

**CITY OF NEVADA CITY**

**MEMORANDUM**

TO: The Honorable City Council

FROM: Gene Albaugh, City Manager

DATE: September 22, 2010

SUBJECT: Funding for Acquisition of Sugar Loaf Mountain and Consideration of Alternative Projects if County Refuses to Consider Early Request for Funding of \$71,000 from Collected County Recreation Mitigation Fees

**RECOMMENDED ACTION:**

Review attached correspondence and provide direction to staff on how to proceed.

**BACKGROUND INFORMATION:**

Sales agreement: For many years, the City has sought to acquire Sugar Loaf Mountain to preserve it as the iconic scenic back drop to the City and to provide opportunities for convenient passive recreation usage. The long drawn out negotiations finally came to fruition when on June 24, 2010, the City submitted a limited time offer (prompted by the deadline for expenditure of Prop 40 funds) to purchase the Sugar Loaf property for the appraised value of \$450,000 subject to certain contingencies, even though the lowest sales price previously mentioned was \$1,250,000, and that offer was accepted with only slight modifications finally agreed upon after a closed session at the regular meeting on July 14, 2010 (see confirmation of agreement attached)

Clearing title: Since that time, staff and the owners of the Sugar Loaf property contacted Placer Title to open an escrow, ordered an updated Title Report, paid tax arrearages, and have been working to resolve the contingencies and conditions clearing title so that the purchase can be consummated as soon as possible. One of the last hurdles for the owners is securing probate court approval of the sale as to the half ownership owned by the Estate of Archibald M. Mull, Jr. A hearing for such approval has been scheduled for September 29, 2010. The City has been advised that the probate court appraiser reviewed the City appraisal and found it reasonable and that on August 30, 2010, formal approval was given by the probate court referee (an independent appraiser employed by the court) that the sale price was acceptable. All indications are that the sale will be approved and the owners will be ready to close by the end of September. They have financial obligations and desire to close as soon as possible (probably a prime factor in their agreeing to sell at this time).

Funding: The City contemplated financing the purchase of the Sugar Loaf property in part with Prop 40 funds from the State (for recreation and open space) that need to be expended by March of 2011 or lost and part from County recreation Mitigation Fees. The accepted City offer to purchase was expressly made subject to the following contingency:

“It is contemplated that portions of the funding for the purchase will come from State Prop 40 funds and County Recreation Mitigation fees available to the City for qualified projects, so that completion of the purchase is contingent upon the State and County approving and providing adequate funding for the purpose of completing purchase of the subject property.”

The City has applied for and is actively pursuing securing the full unallocated balance of \$379,255 in Prop 40 funds available to the City for the purchase. State representatives have made a site visit and given very favorable reactions to the application. Staff is very optimistic that the State funding will be approved if the City can come up with the balance of the purchase price.

It was hoped that the City could secure the balance of \$71,000 from available County Recreation Mitigation Fees collected for the Grass Valley/Nevada City area in view of the passive recreation activities that could be accommodated once the property was acquired by the City. This seemed reasonable because the County had previously considered and unanimously approved a joint request of Grass Valley and Nevada City for allocation of Quimby/AB 1600 Recreation Mitigation Funds for projects including “Sugar Loaf Mountain purchase or easement acquisition \$250,000” (see Minutes of 5/25/2004 meeting, pg. 630, attached). When City staff made a preliminary inquiry about availability of funds, it was advised on March 24, 2010 that the Nevada City Recreation Mitigation Fund had a current available balance of \$317,617 and the Capital Improvement Expenditure Plan (CIEP) table adopted by the Board of Supervisors to be used when reviewing applications for funding showed \$200,000 as being earmarked for “Land Acquisition” in fiscal years (FY09/10-FY13/14) (see attached copy of e-mail to Dawn Zydonis from Larkyn Feiler of the County Advance Planning Division).

The aforementioned e-mail also reflected a potential procedural problem. It advised that the prior Board approval of funding to purchase Sugar Loaf Mountain was “...no longer active” (though staff cannot locate any formal Board action or any prior notice to City to this effect) and that requests for funding should be by an application during the annual allocation process next providing for applications in November/December of 2010. Staff made preliminary inquiries as to how to get special consideration for an early application for Sugar Loaf funding due to the special circumstances involved. They were advised that the request would have to go through the County Executive Officer and the Board. On August 24, 2010, I wrote a letter to CEO Rick Haffey requesting early consideration of a request for County Recreation Funds for the balance of the Sugar Loaf purchase price (copy attached). Mr. Haffey responded by a phone call and follow-up letter that the proper way to make that request would be for the Mayor to send a letter to the Chair of

the Board of Supervisors. Such a letter was drafted and sent on August 31, 2010, hoping the request would be agendized for Board consideration (copy attached).

On September 13, 2010, staff got a copy of a letter misdated August 9, 2010, from Chairman Beason to Mayor Bergman expressing concern that the City's "...request will not meet the Board's criteria for AB 1600 grants and would circumvent a competitive process that was created to impart greater fairness in the granting of funds...", stating he cannot support use of AB 1600 funds for acquisition of Sugar Loaf, and, by omission of mention, refusing to even agendize the matter for consideration by the full Board other than as part of the "competitive process this fall, if alternative matching funds do not materialize..." (copy attached). Staff has looked for other funding, but is not hopeful of being able to secure it, especially without creating a cash flow problem for the City's already strapped budget.

Unless such funds are located, consideration needs to be given to whether alternative projects for the Prop 40 funding should be considered so the City doesn't lose all of the \$379,255 in Prop 40 funding.

**FISCAL IMPACT:** Undetermined at this time.

cc: Hal DeGraw, City Attorney  
Catrina Andes, Director of Finance

## STAFF REPORT

**DATE:** September 13, 2010

**TO:** Gene Albaugh, City Manager

**FROM:** Dawn Zydonis, Parks & Recreation Supervisor  
Bill Falconi, City Engineer

**SUBJECT:** Proposition 40 Funding

**RECOMMENDATION:** Consider the following projects if purchase of Sugarloaf Mountain is unattainable.

**BACKGROUND:** Per your request, the following is a list of projects that could be completed by December 31, 2010, if the acquisition of Sugarloaf Mountain is unsuccessful.

