CONSULTANT AGREEMENT

THIS AGREEMENT, made and entered into this 15 day of January, 2009 by and between the **COUNTY OF MARIN**, a political subdivision of the State of California, hereinafter referred to as "County" and **NICHOLS – BERMAN ENVIRONMENTAL PLANNING**, hereinafter referred to as "Consultant".

WITNESSETH:

In consideration of the mutual promises as hereinafter contained, the parties hereto agree as follows:

1. Consultant Services, Time of Performance, and Compensation. County agrees to engage Consultant and Consultant hereby agrees to perform those services, generally described as **preparation of an Environmental Impact Report (EIR) for the "Easton Point Residential Development Project,"** in compliance with State CEQA Guidelines and County EIR procedure, during the time of performance as specified in Exhibit "A" attached hereto and by this reference incorporated herein.

2. Other Contract Provisions. Other contract provisions, including work by subcontractors, individuals assigned to the project, and schedule of due dates are set forth in Consultant's proposal attached hereto as Exhibit "A".

3. Consultant is qualified and desirous of performing the tasks herein set forth and shall perform the services in a manner compatible with the standard of Consultant's profession.

4. In consideration of Consultant's agreement to perform well and sufficiently and in a skillful and professional manner the services contemplated herein, County agrees to pay and Consultant agrees to accept as full payment for the actual time spent in accomplishing the approved work, a total sum not to exceed $248,470.00 for completion by Consultant and approval by County of all work tasks identified in Exhibit "A" payable monthly upon receipt of appropriate billing from the Consultant.

5. Consultant as Independent Contractor. It is specifically understood and agreed that Consultant (his agent or employee) is not an agent or employee of the County of Marin but is an independent contractor not subject to the direction and control of the County except as to final result. Consultant shall be solely liable and responsible to pay all required taxes and other obligations, including, but not limited to, withholding and Social Security. Consultant agrees to indemnify and hold the County harmless from any such liability, which it may incur as a consequence of this contract.

6. Discrimination. In the performance of the terms of this agreement, Consultant shall not engage in nor permit others he may employ to engage in discrimination in the employment of such persons based on race, color, religion, nationality, sex, sexual preference, age, or handicapped conditions.

7. Reproduction, Copying Costs. Consultant shall be responsible for all reproductions, reporting, copying, mailing costs necessary for submittals to the County as specified in Exhibit "A". Consultant shall not be responsible for costs of reproduction, mailing, clerical services or other costs associated with any public hearings or County dissemination of Consultant's work product.

8. Litigation. If litigation or administrative hearings ensue which pertain to the subject matter of Consultant's services hereunder, Consultant, upon request, agrees to testify therein at the hourly rate specified in Exhibit "A".

9. Changes. This contract may be modified from time to time as to the scope of services or the time of performance as shall be mutually agreed upon in writing by and between the Consultant and the County.

10. Audit of Books and Records. Should the County wish to, it may undertake an independent audit and/or evaluation of the Consultant's records and accounts of expenditures and program activities at its own expense. Consultant agrees to furnish all items necessary in the County's discretion to complete said audit and/or evaluation subject to restrictions on confidentiality limited to the expenditure or receipt of program funds, and program quality.

11. Liquidated Damages. The County and Consultant agree that time is of the essence in processing environmental documents and that delays in performing this contract within the time limits identified in Exhibit "A" can lead to project delays, conflicts with statutory time limits for processing project applications, escalated costs, changed regulations and other consequences. The costs and detriments of such delays are impracticable and difficult to ascertain and assess and, therefore, it is agreed by and between the parties that County shall have the right to assess agreed upon liquidated damages (which are not to be construed to be a penalty assessment) in the sum of $100.00 per day for each working day, excluding weekends, if Consultant fails to perform well and sufficiently and in a skillful and professional manner the services specified in Exhibit "A" within the time limits set forth therein. Such liquidated damages may be deducted by County from those sums due to Consultant under this contract or shall be paid by Consultant to County, at County's election.

If Consultant anticipates or is faced with any delay in meeting the agreed upon time schedule for reasons beyond his control, he may request an extension of such time(s) from County in writing, prior to the expiration of any such time limit, stating the reasons therefore. The Contract Planner may consult with the project sponsor and may grant, deny, or amend any such request on such terms as the Contract Planner determines appropriate under the circumstances and in his discretion. In the event of denial of time extension, or in the absence of such request, a failure to meet the agreed upon time schedule shall result in the assessment of the specified daily liquidated damages. The Consultant shall not be liable for damages of any delay in the performance of the work due to unforeseeable causes beyond the control and without the fault, or negligence, of the Consultant, including those involving acts of God or of the public enemy, acts of the government, fires, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather, delays of subconsultants when due to such causes, or when specific information requested by Consultant is not received from the County and/or project sponsor within the agreed upon time.

Notwithstanding the rights under this contract or the right to terminate this contract, Consultant shall not be relieved of Liability to County for damages sustained by the County by virtue of any breach or failure by Consultant to execute in good faith any terms or conditions of the contract or failure to perform within the limits specified in Exhibit "A" and County may withhold any payments to Consultant for the purpose of setoff until such time as the exact amount of damages due County from Consultant is determined. The remedies contained in this paragraph are cumulative and are in addition to all other rights of County pursuant to this agreement and at law or in equity.

12. Self-Insurance. The consultant shall have general and auto liability insurance in the amount of $1,000,000. The County, its officers and employees shall be named as additional insured. The consultant must have Worker's Compensation for all employees as required by California law.

13. Termination of Contract. It is expressly understood that either party shall have the right to terminate this agreement upon five (5) days written notice to the other party. In such event, Consultant shall deliver to the County copies of all finished and unfinished surveys, studies, documents, or reports pertaining to the contract, and Consultant shall be entitled to receive just and equitable compensation for any satisfactory work completed as determined by the County.

14. Notices and Demands. All notices and demands of any kind which either party may require or desire to serve on the other in connection with this Agreement must be served in writing either by personal service or by registered or certified mail, return receipt requested, and shall be deposited in the United States Mail, with postage thereon fully prepaid, and addressed to the party so to be served as follows:

If to County:
David L. Zaltsman, Deputy County Counsel
Office of the Marin County Counsel
3501 Civic Center Drive, Suite 275
San Rafael, CA 94903

If to Consultant:
Nichols – Berman Environmental Planning
110 East D Street – Suite E
Benecia, CA 94510

IN WITNESS WHEREOF, the parties hereto have entered into this Agreement the day and year first above written.

COUNTY OF MARIN

By: Harold Brown, President
Marin County Board of Supervisors

NICHOLS – BERMAN

By: Robert A. Berman

Incorporated Attachment: Exhibit "A

EXHIBIT "A"
SCOPE OF SERVICES (required)

Please See Attached

APPROACH AND WORK PROGRAM

This section describes our approach in preparing the *Easton Point Environmental Impact Report*, the tasks we will undertake and the technical analyses we will conduct as a part of the scope-of-work.

UNDERSTANDING OF THE PROJECT

The Martha Company has submitted an application to Marin County for the approval of the proposed *2008 Easton Point Residential Development Project (2008 Easton Point)*. The project site is approximately 110 acres located near the southeastern tip of the Tiburon peninsula. The proposed project involves the eventual subdivision of the 110 acres into 43 single family parcels (49.6 acres), two public open space parcels (60.0 aces) and one Marin Municipal Water District water tank parcel (0.2 acres). The residential parcels would range in size from 0.55 acres to 2.25 acres. Access to the residential lots would be provided by two new roadways/driveways off Paradise Drive (serving 13 homes) as well as extensions of existing roadways including Mountain View Drive (serving three homes) and Ridge Road (serving 27 homes). Proposed open space and public access improvements include the creation of approximately 60 acres of dedicated public open space, a Marin dwarf flax preservation area (0.3 acres) and access easements to provide pedestrian access through the project site to proposed and existing public open space areas.

The application has been filed with Marin County in reliance on a U.S. District Court decision resulting from a 1975 lawsuit which determined that development of the project site with a minimum of 43 single-family residential units on minimum one-half acre lots would be consistent with the goals of the *Marin Countywide Plan*. [1]

The applicant requests approval by Marin County of the following:

- Master Plan
- Precise Development Plan
- Tentative Subdivision Map

The project site is within the Town of Tiburon's Urban Service Area and Sphere of Influence. It is not, however, proposed to annex the project site to the Town of Tiburon. The applicant will, however, apply for annexation to Sanitary District Number 5.

