
- e. Developer shall provide immediate written notice if: (1) any of the required insurance policies is terminated; (2) the limits of any of the required policies are reduced; or (3) the deductible or self-insured retention is increased.
- f. Upon written request, certified copies of required insurance policies must be provided within thirty (30) days.

6. Policy Obligations

Developer's indemnity and other obligations shall not be limited by the foregoing insurance requirements.

7. Material Breach

If Developer fails to maintain insurance which is required pursuant to this Agreement, it shall be deemed a material breach of this Agreement. County, at its sole option, may terminate this Agreement and obtain damages from Developer resulting from said breach. Alternatively, County may purchase the required insurance, and without further notice to Developer, County may deduct from sums due to Developer any premium costs advanced by County for such insurance. These remedies shall be in addition to any other remedies available to County.