1. Purchase the house in the middle of Pioneer Park. The homeowner is willing to sell, understands that the City is unable to pay more than the appraised value and her name is the only name on the deed. The Recreation Committee has started the process for creating a Master Plan for Pioneer Park, at which time the City could determine the use of the house and/or property.
2. Purchase an AquaClimb for the swimming pool, so we have a feature at the pool. The diving board was taken out before the 2010 season due to safety concerns. The AquaClimb has been quoted at \$27,368.
3. The Historical Society has a plan for an addition at the Railroad Museum. The addition would add approximately 700 sq. ft of floor space to be used for additional exhibits, a small theatre that will feature local transportation videos, and archival research area, and much needed museum storage. The estimated cost of this project is \$141,300.
4. A wooden floor in Great Room of the Miner's Foundry. The Miner's Foundry receives requests for space to do yoga, dance classes and other recreational programs. These instructors prefer or need a wooden floor for these types of activities. Weekdays the Foundry is largely under utilized and this would be a great addition to the facility. The estimated cost of this project is \$30,000.
5. Picnic Tables for the Upper Picnic Area at Pioneer Park. 10 concrete picnic tables at the upper picnic area would cost approximately \$12,000.
6. Possible Penzance Park improvements; retaining wall and sign. Estimated to cost \$8,050.



# City of Nevada City

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July 15, 2010

Kriss Halpern, Esq.  
Nevada City Sugar Loaf Properties, LLC  
1021 Fifth Street, Suite 209  
Santa Monica, CA 90403  
FAX (310) 395-4786

Re: Confirmation of Agreement to Purchase Sugar Loaf Property

Dear Mr. Halpern:

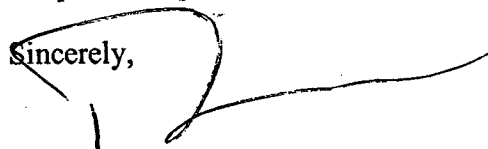
This letter is being written to summarize the main points of the agreement of Nevada City as purchaser to buy and you and Mr. Mull as representatives of the record owners, Nevada City Sugarloaf Properties LLC and Estate of Archibald M. Mull Jr., to sell to the City of Nevada City that property commonly known as Sugarloaf Mountain consisting of approximately 30.6 acres located at 10730 N. Bloomfield Road, Nevada City, CA (APN; 36-020-26, 36-020-26-001, 36-020-26-002) for Four Hundred Fifty Thousand Dollars (\$450,000.00) – the full current fair market value of said property pursuant to the Appraisal by Daniel R. Ketcham dated April 28, 2010 -- subject to the following conditions and contingencies:

1. Sellers shall use their best efforts to secure and transfer to City a deeded easement across the contiguous property to the north (property of McCoy APN 35-020-47) sufficient for legal public access to the subject parcel along the existing access road.
2. Title transferred shall be fee simple, free of all assessments, liens and encumbrances, other than current assessments and taxes not yet due, and Sellers shall secure and provide the necessary authorizations for transfer by the LLC and the Estate, sufficient to enable City to secure, at its own expense, a Final Title Report with litigation guarantee showing full and title being transferred to City.
3. It is contemplated that portions of the funding for the purchase will come from State Prop 40 funds and County Recreation Mitigation Fees available to the City for qualified projects, so that completion of the purchase is contingent upon the State and County approving and providing adequate funding for the purpose of completing purchase of the subject property.

4. To the extent that the Estate of Archibald M. Mull Jr. has an ownership interest to be transferred, it is understood that confirmation of the agreement of sale by the probate court in Sacramento will need to be sought, so that completion of the sale is contingent upon that approval being obtained.
5. It was agreed that after transfer of title, the sellers would enjoy the same access to the property as the public at large and that requests by the sellers for City approval of their use of the property for special events will be given due consideration and a good faith response.

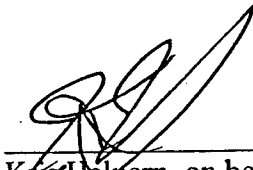
It is understood that time is of the essence because if this purchase is not completed, alternative projects must be found, approved and completed by the end of the year to avoid loss of Prop 40 funding. Therefore, the parties intend to proceed to open escrow and to close as soon as possible. The City Council for Nevada City approved this agreement as reported out of closed session at the end of the regular meeting on July 14, 2010. At that time you also approved this agreement on behalf of the owners, the LLC and the Estate (subject to probate court approval per #4, supra).

Sincerely,

  
Robert Bergman  
Mayor

Confirmed and agreed to:

Dated: 7/16/2010

  
\_\_\_\_\_  
Kriss Halpern, on behalf of Nevada  
City Sugar Loaf Properties, LLC and  
& for George Mull, Administrator of  
The Estate of Archibald M. Mull, Jr.

cc: Andy Cassano  
Gene Albaugh, City Manager  
City Council  
Hal DeGraw, City Attorney

Mr. Shulman interjected that the Board may want to adjust the fees, and if so, the Board would want it to return next week with the public hearing still open.

Chair Sutherland continued the public hearing until next week when this item will be brought back.

Supervisor Horne commented that the unbillable hours drove up the hourly rate significantly, and a much closer look had to be taken of the efficiencies of the departments. She did not believe increasing the fees each year was a workable solution and would like to see some alternatives.

Board discussion ensued.

**MOTION:** Motion made by Supervisor Horne, seconded by Supervisor Van Zant, to direct staff to take a second look at this and see if there were some alternatives that could be proposed to the Board and to bring this back next week during the budget workshop, and to continue the public hearing to Tuesday, June 1, 2004, at 1:30 p.m. On a roll call vote, the motion passed unanimously.

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Following a short recess, Chair Sutherland called the meeting to order.

**INDIVIDUAL BOARD MEMBER ITEM:**

41. Request to support the city of Grass Valley and the city of Nevada City's request for allocation of \$427,759 in Quimby/AB 1600 Recreation Mitigation Funds in the Grass Valley and Nevada County Recreation Mitigation Fund accounts (1626/1627) for recreation projects in the cities of Grass Valley and Nevada City as follows: 1) Memorial Park Tennis Court Resurfacing \$40,000; 2) Minnie Park Playground Renovation \$75,000; 3) Grass Valley Skateboard Paving and Utilities \$39,000; 4) Sugar Loaf Mountain purchase or easement acquisition \$250,000; 5) Pioneer Pool Thermal Covers and Storage Reel \$10,921; and 6) Pioneer Pool Heater \$12,838, and direct staff to prepare resolutions and agreements necessary to disburse the funds. (Supervisor Bedwell)

**ACTION TAKEN:** Supervisor Drew Bedwell introduced the agenda item. Mr. Pat Ward, Board Analyst, reviewed the staff report and concluded that the request was for the Board to consider the intent to allocate these Quimby funds from this account.