Two previous EIRs have been prepared for development proposals on the project site. In 1996, under contract to the Town of Tiburon, Nichols • Berman prepared a Draft EIR for the proposed Easton Point project. [2] The 125-acre site, which was considered in the *1996 Draft EIR*, consisted of two parcels bisected by Paradise Drive. The two parcels were the 110-acre Upland Parcel and the 15-acre

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1 *Judgment Pursuant to Stipulation* of the United States District Court for the Northern District of California, filed November 7, 2007 in *County of Marin v Martha Co et al (Judgment)* and *Judgment Pursuant to Stipulation* of the United States District Court for the Northern District of California, files December 29, 1976 in *Martha Co v County of Marin (1976 Judgment)*

2 *Easton Point Prezoning, Precise Development Plan, Annexation Draft Environmental Impact Report*, Town of Tiburon and Nichols-Berman, May 1996.

Shoreside Parcel located along the shoreline of San Francisco Bay on the east side of the Bluff Point peninsula, east of Paradise Drive. The project applicant proposed to create 49 lots for development of single-family homes – 44 lots on the Upland Parcel and five lots on the Shoreside Parcel. The *1996 Draft EIR* was not certified by the Town of Tiburon.

In 2001, under contract to the Town of Tiburon, Nichols • Berman prepared a Draft EIR for a revised Easton Point project.[3] The revised project proposed the development of 34 single-family residential lots on the 110-acre Upland Parcel. The 15-acre Shoreside Parcel was not included in the revised Easton Point project.[4] The *2001 Draft EIR* was not certified by the Town of Tiburon.

The 110-acre Upland Parcel evaluated in the *1996* and *2001 Draft EIRs* is the project site for the current proposed Easton Point project.

It is understood that it is the intent of County staff that we do not prepare an entirely new Draft EIR but rather that we build off of the *2001 Draft EIR* and to some extent the *1996 Draft EIR*. It is assumed that as a part of the environmental review process Marin County will issue a new Notice of Preparation (NOP) for the anticipated *2008 Easton Point EIR*. The *State CEQA Guidelines* do state that the existing physical conditions be described as they exist at the time the NOP is published. We anticipate that as a part of our scope of work that some on- and off-site field observations will be required to at least confirm existing field conditions as described in the *2001 DEIR*.

The applicant has submitted a number of revised and new technical reports. In addition to the Master Plan / Precise Development Plan / Tentative Map drawings (which include resource conservation, civil, architectural, and landscape plans) the applicant has submitted the following:

- Easton Point Project Narrative.
- *Preliminary Geotechnical Report Easton Point Subdivision*, Miller Pacific Engineering Group, January 11, 2008.
- *Supplemental Groundwater Investigation for Easton Point Subdivision*, Questa Engineering Corporation, November 4, 2008.
- *Updated Tree Assessment Report*, CSW/Stuber-Stroeh, November 21, 2008.
- Lot specific tree removal tables (18 sheets).
- Lot specific conceptual grading plans (43 sheets).
- Landslide Exhibit (GR1), Miller Pacific Engineering Group, November 20, 2008.
- Water tank section and site plan detail (two sheets).

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3 *Easton Point Prezoning, Precise Development Plan, Annexation Draft Environmental Impact Report*, Town of Tiburon and Nichols-Berman, September 2001.

4 Although the Shoreside Parcel was not included in the revised Easton Point project it was accounted for in analyses of cumulative impacts in the *2001 Draft EIR*.

The *State CEQA Guidelines* provide for the applicant to submit information to assist in the preparation of an EIR but requires independent review of the information to ensure that it accurately reflects the lead agency's judgment about the environmental impacts of the project. As appropriate, we will make use of the applicant prepared materials and supplement the use of such materials by on- and off-site field observations and contacts with public agency representatives and other knowledgeable individuals as appropriate.

TASKS TO PREPARE THE EIR

We have identified seven tasks to prepare a thorough, objective, legally complete environmental document. We will coordinate with County staff throughout the process both to review substantive questions or findings and to keep staff informed of our progress on a regular basis.

TASK 1.0 -- PROJECT START UP

In Task 1.0, we will collect all the available data, review the proposed *2008 Easton Point* project, review responses to the Notice of Preparation (NOP), and finalize any remaining questions about our work program. We will:

1.1 Collect and review any additional data from Marin County, other affected agencies, the applicant, and other sources, including revised plans, revised technical reports, background information, etc.

1.2 Review the project application. We will identify any remaining gaps in data and determine when and from whom additional information will be forthcoming.

1.3 Hold kick-off meeting with study team members, County staff, project applicant and representatives to:

- Introduce participants.
- Give the applicant an opportunity to describe the project and answer participants' questions.
- Discuss data needs, determine when additional applicant prepared studies and other requested information will be supplied, and pick up background information already available.

1.4 Attend public scoping meeting to discuss EIR process, scope of work, etc. Take and distribute notes of issues discussed.

1.5 Review responses to the Notice of Preparation and scoping meeting. Consult with County staff about how to handle comments. Insert scoping session comments in ADEIR appendix and indicate where each is addressed.

1.6 Prepare Draft Project Description for review by County staff.

TASK 2.0 -- ANALYZE IMPACTS OF THE PROJECT AND ALTERNATIVES

In this task we will:

2.1 Prepare updated "environmental setting" sections and review standards of significance for the individual impact sections. Agree on significance criteria with County staff.

2.2 Contact public agency representatives (including appropriate Responsible or Trustee Agencies), other responsible groups, and organizations, as appropriate, to obtain input needed to complete the topical analyses.

2.3 Use the County's base data and, after peer review, the applicant's technical reports to analyze the specific impact areas for the proposed project.

2.4 Identify mitigation measures. Write measures using language and format suitable to include in a Mitigation Monitoring Program.

2.5 Define Alternatives. Based on the analyses completed in Task 2.3 work with County staff to develop build alternatives for further analysis. The build alternative will focus on reducing identified impacts while consistent with the majority of the applicant's objectives.

TASK 3.0 -- PREPARE ADMINISTRATIVE DRAFT EIR

In this task, we will prepare the Administrative Draft EIR (ADEIR) for County staff review. We will:

3.1 Assess the relationship of the *2008 Easton Point* project to the *Marin Countywide Plan,* County Zoning Ordinance, and other relevant plans based on the findings of the topical environmental analyses.

3.2 Analyze the potential for growth inducing and cumulative impacts, conduct all other CEQA-required assessments, and prepare the Summary of Principal Findings.

3.3 Prepare the Mitigation Monitoring Program and other technical appendices. The Mitigation Monitoring Program will conform to the County's preferred format.

3.4 Produce a complete ADEIR that contains all sections mandated by CEQA and the County's EIR guidelines and submit ten copies of the ADEIR for County staff review and comment.

TASK 4.0 -- PREPARE DRAFT EIR

In this task, we will make the revisions and other corrections requested by County staff and publish the Draft EIR (DEIR) for formal public review and comment. We will:

4.1 Receive staff comments on the ADEIR, respond to comments, correct, and revise the ADEIR. We request one set of written comments on the ADEIR which resolves any conflicts or disagreements, if necessary. We will meet with County staff to discuss comments -- either to pick up the comments or after we have reviewed and digested the comments to discuss how to respond.

4.2 Submit one Preprint screen copy of the Draft EIR for final review.

4.3 Respond to final staff comments, print and deliver 50 DEIRs plus 50 DEIRs on CDs plus an electronic copy for posting on the County website.

TASK 5.0 -- PUBLIC REVIEW

During the public review period, we will assist County staff in preparing for the Planning Commission's public hearing on the Draft EIR and will attend the hearing. We will:

5.1 Consult with staff about the public hearing agenda and our role. We will prepare a presentation (if requested) to highlight issues of concern and interest.

5.2 Attend the Planning Commission hearing on the DEIR and answer questions by the public and Commissioners. We assume the Planning Commission will hold one hearing on the Draft EIR.

TASK 6.0 -- PREPARE ADMINISTRATIVE FINAL EIR

In this task, we will respond to comments on the Draft EIR, prepare revisions to the DEIR to reflect comments and responses, and submit the Administrative Final EIR (AFEIR). We will:

6.1 Meet with County staff members when all comments have been received to:

- Review comments on the Draft EIR.
- Determine which require response (or are on the merits of the project).
- Identify whether additional work beyond our scope will be required to respond and decide how to proceed.
- Discuss staff direction in responding and in revising the Draft EIR to incorporate responses to comments.

We cannot speculate about the nature and tenor of comments on the Draft EIR and, therefore, cannot anticipate whether it will be necessary to analyze additional or refined alternatives or whether additional analyses will be necessary to respond to specific comments. Once determined, we may need to revise our scope and budget accordingly.