Board discussion ensued.

Chair Sutherland called for public comment.

Ms. Margaret Urke, Executive Director of CABPRO, believed the purpose of these fees was for capital improvements and could not be used for maintenance. She requested this issue be addressed. Supervisor Van Zant responded that all of the project descriptions will have to be refined and reviewed by County Counsel to see if it meets the letter of the law, and if something fell out, then the money would have to be used for something else and would have to come back before the Board and the cities.

Ms. Dee Mautino, City of Grass Valley Council member, addressed the Grass Valley projects as being capital improvement projects.

**MOTION:** Motion made by Supervisor Bedwell, seconded by Supervisor Van Zant, to prepare a letter of intent to approve the allocation of Quimby AB 1600 Recreation Mitigation Funds as requested by the cities of Grass Valley and Nevada City, and direct staff to prepare the resolutions and agreements necessary to disburse the funds and clarify the validity of the requests. On a roll call vote, the motion passed unanimously.

## Hal DeGraw

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**From:** Dawn Zydonis  
**Sent:** Monday, June 28, 2010 12:58 PM  
**To:** Hal DeGraw  
**Subject:** FW: Nevada City Recreation Mitigation Fund  
**Attachments:** CIEP Table 10.pdf

FYI

### **Dawn Zydonis**

Parks & Recreation Supervisor  
City of Nevada City  
317 Broad St.; Nevada City, CA 95959  
530-265-2496 x129  
[www.nevadacityca.gov](http://www.nevadacityca.gov)

**"Parks Make Life Better"**

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**From:** Larkyn Feiler  
**Sent:** Wednesday, March 24, 2010 2:13 PM  
**To:** Dawn Zydonis  
**Subject:** Nevada City Recreation Mitigation Fund

Dawn,

In response to your questions regarding the Nevada City Recreation Mitigation Fund:

1. The current available balance is \$317,617
2. Attached is the Capital Improvement Expenditure Plan (CIEP) table adopted by the Board of Supervisors. The CIEP is used when reviewing applications for Recreation Mitigation Funding during the annual allocation process.
3. The following schedule provides information on the next annual allocation process:
  - o November/December 2010 – RFP released
  - o January/February 2011 – Applications reviewed and scored
  - o March/April 2011 – Recommendations to the Nevada County Budget Subcommittee
  - o June 2011 – Public Hearing for consideration of projects to be included in Fiscal Year 2011/12 Budget
  - o June/July 2011 – Funding Contracts considered for approval

Our annual allocation process provides a framework for considering requests for Recreation Mitigation Funding one time each year. The Motion of Intent made by the Board of Supervisors in 2005 to allocate \$250,000 to Nevada City for purchasing parkland on Sugarloaf Mountain is no longer active. Please submit an application during the annual allocation process in order for this project to be considered by the Board of Supervisors.

Cordially,  
Larkyn

### **Larkyn Feiler**

Advance Planning Division  
Nevada County CDA  
950 Maidu Avenue, Suite 170  
Nevada City, CA 95959  
Phone: 530.265.1254  
Fax: 530.265.9851

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**TABLE 10**

**Grass Valley/Nevada City Capital Improvement Expenditure Plan**

Neighborhood and Community Parkland Needs:

Recreation Land Needs = 13.95 acres

Projected Funding for Years 1 - 17 = \$ 1,534,218

Years 1 - 5 (FY98/99 - FY02/03)		GRANTEE	TOTAL
<b>1</b>	<b>Acquisition of Additional Recreation Acreage</b>		<b>0</b>
<b>2</b>	<b>Associated Land Improvements <sup>(1)</sup></b>		<b>0</b>
<b>3</b>	<b>Multi-Purpose Fields</b>		<b>\$25,000</b>
	Rotary Multipurpose Field Fencing	Sierra College	\$25,000
<b>4</b>	<b>Picnic Units</b>		<b>0</b>
<b>5</b>	<b>Tennis Court</b>		<b>\$50,000</b>
	Mulcahy Park Tennis Court	Grass Valley	\$50,000
<b>6</b>	<b>Two Baseball / Softball Fields with lights</b>		<b>0</b>
<b>7</b>	<b>Community Building</b>		<b>0</b>
<b>8</b>	<b>Children's Playground</b>		<b>\$22,600</b>
	Deer Creek School	Nevada City	\$10,000
	Pioneer Park Playground Equipment	Nevada City	\$12,600
<b>9</b>	<b>Other Optional Recreational Improvements</b>		<b>\$211,000</b>
	Skate Park located in Condon Park	Grass Valley	\$50,000
	Condon Park Adventure Playground Skate Park	Grass Valley	\$15,000
	Kidder Train Museum	Railroad Museum	\$50,000
	Roof Repair	St. Joe's Cultural Center	\$75,000
	Memorial Park Pool Improvements	Grass Valley	\$21,000
<sup>(1)</sup> Access, septic installation, water systems, etc.		<b>Years 1 - 5 Total</b>	<b>\$308,600*</b>

\*This total is the actual revenue expended over Years 1 - 5.

Years 6 - 11 (FY03/04 - FY08/09)	GRANTEE	TOTAL
<b>1 Acquisition of Additional Recreation Acreage</b>		<b>0</b>
<b>2 Associated Land Improvements <sup>(1)</sup></b>		<b>\$25,338.90</b>
Skate Park Paving and Utilities	Grass Valley	\$25,338.90
<b>3 Multi-Purpose Fields</b>		<b>\$50,000</b>
Hooper Stadium Synthetic Turf	NUHS District	\$50,000
<b>4 Picnic Units</b>		<b>\$19,250</b>
Memorial Park Picnic Area	Grass Valley	\$17,500
	10% Adm. Fee	\$1,750
<b>5 Tennis Court</b>		<b>0</b>
<b>6 Two Baseball / Softball Fields with lights</b>		<b>0</b>
<b>7 Community Building</b>		<b>\$9,350</b>
GV Veterans Memorial Building	Nevada County	\$6,050
NC Veterans Building	Nevada County	\$3,300
<b>8 Children's Playground</b>		<b>\$74,536</b>
Minnie Park Playground Improvements	Grass Valley	\$24,000
Mautino Park Playground	Grass Valley	\$45,900
	10% Adm. Fee	\$4,636
<b>9 Other Optional Recreational Improvements</b>		<b>\$151,948.80</b>
Skate Park Paving and Utilities	Grass Valley	\$11,126
Pioneer Park Pool Cover & Heaters	Nevada City	\$23,759
Nevada Theatre HVAC System	Nevada Theatre Com.	\$42,624.20
Pioneer Park Pool Filter	Nevada City	\$34,431
	10% Adm. Fee	\$3,443
Seven Hills Field Renovation	Seven Hills School	\$20,000
	10% Adm. Fee	\$2,000
Tobiasen Park Trail	Nevada County	\$14,565.60
	<b>Years 6 - 11 Total</b>	<b>\$330,424 *</b>
	<b>Grand Total</b>	<b>\$639,024</b>

<sup>(1)</sup> Access, septic installation, water systems, etc.

\*This total is the actual revenue expended over Years 6 - 11.

Years 12 - 17 (FY09/10 - FY13/14)		Estimated Expenses
1	Athletic Fields (Baseball, softball, soccer, football, etc.)	\$126,033
2	Children's Playground	\$44,000
3	Community Building	\$233,000
4	Community Garden	0
5	Land Acquisition	\$200,000
6	Land Improvements (restroom, parking lot, drinking fountain, utilities, etc.)	\$227,143
7	Outdoor Courts/Gymnasium (basketball, volleyball, tennis, etc.)	\$27,996
8	Performance Stage (indoor/outdoor)	0
9	Picnic Area Improvements (shade structure, tables, benches, barbeques, etc.)	\$2,494
10	Play Area (horseshoe pits, bocce ball, fishing dock, etc.)	\$5,500
11	Non-motorized Trails (pedestrian, equestrian, bikeway, multi-use, etc.)	\$29,028
12	Special Use Areas (disc golf, equestrian arena, dog park, skate park, etc.)	0
13	Swimming Pool	0
<b>Years 12 - 17 Total</b>		<b>\$895,194*</b>

\*This total includes projected revenue anticipated over the next five years.

Note: Allowable expenditures may be re-designated to another expenditure period by amendment of this plan. The list of allowable expenditures can also be expanded/deleted by amendment of this plan.



# City of Nevada City

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August 24, 2010

Mr. Rick Haffey  
County Executive Officer  
County of Nevada  
950 Maidu Drive  
Nevada City, CA 95959

Re: Request for County Recreation Fees for Purchase of Sugar Loaf Mountain

Dear Rick:

As you have probably heard, the City of Nevada City has reached an agreement with the owners to purchase 30.6 acres including Sugar Loaf Mountain, the scenic backdrop to Nevada City. This agreement followed many, many years of inquiries and negotiations, but when it happened things moved quickly. Because time was running out on using Prop 40 grant funds for the purchase, the City submitted an offer on June 24<sup>th</sup> (open only until July 2<sup>nd</sup> to allow time to select an alternative project) to purchase the Sugar Loaf property for \$450,000, subject certain contingencies, even though the lowest prior sales price mentioned by the owners was \$1,250,000. Candidly, we were a little surprised when the offer was accepted with only slight modifications. The owners are currently working on clearing the title and getting court approval of sale of the half interest owned by the Archibald Estate. They now have a probate hearing date of September 29<sup>th</sup> and have expressed a desire to close as soon as possible after they get the anticipated approval.

For its part the City is looking to finance the purchase in part with Prop 40 funds (for recreation and open space) that need to be expended by March of 2011 or lost and part from County Recreation Mitigation Fees. The accepted City offer to purchase was expressly made subject to the following contingency:

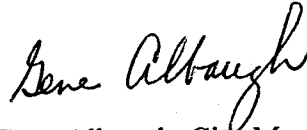
“It is contemplated that portions of the funding for the purchase will come from State Prop 40 funds and County Recreation Mitigation Fees available to the City for qualified projects, so that completion of the purchase is contingent upon the State and County approving and providing adequate funding for the purpose of completing purchase of the subject property.”

The City has applied for and is actively pursuing \$379,000 in Prop 40 funding, with very favorable responses so far. It was hoped that the City could secure the balance of \$71,000 from available County Recreation Fees in view of the passive recreation activities that could be accommodated once the property was acquired. When the City

made preliminary inquiries this year into receiving funding from the Nevada City Recreation Mitigation Fund, we were advised that the current available balance was \$317,617, but that the Motion of Intent by the Board of Supervisors in 2005 to allocate \$250,000 to Nevada City for purchasing parkland on Sugarloaf Mountain is no longer active. Further, our Parks & Recreation Supervisor was advised that the process for requesting County Recreation Fee funding had changed so that applications were to be submitted in November/December of 2010 for possible funding in June/July 2011. This, of course, is long after the date we would anticipate for close of escrow and even after the final date by which Prop 40 funds must be expended or lost.

An initial inquiry was made of the Planning Director as to whether the County would consider an earlier request for County Recreation Funds in light of the circumstances. She indicated there was nothing she could do and suggested that we contact you and Supervisor Beason. As long as the funds are available, it would be desirable to have the Board consider a request for funding of the balance of the purchase price ahead of its normal request period so that the purchase is not jeopardized. We'd appreciate an opportunity to meet and discuss the possibilities.

Sincerely,

A handwritten signature in cursive script that reads "Gene Albaugh". The signature is written in black ink and is positioned above the typed name.

Gene Albaugh, City Manager



# City of Nevada City

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August 31, 2010

Mr. Nate Beason, Chair  
Nevada County Board of Supervisors  
950 Maidu Ave.  
Nevada City, CA 95959

Re: Request for Special Consideration of County Recreation Fees for Purchase of Sugar Loaf Mountain

Dear Mr. Beason:

Nevada City is on the verge of realizing a long-standing dream of acquiring Sugar Loaf Mountain to preserve this scenic backdrop to the City. It is anticipated that the major share of the purchase price will come from State Prop 40 grant funds available to Nevada City for acquisition of open space and recreation property. The City has applied for and is actively pursuing \$379,000 in Prop 40 funding, with very favorable responses. The County Board of Supervisors is in the position of being able to help the City seal the deal by providing the balance of the purchase price from County Recreation Funds collected and held by the County.