6.2 Respond to comments, revised the DEIR as required, and prepare the AFEIR. The Comments and Responses chapter will list all persons commenting, copies of all written comments received, minutes of the public hearing, responses, and any additional supporting documentation or appendices. We will submit ten copies of the Administrative Final EIR and Mitigation Monitoring Plan for staff review and comment.

6.3 County staff review of the AFEIR.

TASK 7.0 -- PREPARE FINAL EIR

In this task we will make the final revisions requested by County staff and any other corrections before publishing the Final EIR. We will:

7.1 Make staff-directed changes and any additional corrections to the AFEIR and resubmit one screen copy of the FEIR to the staff for one last review before publishing the Final EIR.

7.2 Respond to any final comments received from the County staff, print, and deliver 50 copies of the Final EIR plus 50 copies of the Final EIR on CDs plus an electronic copy for posting on the County website.

7.3 Prepare for and attend for Board of Supervisors public hearings held on the adequacy of the EIR and to certify the Final EIR as complete.

7.4 Assist County staff to respond to comments that may be generated on the Final EIR.

7.5 Coordinate with County staff in the preparation of a draft resolution for the FEIR containing Findings of Fact and, if necessary, a Statement of Overriding Considerations.

WORK PROGRAM

We will adhere to the County's preferred format for the EIR. Our work program presented below follows the format established in the *2001 Draft EIR*.

1.0 INTRODUCTION

The first chapter of the EIR will summarize:

- The purpose and authority of the EIR
- The lead agency (Marin County) and responsible and permit granting agencies
- The process used by the County to determine the EIR's scope
- The level of detail and objectivity of the EIR analyses
- The reports and data used to prepare the EIR or incorporated by reference, the reason for referencing them, the subject matter incorporated, and where the public can review the materials
- The dates of the public review period and how readers can comment on the adequacy of the Draft EIR
- The approximate schedule for completing the Final EIR
- The organization of the report
- Reference to the mitigation monitoring program

2.0 DESCRIPTION OF THE PROPOSED PROJECT

This chapter of the EIR will describe and illustrate the location of the project site, existing land use designations and zoning, all components of the project as proposed, assumptions about the project identified to conduct the analyses, cumulative analysis assumptions selected for the EIR, and permits and approvals required by the planning and environmental review process.

Section 2.1 – Project Location and Land Uses

This section will briefly describe and illustrate the local and regional context of the *2008 Easton Point* project site in relation to the rest of Marin County and the Town of Tiburon. This section also will briefly discuss and illustrate existing uses of the project site and surrounding lands:

- Existing on-site development and uses
- Existing uses near the site
- The *Marin Countywide Plan* land use designation and zoning for the site and surrounding lands

Section 2.2 – Description of the Proposed Project

The project description will thoroughly describe and illustrate -- with plans, exhibits, and other graphic materials submitted to the County by the applicant -- all aspects of the proposed project. This section will identify the applicant, project objectives, and relevant components of the project pertinent to the EIR analyses and readers' understanding of the pending action. This section will also explain anticipated phasing of development. The project description will include:

- Description of the proposed *2008 Easton Point* project.
- A site plan of the proposed development.
- A land use breakdown for the entire site summarizing the area devoted to each use.

We will work with County staff members and the applicant to identify all pertinent features of the project as proposed, clarify questions about the application and supplemental materials, and agree on development assumptions the EIR study team may need to use in order to complete the analyses.

Section 2.3 – Cumulative Development Assumptions

This section will identify cumulative environmental conditions assumed throughout the EIR analyses. We will identify assumed conditions in conjunction with County staff. One approach to cumulative analyses could be to assume part or total buildout according to the both the *Marin Countywide Plan* and the *Town of Tiburon General Plan*. Another approach could assume specific development projects -- approved but not yet built, proposed but expected to be approved, or reasonably expected to be proposed within the timeframe of the *2008 Easton Point* project. We can select one or a combination of these approaches and ultimately will assess the project's cumulative effects in all relevant topical sections of the EIR.

Section 2.4 – Permits and Approvals

This section will list the approvals and procedures necessary before any individual features of the project could be implemented and construction could begin.

3.0 SUMMARY OF FINDINGS

This chapter will provide an overview for the entire EIR and will present:

- A brief project description.
- A table listing impacts and mitigation measures and indicating the significance of each impact before and after mitigation.
- Alternatives considered and the environmentally superior alternative.
- Areas of controversy.
- The EIR's major conclusions and issues to be resolved.
- A list of significant avoidable and unavoidable impacts.

4.0 RELATIONSHIP TO PUBLIC PLANS AND ZONING

An important aspect of any EIR is to evaluate the conformance of a proposed project with all applicable public plans, policies, and zoning -- in order to ensure that these relationships are compatible or to document any specific inconsistencies.

The previous Easton Point application included the proposed annexation of the project site to the Town of Tiburon. Based on this aspect of the project ***Chapter 4.0 Conformance with Plans and Zoning*** of the *2001 Draft EIR* focused on the various planning documents associated with the Town of Tiburon (such as its General Plan and Zoning Ordinance). In addition conformance with the *Paradise Drive Visioning Plan* and the Marin County Local Agency Formation Commission Policy Guidelines was evaluated.

Annexation to the Town of Tiburon is not a part of the *2008 Easton Point* proposal; rather it is proposed to develop the site under the jurisdiction of Marin County. In order to provide sanitary sewer service it would still be necessary to annex to Sanitary District Number 5.

In this section, therefore, we will evaluate the conformance of the proposed *2008 Easton Point* proposal with relevant adopted plans and policies including:

- *Marin Countywide Plan* adopted by the Marin County Board of Supervisors November 2007 as amended through the date the Easton Point application is deemed complete by the Marin CDA.
- Marin County Code – Title 22 (Marin County Development Code)
- Marin County Community Development Agency *Paradise Drive Visioning Plan*
- Marin County LAFCO Policies and Procedures for the Evaluation of Proposals (for annexation to Sanitary District Number 5)

Because the application does not include an application for annexation to the Town of Tiburon we do not propose to analyze the project's conformance with the *Town of Tiburon General Plan* or the *Tiburon Zoning Ordinance*. The project's conformance with Town policies would only be relevant if the applicant was seeking land use and development entitlements from the Town.

The Town of Tiburon has initiated a prezoning process in the unincorporated Paradise Drive area at the southeastern end of the Tiburon Peninsula. The *Easton Point* project site is within the prezoning study area boundary. As appropriate, we will discuss the Town's prezoning process.

5.0 ENVIRONMENTAL SETTING, IMPACTS, AND MITIGATION MEASURES

This chapter will present the topical analyses conducted for the EIR. Environmental setting, impacts, and mitigation measures for each environmental topic considered will be presented.

5.1 Geology, Soils, and Seismicity

There are several potential hazards present within the project site that will be thoroughly evaluated as part of the preparation of the EIR. The previous EIRs identified several site specific geologic impacts including landsliding, grading and related secondary impacts, slope stability, soil erosion, expansive soils, groundwater, seismic ground shaking and related impacts, artificial fill and maintenance of geotechnical and hydrologic measures. These potentially significant impacts will be evaluated as a part of the scope of work and are discussed in more detail below.

Landsliding

The project site is located in hilly terrain that is mapped as having landslides or is susceptible to landslides, which can have a significant impact on the project. Adequate mitigation of landslide and slope stability issues will likely result in additional impacts that are discussed in more detail below (under grading). Due to the geology, expansive and creeping soils are common and can greatly impact constructed works and have an effect on slope stability issues. Erosion potential is significant and related to slope stability issues.

Landsliding has proven to be the most significant potential geologic hazard to the development of the site. Landslides of various types blanket much of the site, both in and adjacent to areas proposed for development. Previous work by the applicant's geologists and soils engineers, Miller Pacific Engineering Group, has resulted in a lot-by-lot landslide stabilization plan.[5] The landslide stabilization plan will be further evaluated by the EIR geologist as a part of this scope-of-work.

The landslides previously mapped and evaluated on the site, represent coalescing earthflows, as well as larger rotational and translational type failures. Most of these landslides appear to have occurred within unstable colluvial deposits and the highly-weathered and jointed bedrock of the unnamed and Franciscan-designated materials. Many of the slides appear to be relatively shallow earthflows. However, one large-scale ancient bedrock landslide exists on the site. The ancient bedrock slide complex subsequently has been dissected by smaller near-surface erosional processes (such as colluvium production, earthflows, and simple erosion).

Numerous landslides are located in the proposed residential development areas. Site development could affect the stability of landslides adversely if they are not improved or mitigated. If not properly improved or mitigated in accordance with County policy, heavy rainfall and / or seismic activity (earthquakes) have the potential to trigger landslide failures at the project site. Landslide movements and / or mudflows could potentially cause injury, damage or destroy structures, block or damage roadways and escape routes (isolating an area and limiting access of emergency services), and sever utility and service lines.

Grading

Due to the challenging geologic conditions at the project site, grading impacts associated with landslide stabilization and building pad creation can be significant and secondary impacts from grading can be significant. These secondary impacts would include:

- ***Air Quality*** Issues due to dust generation and the potential release of airborne asbestos fibers derived from serpentine bedrock that is mapped within the boundaries of the project site.
- ***Hydrology*** Grading could result in changes to site hydrology conditions and alter natural drainage courses.
- ***Biology*** Biotic resources could be impacted by grading for landslide stabilization.
- ***Visual*** Grading and the potential for engineered stabilization structures could produce visual impacts.
- ***Traffic*** Grading for landslide and slope stabilization generally requires significant cut/fill grading that can generate the need to haul out and/or haul in significant quantities of soil/rock material.
- ***Noise*** Mass grading operations typically generate significant noise and noticeable vibration that impact those living on adjacent property.

These impacts will be discussed in their respective EIR chapters.

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5 The landslide stabilization plan is presented in Table C in *Preliminary Geotechnical Report Easton Point Subdivision.* Miller Pacific Engineering Group, January 11, 2008 and on the Landslide Exhibit (Sheet GR1) prepared by Miller Pacific Engineering Group, November 20, 2008

Slope Stability

Because of the low shear strength of the weathered zone in the site's fractured bedrock and the existence of landslides and colluvial deposits mantling such bedrock, the potential instability of cut, fill, and natural slopes should be examined and re-evaluated once exposed by the grading operations. It is particularly important to control water in landslide areas where concentrated runoff could lower stability of the existing landslides. These areas also are prone to increased erosion and surficial instability because of their low long-term strength when saturated. Thus, there is a significant possibility of erosion on graded slopes if proper drainage facilities are not provided.

Expansive Soils

Development (structures, roads, utilities) located on expansive soils could be damaged by dislocations caused by cyclic shrinking and swelling. Laboratory testing indicates that on-site soils have a moderate to high shrink-swell potential. This shrink-swell phenomenon is more commonly referred to as expansive soils and is most evident in cohesive soils with high clay content.

Expansive soils are naturally prone to large volume changes through the absorption of pore water. The physical manifestations of such moisture changes most often are expansion or swelling during the winter and subsequent shrinkage due to drying (desiccation) in the summer. This cyclic volume change can exert large forces on nearby structures, causing damage to concrete slabs and foundation elements and cosmetic damage to interior and exterior wall surfaces. The site's soil loams are soil materials which, by definition, contain seven to 27 percent clay particles. Thus, there should be some forethought before development on expansive soils.

Groundwater

Site development would divert groundwater away from repaired landslide areas and would apply water for dust control during grading, compaction of fills, and irrigation of areas landscaped and hydroseeded for erosion control. Changing the groundwater regime would affect sources of the site's springs and seeps and the surface water flows contributed to off-site wetlands, possibly drying up the Lands of Keil spring.

A number of development activities may affect the flow and quality of groundwater at the site. These activities include:

- Installing drains for landslide mitigation.
- Collecting surface water by diversion installations (v-ditches).
- Using near-impervious surfaces (asphalt and cement for roads and driveways, buildings, and other paved areas).
- Maintaining landscaping.

Much of the shallowest groundwater at the site may percolate through colluvial deposits or highly weathered bedrock along landslide planes. Groundwater, especially during the rainy season and wet years, may trigger landsliding by reducing the frictional forces between particles along a possible landslide plane. Buried subdrains generally are used as a stabilization method when developing slopes prone to sliding. Site development is expected to use drains to dewater possible landslide areas. If not

handled properly, improvement of the landslide material adjacent to and above the Keil spring potentially could potentially remove or restrict its source water.

Groundwater issues and impacts to the Keil spring are further discussed below in the hydrology scope of work.

Seismicity

Strong seismic shaking is expected to occur on the site some time during the effective "life" of development. Seismic hazards associated with regional faulting and associated strong ground shaking, which is a significant direct impact. Secondary seismic impacts may include landsliding, lurching, ridge shatter and soil settlement.

Because of the proximity of the site to the Hayward, San Andreas, Rodgers Creek, and other active faults, there is a high probability that the site will experience strong ground shaking during the lifetime of any proposed structures. Ground shaking also could induce landsliding.

Artificial Fill Areas

New construction on existing artificial fill, if present, could settle unevenly and be damaged or could stimulate or accelerate erosion. Areas of existing artificial fill appear to be limited to access roads, the Paradise Water Tank, and along site boundaries. If such materials are present in the vicinity of proposed grading, they could settle non-uniformly or be subject to erosion.

Maintenance of Geotechnical and Hydrologic Mitigation Measures

The difficult geologic conditions on-site and the extensive mitigation measures required to stabilize landslides would involve long-term monitoring and maintenance after site development to ensure the effectiveness and success of mitigation. Many of the geotechnical and hydrologic mitigation measures (such as drainage collection, erosion control, and landslide repairs) would require periodic inspections and maintenance during the life of development. If such facilities are not maintained as intended, long-term drainage or slope stability problems could occur on individual lots or in common private open space and could have off-site as well as on-site impacts. One possibility that could be evaluated would be a GHAD staffed by a geologist who would answer to the Property Owners Association and ultimately the County.

Our scope will include:

- Review selected published soils and geologic mapping including available information by U.S. Geologic Survey, California Division of Mines and Geology and U.S. Department of Agriculture.

- Review applicant prepared reports, including those prepared by Harding Lawson Associates, Miller Pacific Engineering Group and Kleinfelder, Inc. plus the additional geologic/geotechnical information that has been provided by the applicant. We will also review the materials compiled and the text previously prepared as part of the *2001 Draft EIR*.

- Perform a geologic and geotechnical reconnaissance of the project site. The reconnaissance will include verification of the limits of previously mapped slides at the site, and an evaluation of any other apparent areas of instability.

- Compare and reconcile differences in interpretation between the applicant's geotechnical and groundwater consultant reports by Miller Pacific and Questa Engineering. We will prepare a new cross-section using the Miller Pacific data to be used by the EIR team members.

- Assess geology, soils, and seismicity impacts. We will perform a detailed lot-by-lot review of the proposed landslide mitigation recommendations presented by the applicant's geotechnical consultant. We will also address concerns posed after preparation of the *2001 Draft EIR*.

- Recommend mitigation measures for all potential impacts identified. Mitigation measures may take the form of specific engineering recommendations or of specific recommendations for the planning and permit approval process.

5.2 Hydrology, Drainage, and Water Quality

The *2008 Easton Point* proposal will require a revised analysis of the prior hydrologic impact assessment since the location and total area of impervious surfaces have been altered. In addition, a more in-depth analysis of previously cited impacts to groundwater (Keil Spring recharge area), erosion and sedimentation, and water quality will be required to adequately address concerns posed after preparation of the *2001 Draft EIR*.

To address previously raised issues regarding impacts to groundwater, and thus Keil Spring recharge, Questa Engineering Corporation, under contract to the project applicant, conducted a groundwater investigation of the project site. The *Supplemental Groundwater Investigation for Easton Point Subdivision* [6] will be utilized, as applicable, for assessing the project hydrologic impacts on Keil Spring. Based on our preliminary review of the groundwater report, it appears that Questa was not able to definitively outline the Keil Spring recharge area; however, tentative methods are outlined to best maintain groundwater recharge volumes and spring discharges for Keil Spring. These methods will be evaluated for their efficacy in mitigating likely project impacts to the quantity and quality of Keil Spring waters. The Questa report will also be referenced in the EIR's assessment of potential water quality impacts on Keil Pond.

The major hydrology and water quality issues to be assessed in the EIR include the following:

- Stormwater runoff quantities, in particular, peak flow rates for the two-year, ten-year and 100-year design rainstorms

- Potential on-site and downstream flooding, especially as it may be affected by proposed drainage paths, roadways, and Paradise Drive culvert capacities.

- The stability of on-site and downstream reaches of natural and/or modified (i.e. structurally stabilized) drainageways.

- On-site and downstream stormwater quality and impacts to the receiving waters of San Francisco Bay, Keil Pond, and Keil Cove resulting from petrochemical contaminants and/or pesticide/herbicide residues in site stormwater runoff, or from fine sediment yield from soil surfaces exposed during site grading.