The City is informed that there are adequate funds available, the reported current available balance in the Nevada City Recreation Fund being \$317,617 as of March 24, 2010. The proposed use of funds to purchase 30+ acres including Sugar Loaf Mountain just outside the City boundaries is an excellent use of County Recreation Funds and I understand that the Board previously approved \$250,000 of those Funds for "Sugar Loaf Mountain purchase or easement acquisition". That use is still consistent with the Capital Improvement Expenditure Plan adopted by the Board which assigns \$200,000 in estimated expenses for FY09/1- - FY13/14.

I am writing this letter to you as Chair of the Board at the suggestion of City and County staff because we understand that the County is treating the prior allocation of funds for purchase of Sugar Loaf as being no longer active and has established a schedule for annual allocations involving RFPs in November/December 2010 with consideration for approval in June/July 2011. The City is in the process of clearing contingencies and opening an escrow for sale that we hope will close shortly after the hearing for Probate Court approval of the sale scheduled for September 29, 2010. It is also desirable to close this escrow and complete the sale so that we meet the timelines for expenditure of Prop 40 funds, which will be lost if not expended. Nevada City therefore requests special consideration outside the established funding cycle of an allocation of \$71,000 from County Recreation Fees to fund the balance of the \$450,000 agreed-upon purchase price for the 30+ acres including Sugar Loaf.

To provide you a little further background, after many, many years, going back before 2004 when the County originally approved funding, Nevada City has been making inquiries and negotiating to purchase Sugar Loaf. However, when we finally reached an agreement with the owners to purchase 30.6 acres including Sugar Loaf Mountain, things moved quickly. Because time was

running out on using Prop 40 grant funds for the purchase, the City submitted an offer on June 24<sup>th</sup>, open only until July 2<sup>nd</sup>, to purchase the Sugar Loaf property for \$450,000, subject certain contingencies, even though the lowest prior sales price mentioned by the owners was \$1,250,000. Concurrently we commenced discussions on alternative projects for the Prop 40 funds. Candidly, we were pleasantly surprised when the offer was accepted with only slight modifications. The owners are currently working on clearing the title and getting court approval of sale of the half interest owned by the Archibald Estate. They now have a probate hearing date of September 29<sup>th</sup> for which they have formal approval of the probate court referee and have expressed a desire to close as soon as possible after they get the anticipated approval.

For its part, the City does not have the funds to complete the purchase on its own. From the start, it was looking to finance the purchase in part with Prop 40 funds (for recreation and open space) that need to be expended by March of 2011 or lost and part from County Recreation Mitigation Fees. The accepted City offer to purchase was expressly made subject to the following contingency:

“It is contemplated that portions of the funding for the purchase will come from State Prop 40 funds and County Recreation Mitigation Fees available to the City for qualified projects, so that completion of the purchase is contingent upon the State and County approving and providing adequate funding for the purpose of completing purchase of the subject property.”

Initial inquiries of County staff resulted in responses that there was nothing that they could do to schedule consideration of an early approval of the allocation of the purchase price balance of \$71,000 from available County Recreation Fees. Rather they suggested that we contact you directly. In view of the open space values that could be protected and the passive recreation activities that could be accommodated once the property was acquired and as long as the funds are available, it would be desirable to have the Board consider a request for funding of the balance of the purchase price ahead of its normal request period so that the purchase is not jeopardized.

Feel free to contact me or any members of City staff with any questions you may have. Your thoughtful consideration of and prompt response to this request would be appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read 'Robert Bergman', with a long horizontal line extending to the right.

Robert Bergman, Mayor

cc: Gene Albaugh, City Manager  
Rick Haffey, County Executive Officer  
Jory Stewart, County Planning Director  
Dawn Zydonis, Parks & Recreation Supervisor

# COUNTY OF NEVADA

STATE OF CALIFORNIA

950 Maidu Avenue, Suite 200 • Nevada City, California 95959-8617

## BOARD OF SUPERVISORS

Nate Beason, 1st District (Chair)  
Ed Scofield, 2nd District (Vice Chair)  
John Spencer, 3rd District  
Wm. "Hank" Weston, 4th District  
Ted S. Owens, 5th District



Telephone: (530) 265-1480

Fax: (530) 265-9836

Toll-Free Telephone: (888) 785-1480

Cathy R. Thompson  
Clerk of the Board

E-Mail: [bdofsupervisors@co.nevada.ca.us](mailto:bdofsupervisors@co.nevada.ca.us)  
Web: [www.mynevadacounty.com/clerkofboard](http://www.mynevadacounty.com/clerkofboard)

August 9, 2010

Mayor Robert Bergman  
City of Nevada City  
317 Broad St.  
Nevada City, CA 95959

Dear Mayor Bergman,

This is in response to your letter of August 31<sup>st</sup> in which you request county AB 1600 Park and Recreation Mitigation Fees to serve as matching funds to a possible Proposition 40 grant with which to purchase open space of approximately 30 acres on Sugar Loaf Mountain.

County AB 1600 Park and Recreation fees are collected in the unincorporated areas and are allocated to capital projects in three benefit zones. Nevada City is a component of the Grass Valley-Nevada City Benefit Zone. This zone consists of approximately one third of western Nevada County. The overarching criterion for granting of funding for a project is the expansion of recreation opportunities for the public. Project submissions are evaluated on an annual basis in a competitive process in which they are scored, compared, and ranked in priority order. A project may receive full funding, partial funding, or no funding, depending on its relative merit.

Once projects are proposed and tentatively approved, the Board of Supervisors will pass a motion of intent to fund them. Staff then works with the applicants on a funding agreement. Once the projects are completed, the Board takes a final action on funding of the specific projects if the criteria of the grant have been met. Each annual cycle is independent. Once final action has been taken, the cycle begins anew. No projects or funds are "banked." Historically, the Board has given preference to active recreation projects. In fact, no land acquisition project has been approved through final action since the fee study program was adopted in 1997.