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6 *Supplemental Groundwater Investigation for Easton Point Subdivision Tiburon, California*, Questa Engineering Corporation, November 4, 2008.

- Primary and secondary impacts of landslide remediation and impervious surface construction on hillslope surface water and groundwater resources, including Keil Spring, as well as on any sensitive habitat (e.g. Keil Spring, freshwater seeps and wetlands, and Keil Pond).

Tasks that we will conduct as a part of this scope of work include the following:

- Conduct a walking inspection of the site to confirm the existing hydrologic conditions.

- Revise and update the hydrology setting section of the *2001 Draft EIR* to reflect the current site conditions.

- Review the previously submitted project drainage study/plans, prepared by CSW-Stuber Stroeh for the 1999 Easton Point project including the original Hydrology Study.[7] Review documentation received for the 2008 project, including the *Easton Point Project Narrative*, the *Master Plan/Precise Development Plan for Easton Point* (CSW-ST2 et al), and the *Supplemental Groundwater Investigation for Easton Point Subdivision* (Questa Eng. Corp.)

- Conduct an updated peak flow and stormwater drainage and flooding assessment for the *2008 Easton Point project*. Since no updated hydrology report has been submitted for the new project, Clearwater Hydrology will conduct an independent peak flow computation based on the USGS formulation of the Rational Method. The prior CSW-Stuber Stroeh determination of Paradise Drive culvert capacities will be referenced during the EIR flooding and drainage assessment.

- Address concerns regarding the *2001 Draft EIR* mitigation measures as related to surface-groundwater interaction and drainageway stability. Clearwater Hydrology will conduct a more in-depth assessment of project grading, landslide repair, and urbanization (i.e. impervious surface spatial coverage and storm drain routing) impacts on surface-groundwater interaction and drainageway stability. As part of this assessment, Clearwater Hydrology has allocated time toward conducting a peer review of the groundwater investigation prepared by Questa. This review will be coordinated with the EIR Geologist to ensure that the geologic setting and geologic cross-section/profile interpretations presented in the Questa report adequately reflect the consensus of the geological engineers (both those of the applicant and the EIR geologist) who have previously assessed the site geology during prior phases of the Easton Point project.

- Assess project impacts on hydrology and water quality and develop measures to mitigate adverse impacts of the project. Drainage, flooding, erosion/sedimentation and water quality impacts will be assessed based on the current (2008) project documentation, prior hydraulic structure assessments (culvert capacity assessment), and the Questa groundwater investigation report. Mitigation measures for significant project impacts to drainage, flooding, erosion and sedimentation, water quality and downstream water supply (i.e. Keil Spring) and sensitive aquatic resources (i.e. Keil Pond) will be developed. Recommended mitigations will favor prescriptions of Start-at-the-Source design features for decreasing hydromodification and stormwater quality impacts.

- Assess and discuss cumulative hydrology and water quality impacts.

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[7] As a part of the previous application a separate hydrology analysis was submitted, *Easton Point Hydrology Analysis*. CSW / Stuber-Stroeh Engineering Group, Inc , July 1999 An update to the hydrology analysis has not been submitted with the *2008 Easton Point project*

5.3 Vegetation and Wildlife

A number of biologically-related studies have been completed for the project site. Previous studies were completed by Resource Management International in 1997, LSA in 1999, and Sycamore Associates in 2000. In addition, as a part of the preparation of the *2001 Draft EIR* Live Oak Associates completed survey work on the site. Since that time, a field survey for the Marin dwarf flax (*Hesperolinon congestum*) was completed by Live Oak Associates in June 2007 and an updated tree assessment was completed by CSW / Stuber-Stroeh in November 2008. These reports came to the conclusion that impacts to the Marin dwarf flax (which has been documented on the site) and California red-legged frog (*Rana aurora draytonii*) could be significant. Additionally, these reports came to the conclusion that impacts to the woodland habitat (tree removal, sudden oak death, etc.) and serpentine habitat could be significant. These issues, among others, will be reviewed and analyzed in the updated biological evaluation.

Tasks that we will conduct as a part of this scope of work are as follows:

- Review existing information on sensitive biological resources in the site vicinity. Sources of information relevant to the project vicinity would include aerial photographs of the project site, U.S.G.S. topographic maps, U.S. Fish and Wildlife Service National Wetland Inventory Maps, the California Natural Diversity Database, other technical literature related to the biotic resources of the project vicinity, regional planning documents (general plan policies), species data compiled by the California Native Plant Society, the National Audubon Society, or other public interest groups, resource agency data (U.S. Fish and Wildlife Service, California Department of Fish and Game, etc.), and past documents and comment letters related to this specific project.

- Live Oak Associates staff ecologists will conduct a field survey of the site. This survey will be used to confirm habitats previously identified on the site, evaluate the updated tree analysis, and reassess the suitability of the site for special-status plant or animal species which are known to occur regionally such as the Marin dwarf flax and California red-legged frog. Issues related to any special-status habitats or species will be identified. This survey will also include a reassessment of the potential for the site to support regulated habitats (e.g., wetland/aquatic and serpentine habitats) or for these habitats to occur immediately adjacent to the site. As a part of the preparation of the *2001 Draft EIR*, Live Oak Associates mapped the onsite habitats as coast live oak woodland, non-native serpentine grassland, serpentine bunchgrass, non-native non-serpentine grassland, northern coyote brush scrub, freshwater wetland/aquatic, and developed.

- Live Oak Associates will conduct a survey on all serpentine areas of the approximately 110-acre Easton Point project site. The purpose of the survey will be to determine the current status of the Marin dwarf flax (Hesperolinon congestum) population occurring on the site, including determining the current size of the population, and using a GPS to map all locations where the plant occurred on the site

- With the exception of the Marin dwarf flax survey, as a part of this scope of work we are not proposing to conduct other species-specific surveys, a wetland delineation, or a tree survey at this time.

- Revise and update the vegetation and wildlife setting section of the *2001 Draft EIR* to reflect the current site conditions.

- Assess project impacts on vegetation and wildlife and develop measures to mitigate adverse impacts of the project. This section will identify existing habitats on the site, discuss the

suitability of the site to support habitat for special-status plant or animal species, identify potential impacts to biotic resources of the site and region, and identify mitigation measures. Impacts due to tree removal subject to the provisions of the Marin County Tree Ordinance will also be discussed. Impacts to building envelopes, defensible space (the garden and patio areas), and the lot as a whole (which outside the defensible space area is to largely remain unaltered) will be evaluated separately.

- Cumulative vegetation and wildlife impacts will also be discussed.

5.4 Visual and Aesthetic Quality

To assist in the analysis of visual impacts of the *2008 Easton Point* project we propose to prepare new visual simulations of the proposed project.[8] We will duplicate the four simulation viewpoints (Tiburon Ridge, Heathcliff Drive, Paradise Drive, and Angel Island) of the *2001 Draft EIR* as closely as possible. In order to accurately represent the proposed project, a three-dimensional (3D) CAD model will be developed. The model will include the project's structural and topographic elements and be constructed using the two dimensional plans and elevations included in the application package.

At present, the applicant's architect has developed schematic prototypical floor plans and elevations of homes that might be developed on each of the three proposed lot clusters. These prototypes will be used for the entire site rather than develop homes for each individual lot. Building materials and colors used in the simulation will be developed from sample boards supplied by the project architect or photographs of recently constructed projects with a similar design theme. Proposed landscaping will be included in the simulations and illustrated at seven to ten years' maturity.

Assumptions

In preparing this scope of work it is assumed that all the information needed to produce the simulations, including site plans; topographic data including existing and proposed grading, conceptual architectural drawings (floor plans and elevations), architectural material sample boards and landscape plans will be available from the applicant in hard copy and digital form.

To prepare this section we will conduct the following tasks:

Determine Viewpoints and Future Conditions

- Attend kickoff meeting and discuss the project's visual issues and simulation viewpoints with County staff.
- Conduct site reconnaissance and photograph project site from potential simulation viewpoints.
- Accurately verify site photography locations on field maps for use with computer model of proposed project. Additional field references will be identified and delineated on maps to help verify computer modeling and viewpoint location.

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8 As a part of the preparation of this section we reviewed the photomontages prepared for the *2001 Draft EIR*. The software used to produce the previous photomontages is no longer used by Vallier Design (the EIR team's visual analyst) and is no longer supported. Therefore, modifying the previous photomontages is unrealistic.

- Review visual simulation viewpoint photographs with County staff. Digitize color negatives from selected viewpoints for use as baseline photographs for the simulations. Produce 8 ½ x 11 color images for review.

Prepare Photo Simulations

- Produce 3-D realistic computer model of the proposed project from topographic and architectural data supplied by the project sponsor.
- Verify viewpoint accuracy using computer plot overlays on base photographs.
- Produce draft visual simulations that accurately show the proposed project from the four simulation viewpoint locations. Review draft visual simulation with County staff. Draft color hardcopy prints will be produced for review purposes. Minor revisions to the draft simulation will be made based upon written review comments.
- Produce final 8 ½" x 11" color photographic prints ("before" and "after" images) for each selected viewpoint.

Analyze Impacts

Based on the photo simulations we will analyze the visual impacts of the proposed project. The photo simulations will be presented as pairs of images representing before and after conditions from each of the viewpoints selected for photo simulation preparation. The impact analysis also will develop the information needed to determine the conformance of the project with the *Marin Countywide Plan* goals, policies, and programs plus other relevant adopted plans and policies. These impacts will include:

- ***Views from off-site locations*** Discuss the extent that views of the project site from off-site locations would be affected by the proposed project.
- ***Contrasts with the existing visible areas*** Discuss the extent to which the site layout, building placement, or building project could contrast visually with existing development in the area.
- ***Landscaping*** Identify the effects of newly planted vegetation on future views of the site.
- ***Light and glare effects*** Describe the effect of the project as a result of new light and glare, especially due to the introduction of lighting on the site.

Develop Mitigations

As appropriate we will develop mitigation measures for the identified impacts.

5.5 Transportation and Circulation

We will prepare a revised and updated transportation and circulation section. In preparing this scope of work we have made the following assumptions:

- New weekday AM and PM peak period traffic counts at 15 analysis intersections will be necessary.

- Analysis of Base Case Near Term and Long Term Cumulative conditions "with" and "without project" scenarios will be necessary.

It is our opinion that much of the *2001 Draft EIR* text will be applicable to the current EIR analysis. However, Marin County code and planning policies, rather than those of the Town of Tiburon, will form the plan and policy basis for the current analysis. This has the potential to change some of the previous determinations of significance.

Tasks that we will conduct as a part of this scope of work include the following:

New Traffic Counts and Intersection Analysis for 2009 AM and PM Peak Hour Conditions

Traffic counts older than two years are generally considered unacceptable for use in EIR analyses. For many urban areas, Caltrans objects to counts older than one year, and Tiburon Boulevard (State Route 131) is a Caltrans facility. For this reason, it is anticipated that we will need to provide current (2009) weekday AM and PM peak hour traffic counts at study intersections. Fifteen intersections were included in the *2001 Draft EIR* analysis. If County staff determines that the intersections included in the *2001 Draft EIR* should be included in the new EIR, this will include intersections along Tiburon Boulevard or East Blithedale Avenue (the western extension of Tiburon Boulevard in the Town of Mill Valley, immediately west of Highway 101), Paradise Drive, and in the Hill Haven neighborhood (Ridge Road / Vistazo Street intersection). For the *2001 Draft EIR*, weekday AM and PM commute peak hour intersection operations were evaluated at 15 intersections.

Based on conversations with the Marin County Department of Public Works staff, for this EIR the following intersections will be analyzed:

Signalized Intersections

- East Blithedale Avenue / Highway 101 Southbound Off-Ramp
- Tiburon Boulevard / Redwood Highway Frontage Road
- Tiburon Boulevard / Blackfield Drive / Greenwood Cove Drive
- Tiburon Boulevard (SR 131) / Trestle Glen Boulevard
- Tiburon Boulevard (SR 131) / Avenida Miraflores
- Tiburon Boulevard (SR 131) / Rock Hill Drive
- Tiburon Boulevard / San Rafael Avenue
- Tiburon Boulevard (SR 131) / Lyford Drive
- Tiburon Boulevard (SR 131) / Beach Road

Unsignalized Intersections

- Tiburon Boulevard (SR 131) / Reed Ranch Road
- Tiburon Boulevard (SR 131) / Mar West Street
- Ridge Road / Vistazo Street
- Paradise Drive / MMWD Water Tank Service Road
- Paradise Drive / Trestle Glen Boulevard
- Paradise Drive / Mar East Street (southwesterly intersection)

The preferred count period for the Tiburon area is late May or early June when tourist activity is increasing, yet Tiburon schools are still in session. Counts conducted at other times of year require adjustment to reflect school activity along Tiburon Boulevard.

- Existing intersection operation will be analyzed for the weekday AM and PM peak hour time periods.

- Project trip generation will be revised and updated to reflect the current proposal. Trip generation studies conducted in 2001 for two large home subdivisions in Tiburon provided trips rates that can be used in the current study for the single family homes. Comments on the 2001 Draft EIR suggested that higher trip generation rates should be employed. We will work with County staff to in regard to the applicable trip rates to be used.

- Weekday AM and PM peak hour Base Case Near Term (without project) intersection operation (level of service) will be determined for the study intersections.

- Future cumulative (without project) traffic volumes will be determined for study roadways. The future horizon year analyzed will be 2020 (the *Town of Tiburon General Plan* buildout horizon), for which volume projections are available.[9] Traffic volume projections will be adjusted, if needed, based on growth information provided by Town of Tiburon staff regarding changes since preparation of the most recent *Town of Tiburon General Plan Technical Update of Traffic* (2002). We will likely obtain a list of projects from the Town to be added to the list of projects included in the *Town of Tiburon General Plan* buildout projections. Traffic from new projects will be added to *Town of Tiburon General Plan* buildout traffic volumes to produce future AM and PM peak hour traffic volumes.

- Weekday AM and PM peak hour cumulative (without project) intersection level of service operation will be determined for the study intersections. Project-generated traffic will be added to Base Case Near Term and Long Term Cumulative traffic volumes for both analysis periods, and weekday AM and PM peak hour intersection LOS will be determined.

Congestion Management Agency

We will review the Marin County Congestion Management Agency (CMA) standards for designated roads and highways in the project vicinity to demonstrate that the project would not trigger analysis of CMA-designated intersections.

Off-Site Roads (safety issues, pedestrians, bicycles, construction traffic) and On-Site Circulation

In a level of detail similar to that provided in the *2001 Draft EIR* analysis, we will analyze the following:

- Project impact of pedestrian and bicycle use of Paradise Drive.

- Provision of on-site roadways, and use of off-site roadways (i.e., Paradise Drive, Hill Haven neighborhood streets) for construction and resident traffic.

- Safe access driveways to all parts of the site, based upon County code criteria and traffic engineering standards.

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9 Projections of cumulative traffic have not been conducted by the County of Marin for Paradise Drive. Thus, growth projections must be based on the nearest available relevant traffic study conducted for the Town of Tiburon as part of its *General Plan* traffic analysis (2002 – 2020)

- Need for separate left turn lane on Paradise Drive on the approach to the intersection with proposed Forest Glen Court serving proposed Lots 25 to 34.

- Sight distance analysis at two locations:

  Paradise Drive / Proposed Driveway serving proposed Lots 21 to 23

  Paradise Drive / Proposed Forest Glen Court serving proposed Lots 25 to 34.

Emergency Access

In a level of detail similar to that provided for the *2001 Draft EIR*, we will address emergency access. Contact will be made with the Tiburon Fire Protection District (TFPD), Marin County Sheriff, and the Town of Tiburon Police Department.

Parking

In a level of detail similar to that provided for the *2001 Draft EIR*, we will analyze provision of on-site parking, as well as provision of parking for Public Open Space areas (off-site).

5.6 Air Quality

Air quality impacts would likely be restricted to construction activities, primarily dust generation. We will:

- Update the *2001 Draft EIR* setting section using latest air quality data along with information regarding air quality regulation and planning to attain compliance with air quality standards.

- Update air quality impacts. Construction activities would be temporary and will be evaluated with respect to the implementation of appropriate measures to control emissions. This discussion will include the potential generation of asbestos fibers due to the existence of soils containing serpentine. The addition of up to 43 new housing units would have negligible long-term air quality emissions. These emissions will be qualitatively addressed.

- Prepare mitigation measures, as appropriate.

Greenhouse Gas Emissions

We will review greenhouse gasses and global climate change issues relevant to the proposed project. We will:

- Prepare a setting section that describes current regulations and planning efforts to reduce greenhouse gas emissions.

- Calculate project emissions using the URBEMIS2007 model.

- Review project plans and Marin County policies and program that would reduce greenhouse gas emissions.

- Describe, in general terms, recommended measures to reduce project emissions.