I am concerned that your request will not meet the Board's criteria for AB 1600 grants and would circumvent a competitive process that was created to impart greater fairness in the granting of funds. Almost certainly, such a departure would create a perception of favoritism among other potential applicants and the public at large and place my colleagues on the Board in an awkward position by exposing them to unnecessary criticism.

*Thank you for your letter.*

The fact that no land acquisition request has received funding during the life of the program is indicative of the priority that the Board places on projects that create proximate, active recreation opportunities. The marginal utility of acquiring more open space in an area that abounds in open space or other passive recreation opportunities, in reality, creates no practical, effective expansion of recreational opportunities that could justify the expenditure.

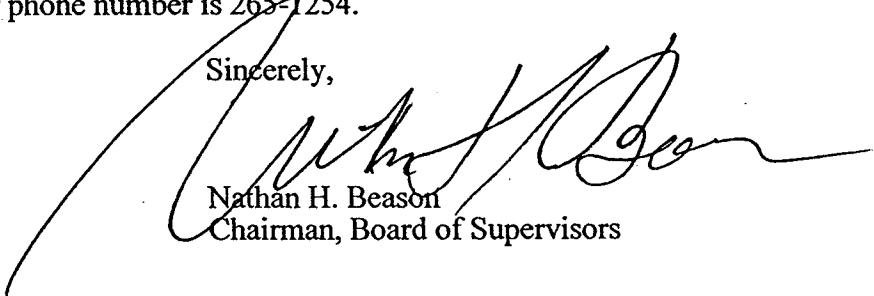
Future funding is another concern for the AB 1600 recreation program in general. As a consequence of the recession, revenue has dropped 90 per cent- from \$32,000 per year to \$3,200.00 per year. This revenue stream makes the program potentially unsustainable beyond the next 3-5 years, with no significant improvement in sight, and requires that the Board husband the taxpayers' assets even more carefully and look for the highest quality projects that provide the most substantial benefit to the community.

With respect to your comments regarding the purchase contingency that includes specification of county matching funds, this was a choice based solely on a presumption made by the city council and without consultation with the County. There is ample latitude in the Brown Act that allows communication with the County as a potential source of funding without violating confidentiality provisions of the proposed contract. I regret that the first time county personnel learned of your proposal to use county AB 1600 funds in the purchase was through an article in the local newspaper.

I certainly interpose no objection to the city's acquisition of real property for open space. In fact, I applaud your efforts. Unfortunately, as a county supervisor, I cannot support the use of AB 1600 funding for the reasons stated above. I encourage you to work with the seller of the Sugar Loaf property to find an accommodation that would allow you to enter the competitive process this fall, if alternative matching funds do not materialize. Although there is no guarantee of success, such an action might remove a major impediment to your request.

If you have questions about the process, Larkyn Feiler in Planning is available to answer any specific questions you may have. Her phone number is 265-1254.

Sincerely,



Nathan H. Beason  
Chairman, Board of Supervisors

cc: Jory Stewart



# City of Nevada City

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## CITY OF NEVADA CITY

### MEMORANDUM

**TO:** Honorable City Council Members

**FROM:** Gene Albaugh, City Manager

**DATE:** September 22, 2010

**SUBJECT:** Instructions from City Council Concerning Nevada City Pioneer Cemetery and the Nevada Cemetery District

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#### **BACKGROUND AND DISCUSSION:**

The Nevada Cemetery District (western Nevada County) has prepared an offer to accept Nevada City Pioneer Cemetery into its roster of 25 historic cemeteries owned and maintained by the Nevada Cemetery District. I have attached the draft working proposal for your Council's review and instruction to staff.

The City presently does not specifically budget funds for the annual maintenance of Pioneer Cemetery and has most recently relied on volunteers, somewhat randomly, for maintenance of the cemetery.

#### **RECOMMENDATION:**

Consider the Nevada Cemetery District proposal and provide instruction to city staff.

attachments

## Nevada City Pioneer Cemetery

Assessor Parcel Number: 05-073-07-000

Owner: City of Nevada City

Established: 1851

Size: 1.84 acres +/-

**Known, documented burials:** 77 +/- - See attached list from the Nevada County Historical Society.

**Conditions:** Pioneer Cemetery has been in a general state of disrepair at minimum since the 1950's. Several attempts have been made by the City and others (Native Sons/Daughters, Rotary) to restore the dignity of the cemetery but have been generally unsuccessful due to the ongoing need for maintenance and the downward spiral of overall conditions and long term finances. This cemetery is a non-endowment cemetery and there are no continuing burials being made which could provide a source of endowments or ongoing revenues.

**Issue:** Nevada City does not have the financial resources or staffing to maintain the cemetery on an ongoing basis. Estimated cost of maintenance and repairs to the cemetery would be in excess of \$4,000 annually. There is an immediate need to replace all or at least a portion of the fence in order to comply with the California Health and Safety Code.

**Possible Solution:** The Nevada Cemetery District is a special district organized in 1943 to own, maintain and preserve public historic cemeteries in western Nevada County. The District is governed by a Board of Trustees and has three (3) fulltime employees and one ¾ time employee. The District is partially tax supported and in some of it's' cemeteries still accepts interments, offers plots and other burial services.

The eastern portion of Nevada County is served by the Truckee Cemetery District.

District needs if it were to acquire and maintain the Pioneer Cemetery:

- a) To avoid gift of district resources issues, the district would need for Nevada City to deed the Pioneer Cemetery to the Nevada Cemetery District.
- b) The City of Nevada City would appropriate the sum of \$2,000 annually to be paid to the District on or before the First day of September beginning with the first year of the agreement and then for a period of 20 calendar years. This sum would be the total cash contribution to the District for maintenance of the Cemetery. The City may in its discretion pay the sum for future years in advance.
- c) The City of Nevada City acknowledges that there are no endowment funds and burial fees on deposit that can be remitted to the District for the past use of the Cemetery and that only current revenues of the District will be available for the immediate maintenance of the Cemetery. Therefore, in

consideration of such, the City agrees to waive any permit fees, encroachment permit fees, tree removal permit fees, water and sewer fees, road paving or realignment assessments or other such expenses and fees as may exist at this time or in the future for the maintenance or improvement of Pioneer Cemetery.