5.7 Noise

The primary noise issue associated with the proposed project would be from construction noise. The project site and surrounding area has a low ambient noise, so temporary noise impacts could be a concern to existing residents. We will:

- Visit the project site to identify any changes in the existing noise environment. Noise measurements were previously made on the project site in two locations. Noise measurements were made in 1995 and again in 2000. In order to update the setting section we will conduct short-term noise measurements at the same locations. Updated noise information from the *Tiburon General Plan* and the *Marin Countywide Plan* will be included in the setting.

- Update noise impacts. If necessary, we will revise and update projected noise levels from both construction period activities and operation of the project. The prediction of construction noise will be based on the project description and schedule of construction in phases made available by the applicant.

- Revise mitigation measures to reduce construction noise, as appropriate.

5.8 Public Services and Utilities

As discussed in the *2001 Draft EIR* a variety of public agencies would provide public services and utilities to the project site, including wastewater, water, police services, fire protection, gas and electric, solid waste, and emergency medical facilities. We will review and update the *2001 Draft EIR* discussion regarding the ability of these service providers to provide service and describe the capacity of their facilities to accommodate increased demands generated by the proposed project without decreasing level of service or adversely affecting service standards currently provided or sought by these agencies.

The focus of these analyses will be regarding fire service, water supply, sanitary sewer, police protection, and public schools.

Fire service – The project site would be served by the Marin County Fire Department with contract services from the Tiburon Fire Protection District (TFPD). We will review and update fire service impacts, including wildland-building risks and emergency access issues. This analysis will include a discussion of conformance of the *2008 Easton Point* project with Chapter 16.17 – Urban Wildland Interface Code of the Marin County Code.

Water supply - The Marin Municipal Water District (MMWD) would supply water to the project site. We will review and update MMWD water supply considerations and water distribution issues.

Sanitary sewer - Sanitary District No. 5 would provide sanitary sewer service to the project site. The project site would require annexation to Sanitary District No. 5. We will review and update the discussion of sanitary sewer issues. We will work with the Sanitary District to understand issues related to the provision of service to the project site and the ability of existing facilities to accommodate the proposed project's sanitary sewer flows.

Police protection – The Marin County Sheriff would provide police service to the project site, and the California Highway Patrol would have jurisdiction on Paradise Drive. We will coordinate with representatives of the Sheriff's Department and the Highway Patrol to evaluate the impact that the proposed project would have on police protection services.

Public schools - The project site is located in the Reed Union School District and the Tamalpais Union High School district. We will review and update the impact project implementation would have on the school districts.

5.9 Cultural Resources

The *2001 Draft EIR* states that no known cultural resources are located on the project site, and no impacts on cultural resources are anticipated from project implementation. Furthermore, it is stated that the Spanish Trail does not appear to have existed during the Spanish or Mexican periods or to be eligible for inclusion on the California Register. Impacts to the Spanish Trail were identified as less-than-significant. We do not, therefore, propose to do additional analysis regarding archaeological resources or the Spanish Trail. We will, however, conduct telephone consultation with the appropriate Native American Tribe.

Comments on the *2001 Draft EIR*, however, raised concerns of potential adverse impacts on the Keil Cove Gardens. As a part of this scope of work, therefore we will:

- Review existing documentation on the Keil Cove Gardens. No additional research and no evaluation on the historical significance (under either local, California Register, or National Register criteria) is included in this overview of the existing documentation of the Keil Cove Gardens.

- Conduct a site visit of Keil Cove Gardens and the immediate surrounding area.

- Assess the potential for impacts from the *2008 Easton Point* project to the Keil Cove Gardens. This analysis will focus on the potential change to the visual character of the setting around the gardens that might occur with the proposed project.

6.0 Alternatives to the proposed proejct

This part of the EIR will present our assessment of alternatives to the project. We will analyze up to four alternatives in the EIR. The *2001 Draft EIR* assessed four alternatives:

- No Development Alternative
- Nine-Lot Alternative
- Seventeen-Lot Alternative
- Public Open Space Alternative

The *2001 Draft EIR* also provided an analysis of other on-site alternatives considered but rejected from further analysis. The analysis of off-site alternatives in the 2001 Draft EIR concluded that there were no feasible sites available.

CEQA directs EIRs to analyze a reasonable range of alternatives to the project or project location, which would *feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project*. The analysis of a range of alternatives is governed by a "rule of reason" for alternatives which could feasibly attain the basic objectives of the project.

Due to the previous analysis of alternatives, and due in part to the stipulated judgment, we propose to work with County staff to formulate alternatives to mitigate adverse impacts of the proposed project while meeting the applicant's objectives. The build alternatives will be developed subsequent to the

identification and analysis of environmental constraints and significant impacts associated with the proposed project.

We may want to incorporate the recommended mitigation measures required to reduce or eliminate significant impacts of the project in at least one of the alternatives. One reason to incorporate the mitigation measures into one of the alternatives would be to test the effectiveness of mitigation measures and, in particular, to determine the secondary effects of or trade-offs among measures, if any.

In this chapter, therefore, we will:

- Assess the alternatives in terms of differences in outcome compared with the proposed project
- Compare the project and all alternatives in a summary table
- Identify the environmentally superior alternative

CHAPTER 7.0 – IMPACT OVERVIEW

This chapter of the EIR will focus on growth inducing impacts and cumulative impacts and will summarize significant adverse impacts and effects of no significance.

Section 7.1 – Growth Inducing Impacts

Section 15126(g) of the State EIR Guidelines requires EIRs to discuss the ways in which a project could foster economic or population growth or the construction of additional housing (either directly or indirectly) in the surrounding environment. We will describe the extent to which implementation of the proposed project could stimulate unplanned growth or could result in accelerated growth – growth which would occur faster than anticipated by either the *Tiburon General Plan* or the *Marin Countywide Plan*.

Section 7.2 – Cumulative Impacts

This section of the EIR will summarize the findings of the topic-by-topic cumulative impact analyses presented in Environmental Analysis.

Section 7.3 – Significant Unavoidable Impacts

This section will summarize any unavoidable adverse impacts identified, including those impacts which could be reduced partially through mitigation but not eliminated entirely.

Section 7.4 – Effects of No Significance

We will list environmental effects of no significant impact in this section of the report. Among these items will be issues of no significant impact which were identified by the Initial Study, if it is determined to be appropriate to prepare an Initial Study, and any issues analyzed in this EIR which, upon closer examination, were found to result in no significant impact.

CHAPTER 8.0 – APPENDICES

This final part of the EIR will list and provide:

- Identification of report preparers.
- Identification of people and organizations contacted.
- Copies of the Initial Study (if one is prepared), notice of preparation (NOP), and correspondence received as part of the NOP process.
- Bibliography.
- Technical appendices supporting the EIR text, such as all calculations quantifying technical information.

SCHEDULE AND BUDGET

SCHEULE ASSUMPTIONS

Our schedule is based on assumptions about availability of information and turn-around times as we conduct the tasks listed above. The following assumptions provide the basis for allowing adequate time to conduct the requested analyses, preparing a legally complete EIR, and completing the environmental review process in a reasonable and timely manner. We assume that:

- We will receive required data without delays. As discussed below there are a number of items that we expect County staff to provide to us so that we can conduct our analyses. We will notify County staff immediately if there are any significant omissions or delays in receiving promised information.

- We will receive one set of written consolidated comments from County staff on the administrative draft documents Administrative Draft EIR, Preprint Draft EIR, Administrative Final EIR, and Preprint Final EIR. The consolidated comments must reconcile conflicting comments from different staff members or departments.

- We will respond to one round of comments on the Administrative Draft documents, Preprint Draft EIR, Administrative Final EIR, and Preprint Final EIR. The schedule and budget do not provide for preparing additional administrative drafts of these reports.

- There will be no lengthy delays caused for reasons beyond our control, such as failure to receive requested information, answers to pertinent questions, or comments on review copies of reports. We will proceed in spite of delays to the extent possible but may need to review the schedule to make up for productive time lost.

- Comments on the Draft EIR will not raise altogether new topics requiring additional analyses. We further assume that we can realistically respond to the number and complexity of the comments received in the time allotted. No matter how carefully we scope an EIR and address appropriate concerns, it is not possible to know how many comments will be received or how detailed they will be.

SCHEDULE

The schedule below shows the time per task and estimated elapsed time (in weeks) involved in the tasks to complete the report. We will finalize all delivery dates at start-up and will abide by the schedule once committed.