- d) If a single water hook up of 5/8 inch can be made to the cemetery without unreasonable expense or effort by the city, the City agrees to waive reasonable water usage charges.

The Nevada Cemetery District agrees to:

- a) Maintain the Pioneer Cemetery as a public, historic cemetery to the same standards as its other public cemeteries.
- b) Where permitted by law, open the cemetery for above ground placement of cremains in columbaria's, above ground scattering gardens, or common inurnment in appropriate ossuaries.
- c) No current or suspected graves will be disturbed by subsequent in ground burials except as may be authorized pursuant to the California Health and Safety Code.
- d) Annual City contributions will be accounted for and used for the maintenance, improvement and restoration of Pioneer Cemetery.
- e) In an effort to encourage the use of this historic cemetery by Nevada City residents, an amount of \$50 will be discounted off of burial services of persons who birth certificate show that they were born in Nevada City, and \$50 will be further discounted for burial services for those persons whose place of residence was Nevada City as the time of enlistment in the military services of

the United States. Evidence of honorable discharge will be required for this discount.

- f) The District will install an appropriate monument near the entrance to the Pioneer Cemetery that will memorialize the names of those historic persons known to be buried in the Cemetery.
- g) The anticipated format of District improvements will be to create a memorial and meditation walkway through the cemetery grounds and to otherwise retain the grounds as a historic cemetery.
- h) Notwithstanding the previous paragraph, historic mining equipment may be placed adjacent to the walkway as evidence of the occupation of many of the persons buried there in antiquity. Nevada City or its designee will be afforded the opportunity to approve or provide any such equipment to be placed.

**Financial Rationale:** Through the annual contribution of \$2,000 from the City, sale of space in the columbarium and establishment of scattering gardens and ossuary for disposal of cremains, the district would raise revenue to repair and maintain the required cemetery fence, create and maintain a meditation pathway, build and maintain columbaria, ossuary and scattering gardens, create an appropriate monument to the persons known to be buried there and maintain the grounds and trees in a safe condition.

Fence:	\$15,000
Columbarium:	\$25,000
Pathway, estimate:	\$5,000

Monument:	\$4,000
Cremains scattering garden:	\$4,000
Ossuary:	\$2,000
Estimated annual maintenance expense in 2010 dollars	\$4,500



# Census of Nevada City's Pioneer Cemetery

Note: Names with an asterisk are mentioned in the text.

William ABBOTT	—no inscription; no data	R. HILL	d. Sept. 18, 1902, aged 65 years
Franklin ANDERSON	d. Sept. 2, 1860, age 25 A native of Harden Co., Ill.	Evelyn HILL	d. Dec. 23, 1928, age 2 yrs, 8 mos, 22 days
*Geo. B. ARMSTRONG	of Almond, N. Y. d. Jan. 17, 1859, age 32	Geo. HINCH	b. Addington Co., Canada W. d. Sept. 15, 1860, age 26
Charles E. ASHBURN	1840-1917	*James T. HOEL	d. Sept. 10, 1864, 74 years
Willard C. AUSTIN	d. May 24, 1925, aged 69	Henry JEFFERSON	formerly of St. Andrews, Canada East d. Aug. 8, 1857, aged 32
Wm. B. BEAIRD	of Monroe Co., In. Born 1818, Died Dec. 8, 1853, age 36	*David JOHNSON	b. Philadelphia; d. Nov. 4, 1856, age 26
Herman H. BECK	d. Sept. 12, 1935, age 81	—Partial tombstone: The Children of W. P. & E. JONES	
*Vincenzo BEFFA	d. Dec. 22, 1866, age 39	*Ann Virginia	d. Sept. 7, 1857, age 10
*Richard BIGELOW	1874-1948	*Josephine	d. April 10, 1860, age 3 yrs, 6 mos.
Sara F. BIGELOW	1867-1941	*Nicholas KELLER	b. 1828; d. 1899; Native of Germany
Nora E. BIGELOW	1874-1949	Fredrick KELLER	b. 1868; d. 1868; 1 mo. old
	} one marker	*Rosa KELLER	d. 1899 "His Wife"
*Elizabeth, wife of J. M. BLACK	d. Dec. 4, 1868, age 41	*Edward KELSEY	d. Feb. 28, 1860, age 36
*James BOOTH	d. Nov. 3, 1865, aged 44, a Native of Baltimore	*Mrs. Isabella H. LOGUE	d. Feb. 2, 1867, age 31 yrs, 11 mos.
W. H. BROCK	b. Dec. 21, 1859; d. May 6, 1865	McARTHUR	—cement enclosure; no data
Joseph BROCK	1869-1939	*Henry MEREDITH	b. Va. 1826; Died in battle at Pyramid Lake, Nev., Utah Territory, 12th day of May 1860. His body buried here 16th day of June 1860.
Thomas BROCK	1832-1915		
M. W. BURNETT	age 46	Marshall MILLER	d. July 13, 1859, age 36 years
Wilson BURNETT	aged 5 mos., 3 days	Dr. Seth MONTAGUE	of Crawford Co., Ill., d. March 21, 1851, age 42
Wm. Ophir, son of Emerson and Hannah CAIN	d. Nov. 9, 1860; age 7 years, 11 months	Samuel C. MOORE	of St. Charles Co., Mo. d. Aug. 4, 1851, age 37
Thomas F. CAIN	son of E & H, d. Jan. 5, 1866, age 23 years	Emerson OPHIR	d. Aug. 18, 1863, age 46
—partial stone: Hannah,	aged 55 years	Joseph PENNELL	of Portland, Maine d. Aug. 26, 1853, "Age about 30 years"
*Ensign CHURCH	of Canfield, Ohio; d. June 18, 1857, age 33	*Harriet G. PIER	—no other inscription
*Mary A. CLARK	d. May 9, 1860, age 26	*John R. POOLER	d. Dec. 3, 1881, age 80 years
*Jean-Baptiste DUCRAY	d. March 20, 1890, age 65 years, 10 months	*John H. RAGON	d. May 26, 1928, age 69
*Julie Catherine, wife of J. B. DUCRAY	d. Aug. 1, 1890, } one aged 60	Cyrus ROWE	d. Dec. 12, 1858, aged 50 years
DULAC, see GILLET		*Aaron A. SARGENT	"Printer, Lawyer, Senator, Minister Plenipotentiary" b. Mass. 1828; d. S. F., Aug. 14, 1887
*Sergt. Theo. H. DUNLAP	Co. D 2 Kans. Cav. died Dec. 5, 1906	J. H. SCHELLHORN	d. April 10, 1861, age 67; Native of Germany
Mrs. Theo. H. DUNLAP	"Beloved Wife"	Albert, son of H. H. & E. SCHELLHORN	d. Sept. 29, 1865, age 31
*William ENDERLEIN	—cement enclosure; no data	*Sallie, daughter of T. W. & S. M. SIGOURNEY	d. May 5, 1864, aged 2 yrs, 3 mos.
*Sherman W. FLETCHER	Esq., Late D. A. of Nev. Co., Native of Mass., d. July 19, 1856, aged 24 years	*William Alphonse, son of General John SUTTER	d. Aug. 14, 1863, aged 31 years
*Thomas H. FOSTER	A native of Southampton, Long Island d. Feb. 5, 1856, age 25	*C. F. TAYLOR	1840-1923
O. P. GATES	Co. A 1st Me. Cav. —no other inscription	John H. TODD	Native of Paris, Ky. d. Dec. 1, 1852, age 44
*Felix GILLET	d. Jan. 27, 1908, age 72 years, 10 months	Kate TURNHAM	d. March 26, 1859, age 5 mos.; daughter of W. & L. Turnham
*Aveline V. DULAC	d. Jan. 10, 1911, age 3 months } one	Elijah WATERS	of Indiana; d. Sept. 17, 1854; age 35
*Julia T. DULAC	d. Feb. 8, 1913, age 44	WATSON	—cement enclosure; no other data
Samuel S. GREEN, Jr.	of Medford, Mass. d. April 19, 1854, age 36	David H. WILLIAMS	d. April 16, 1860; Native of Breconshire, So. Wales, age 46
Newton GROVER	d. Sept. 26, 1929, age 56	Robert YATES	d. March 19, 1854, age 63
Joseph S. HARRISON	—no inscription, no data		
*Peter HENDRICKSON	b. Albany, N. Y.; died in Nev. Co., July 19, 1856, aged 29		
*Louise, daughter of J. L. HERZINGER	d. Nov. 17, 1861, age 10 } one		
George, son of J. L. HERZINGER	d. Nov. 18, 1861, age 3 } one		