2008 Easton Point EIR Proposed Schedule

Task		Time/ Task (weeks)	Elapsed Time (weeks)
1.0	Project Start-Up	4	4
2.0	Analyze Impacts	16	18
3.0	Prepare Administrative Draft EIR	4	22
4.0	Prepare Draft EIR		
	4.1[a]	7	29
	4.2	1	30
5.0	Public Review (45 days)	7	37
6.0	Prepare Administrative Final EIR		
	6.1 and 6.2	6	43
	6.3	2	45
7.0	Prepare Final EIR		
	7.1	2	47
	7.2	1	48
	7.4 and 7.5	3	51

a. Task 4.1 assumes that we will receive one set of Marin County staff comments three weeks after delivering the Administrative Draft EIR, allows three weeks for us to complete the Pre Print Draft EIR, and allows one final week for County staff to review the Pre Print Draft EIR.

BUDGET

Our budget to complete the tasks described in the scope of work (including all professional labor, support labor, direct costs, and attendance at meetings and hearings held on the EIR) is $248,470.00. The budget is summarized as follows:

• Draft EIR	$186,290.00
• Final EIR	$37,500.00
• Attendance at Hearings	$9,600.00
• Direct Costs	
Printing	$7,000.00
Traffic counts	$5,580.00
Other	$2,500.00
Total Cost	$248,470.00

The budget for preparation of the Draft EIR is broken down on the following page.

BUDGET ASSUMPTIONS

PREPARATION OF THE FINAL EIR

It is extremely difficult to accurately estimate the cost of preparing the Response to Comments. This is because the cost depends on the number of comments, scope of comments, and the need for additional analyses that cannot be anticipated, no matter how carefully we scope the EIR and thoroughly analyze concerns identified to study.

For estimation purposes, we have assumed 250 hours to respond to comments. Based on the history of the environmental review of the Easton Point project the number and complexity of comments that we receive may require additional effort beyond the 250 hours. Based on 250 hours to respond to comments at an average hourly cost of $150.00 the estimated cost is $37,500.00. Task 6.1 of our proposed tasks provides for meeting with County staff and determining if the number and complexity of comments require additional effort, beyond what we have estimated in this budget.

PRINTING OF REPORTS

We will print and deliver reports, as follows

- Ten copies Administrative Draft EIR
- One copy of the Pre-Print DEIR
- 50 DEIRs plus 50 DEIRs on CDs plus an electronic copy for posting on the County website.
- Ten copies Administrative Final EIR
- One copy of the Pre-Print FEIR
- 50 copies of the Final EIR plus 50 copies of the Final EIR on CDs plus an electronic copy for posting on the County website.

Our budget assumes that the Final EIR will consist of the Response to Comments together with the Draft EIR reflect the response to comments.

Based on the above assumptions the estimated printing cost is $7,000.00

2008 Easton Point Project Draft EIR Professional Labor Budget

Task	Hours																					Total
	Nichols Berman			Clearwater			Crane Transportation				Live Oak					Illingworth & Rodkin			Snyder	Vallier		
1.0 Project Start-Up	40		40		12		14						12						8	20		146
2.0 Analyze Impacts																						
Chap. 1.0, 2.0 and 3.0	32		24																			56
Relationship to Plans	32		16																			48
Geology																			122			122
Hydrology				17	84	8																109
Biological Resources											12	16	88	14	17							147
Visual Resources		80																		140	6	226
Transportation							47	56														103
Air Quality																28	4					32
Noise																9		15				24
Public Services	32		16																			48
Cultural Resources		24	4																			28
Other	32		40																			72
Alternatives	24		24				6		8	11									8			81
3.0 Prepare ADEIR	56		40				20												12	20		148
4.0 Prepare DEIR	56	20	40	3	16		10	1	1	8												155
Total Hours	304	124	244	20	112	8	97	57	9	19	12	16	100	14	17	37	4	15	150	180	6	1,545
Rate per Hour	$140	$100	$75	$160	$115	$85	$200	$140	$130	$70	$160	$130	$100	$80	$110	$150	$125	$110	$155	$100	$75	
Professional Labor	$42,560	$12,400	$18,300	$3,200	$12,880	$680	$19,400	$7,980	$1,170	$1,330	$1,920	$2,080	$10,000	$1,120	$1,870	$5,550	$500	$1,650	$23,250	$18,000	$450	$186,290

Rates per Hour

$140	Principal, Nichols Berman	$130	Director, Live Oak
$100	Planner I, Nichols Berman	$100	Project Manager, Live Oak
$75	Planner II, Nichols Berman	$80	Assistant, Live Oak
$160	Principal, Clearwater	$110	Graphics, Live Oak
$115	Hydrologist, Clearwater	$150	Senior Consultant, Illingworth
$85	Engineer, Clearwater	$125	Staff Consultant, Illingworth
$200	Principal, Crane	$110	Staff Consultant, Illingworth
$140	Engineer I, Crane	$155	Engineering Geologist, Snyder
$130	Graphics, Crane	$100	Principal, Vallier
$70	Word Processing, Crane	$75	Assistant, Vallier
$160	Principal, Live Oak	$	

ATTENDANCE AT PUBLIC HEARINGS

We have assumed attendance at two public hearings by one representative of Nichols • Berman plus three other EIR team members. Assuming eight hours per meeting at an average hourly cost of $150.00 per hour the estimated cost is $9,600.00.

If specifically requested, Nichols • Berman and/or other EIR subconsultants could attend additional public hearings. We would do so on a time-and-materials basis according to our standard hourly rates:

2009 Billing Rates		
Firm		***Hourly Rate***
Nichols • Berman	Principal	$140.00
	Planner I	$100.00
	Planner II	$75.00
Clearwater Hydrology	Principal	$160.00
	Hydrologist	$115.00
	Engineer	$85.00
Crane Transportation Group	Principal	$200.00
	Engineer I	$140.00
	Graphics	$130.00
	Word Processing	$70.00
Live Oak Associates	Principal	$160.00
	Director	$130.00
	Project Manager	$100.00
	Assistant	$80.00
	Graphics	$110.00
Illingworth & Rodkin	Senior Consultant	$150.00
	Staff Consultant	$125.00
	Staff Consultant	$110.00
Snyder & Wilson	Certified Engineering Geologist	$155.00
Vallier Design Associates	Principal	$100.00
	Assistant	$75.00

CONTRACT PAYMENT

We will bill Marin County on a monthly basis for services completed.

To ensure that the schedule and budget are being adhered to, monthly we will report to County staff the cost, progress of the EIRs preparation, and any anticipated problems and possible solutions. Monthly, therefore, we will:

- Provide County staff with a progress report which details the work accomplished the prior month, status of the budget and schedule, any problems encountered and how the problems were resolved, and work to be accomplished the following month.

- Provide an invoice which will clearly identify all billable services. The invoice will itemize employee by name, title, hourly rate, and hours billed.

In addition to the monthly progress report, biweekly the EIR Project Manager will contact the County Contract Planner by telephone to discuss work progress and any issues that have arisen during the preparation of the EIR.

INFORMATION TO BE PROVIDED BY COUNTY AND / OR APPLICANT

In June 2007 we provided a preliminary list of materials that we anticipate needing to conduct our analyses.[10] On December 1, 2008 the Martha Company submitted the Easton Point project application with Marin County. County staff is currently reviewing the submitted materials to determine the completeness of the application. As requested, we are reviewing the materials to determine if additional materials will be needed to conduct our analyses.

INSURANCE

Nichols • Berman carries comprehensive general liability, professional liability, automobile liability, and worker's compensation insurance. We will maintain the insurances in force through the term of the agreement. As appropriate, we will name Marin County as an additional insured and provide the County with certificates of insurance. It should be noted that our insurance providers require that our business attorney review each of our contacts prior to signing to insure consistency with our insurance provisions.

PROJECT DESCRIPTION AND ISSUES

We have developed this budget using the information currently available to us. If additional information is revealed about the project description that would lead to additional work or if the scoping process (such as responses to Notice of Preparation) reveals topics requiring additional analyses this may need to be modified.

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[10] Memo to David Zaltsman and John Roberto from Bob Berman, June 19, 2007.

STUDY TEAM MEMBERS

Nichols • Berman will be the lead consultant with overall responsibility for preparing the *2008 Easton Point EIR*. We have assembled the same team of specialized consultants who participated in the preparation of the *2001 Draft EIR*. They include:

- ***Nichols • Berman*** – environmental planning and project management
- ***Clearwater Hydrology*** – hydrology and drainage
- ***Crane Transportation Group*** – transportation and circulation
- ***Illingworth & Rodkin*** – air quality and noise
- ***Live Oak Associates*** – biological resources
- ***Snyder & Wilson Engineering, Inc.*** – geology and soils
- ***Vallier Design Associates*** - visual simulations

Study team member's background and qualifications are available on request. If you would like additional information abut our firms and experience please let us know.