**CITY OF NEVADA CITY**  
**Memorandum**

**To:** Honorable City Council

**From:** Howard Schmitz Chief Plant Operator WWTP

**Date:** September 13, 2010

**Subject:** Deer Creek Stream Flow Monitoring

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**Recommended Action:**

Accept the bid from HydrosScientific West Inc. to install , calibrate, and monitor (12 calibration visits over the next 12 months) flow monitoring equipment near the discharge point of the Nevada City Wastewater Treatment Plant. It is also our recommendation that we accept the proposal from Ecologic Engineering to develop the Dilution Study Work Plan that will be submitted to the California State Water Resources Control Board.

**Background/Discussion:**

On January 23, 2009 the new NPDES permit was implemented for the continued operation of the Nevada City WWTP with effluent discharge into Deer Creek. Along with the effluent water quality limitations that were placed in the permit for immediate implementation there were 4 constituents added that the state deemed as posing "reasonable potential of violation" to the Clean Water Act. The state placed limitations on these constituents that must be met by June 1, 2012.

Nevada City has been working with Ecologic Engineering over the last 2 years developing and implementing the work plan to meet the State requirements. The strategy developed to meet with compliance requires accurate flow data of Deer Creek past the Wastewater Treatment Plant. Once the flow data is acquired this information will be assembled into a Dilution Study and submitted to the State. No accurate flow data has ever been available and consequently the state has set our discharge requirements as if we were the sole source of water to Deer Creek. With accurate flow data the levels of DCBM and Carbon Tetrachloride (none detected in our discharge over the past 2 years) should be below what the state considers "reasonable potential of violation". In this case the plant will meet State discharge requirements without further modification to the plant.

Two companies that specialize in non intrusive flow monitoring were contacted (Surface Water Data Inc. and HydroScientific West Inc.) and asked to submit bids. Upon reviewing the bids and the company's expertise, it was determined that the HydroScientific West Inc. proposal would be in the cities best interest.

**Fiscal Impact:**

The proposal from Hydroscentific West Inc. is in the amount of \$22,882 (\$22,394 plus \$488 for display) and the proposal from Ecologic Engineering is billed hourly with a not to exceed amount of \$14,500. In anticipation of these expenses and future expenses that will be incurred this year to meet the state requirements the City has budgeted \$100,000 this fiscal year.

cc: Gene Albaugh, City Manager  
Verne Taylor, Public Works Director  
William Falconi, City Engineer



# CITY OF NEVADA CITY

CALIFORNIA

Nevada City  
A Bicentennial  
Community

## Request for Placement of Item on City Council Agenda

**RECEIVED**

AUG 16 2010

City of Nevada City

Date of Request: 8/16/10

Preferred Date to be Agendized: 25 Aug

Second Choice of Date: 22 Sept

Name: Robin Wallace  
Co-chair of APCA-CA Nevada County chapter

Mailing Address for notification: Call  
(If different)

Address: 318 Nile St

Address: \_\_\_\_\_

City: Nevada City

City: \_\_\_\_\_

Telephone: 530-265-9397

Fax #: \_\_\_\_\_

Item to be agendized: (Give a brief summary of item. The item will be placed on the agenda using your specific wording.) Type or print legibly.

Support for SB 810 (Single payer Health Insurance for All Californians)

Verbal presentation only?  yes  no

Written material accompanying item:  yes  no (Must be submitted by agenda deadline for distribution). Number of handouts: \_\_\_\_\_ Number of pages: \_\_\_\_\_

Handouts at meeting:  yes  no

Will others be speaking on this item?  yes  no

Estimated number of speakers: 2

Estimated amount of time needed for discussion: 10 minutes

NOTE: NORMAL AGENDA ITEM REQUESTS DUE AT 5:00 PM MONDAY OF THE WEEK PRIOR TO CITY COUNCIL MEETINGS. ITEMS REQUIRING EXTENSIVE STAFF RESEARCH MAY REQUIRE EARLIER SUBMITTAL.