RESOLUTION No. 16-582

OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA

RESOLUTION APPROVING A TAX NEUTRALITY AGREEMENT BETWEEN THE COUNTY OF NEVADA AND THE PACIFIC FOREST AND WATERSHED LANDS STEWARDSHIP COUNCIL FOR LANDS LOCATED NEAR LAKE SPAULDING (APNS 64-140-02, 64-130-08 AND A PORTION OF 64-140-06)

WHEREAS, the Stewardship Council was created to oversee the "Land Conservation Commitment" described in that certain Settlement Agreement among Pacific Gas and Electric Company ("PG&E"), PG&E Corporation, and the California Public Utilities Commission (the "Commission") as modified and approved by the Commission in its Opinion and Order of December 18, 2003 (Decision 03-12-035) ("the Settlement Agreement"); and that Stipulation Resolving Issues Regarding the Land Conservation Commitment dated September 25, 2003 ("the "Stipulation").

WHEREAS, the Stewardship Council has limited assets and no foreseeable sources of revenue and consequently the Stewardship Council is anticipated to dissolve or otherwise wind down or cease to operate in the future; and

WHEREAS, pursuant to the Settlement Agreement and Stipulation, certain lands owned by PG&E at the time of the Settlement (the "PG&E Watershed Lands") are to be conserved for a broad range of beneficial public values, including the protection of the natural habitat of fish, wildlife and plants; the preservation of open space; outdoor recreation by the general public; sustainable forestry; agricultural uses; and historic values. The Stewardship Council is charged with developing a Land Conservation Plan ("LCP") for the protection and enhancement of the PG&E Watershed Lands; and

WHEREAS, in connection with the Land Conservation Commitment, approximately 1,867 acres of PG&E Watershed Lands in Nevada County that PG&E agreed to make available for donation are anticipated to be donated to eligible organizations; and

WHEREAS, the Settlement Agreement requires that the LCP assess that any donation will not adversely impact local tax revenue, and the Stipulation requires that an appropriate entity provide property tax revenue, other equivalent revenue source, or a lump sum payment so that the totality of the dispositions in each affected county under the Land Conservation Commitment will be tax neutral for that county ("Tax Neutrality Requirement").

WHEREAS, pursuant to the Settlement Agreement and Stipulation, the Stewardship Council desires to transfer lands located near Lake Spaulding (APNs 64-140-02, 64-130-08 and a portion of 64-140-06), and the County of Nevada and the Stewardship Council desire to enter into an agreement to address the Tax Neutrality Requirement; and

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of Nevada that a Tax Neutrality Agreement by and between the County of Nevada and the Stewardship Council for lands located near Lake Spaulding (APNs 64-140-02, 64-130-08 and a portion of 64-140-06) be and hereby is approved in substantially the form attached hereto as Exhibit A and that the County Executive Officer is hereby authorized to execute this Agreement on behalf of the County of Nevada.

PASSED AND ADOPTED by the Board of Supervisors of the County of Nevada at a regular meeting of said Board, held on the 13th day of December, 2016, by the following vote of said Board:

Ayes:	Supervisors Nathan H. Beason, Edward Scofield, Dan Miller, Hank Weston and Richard Anderson.
Noes:	None.
Absent:	None.
Abstain:	None.

ATTEST:

JULIE PATTERSON HUNTER
Clerk of the Board of Supervisors

By: Julie Patterson Hunter

Dan Miller

Dan Miller, Chair

12/13/2016 cc: CEO*
AC*(hold)

3/23/2017 cc: CEO*
AC* (Release)

Funding Agreement to Implement the Tax Neutrality Requirement for Donation of PG&E Lands near Lake Spaulding to The University of California Regents

This Funding Agreement to Implement Tax Neutrality Requirement ("Agreement") is entered into as of the Effective Date (defined below) by and between the **Pacific Forest and Watershed Lands Stewardship Council**, a California nonprofit public benefit corporation **("Stewardship Council")** and **County of Nevada,** a public entity **("County")** with reference to the following facts:

A. The Stewardship Council was created to oversee the **"Land Conservation Commitment"** described in (1) that certain Settlement Agreement among Pacific Gas and Electric Company **("PG&E"),** PG&E Corporation, and the California Public Utilities Commission (the **"Commission"**) as modified and approved by the Commission in its Opinion and Order of December 18, 2003 (Decision 03-12-035) (the **"Settlement Agreement");** and (2) that certain Stipulation Resolving Issues Regarding the Land Conservation Commitment dated September 25, 2003 (the **"Stipulation").** The Stewardship Council has limited assets and no foreseeable sources of revenue, and consequently the Stewardship Council is anticipated to dissolve or otherwise wind down or cease to operate in the future.

B. Pursuant to the Settlement Agreement and Stipulation, certain lands owned by PG&E at the time of the Settlement (the **"PG&E Watershed Lands"**) are to be conserved for a broad range of beneficial public values, including the protection of the natural habitat of fish, wildlife and plants; the preservation of open space; outdoor recreation by the general public; sustainable forestry; agricultural uses; and historic values. The Stewardship Council is charged with developing a Land Conservation Plan **("LCP")** for the protection and enhancement of the PG&E Watershed Lands.

C. In connection with the Land Conservation Commitment, PG&E has agreed to donate a portion of the PG&E Watershed Lands to eligible organizations, including the lands described below in Section 2.

D. The Settlement Agreement requires that the LCP assess that any donation will not adversely impact local tax revenue, and the Stipulation requires that an appropriate entity provide property tax revenue, other equivalent revenue source, or a lump sum payment so that the totality of the dispositions in each affected county under the Land Conservation Commitment will be tax neutral for that county **("Tax Neutrality Requirement").** By and through this Agreement, County and Stewardship Council desire, among other things, to confirm and acknowledge that the Tax Neutrality Requirement has been met.

E. In consideration of the covenants and obligations set forth herein, the Stewardship Council intends that the funding be provided to County as described in Section 3, and County desires to accept such funding, all subject to the terms and conditions described in this Agreement.

NOW, THEREFORE, IN CONSIDERATION of the foregoing recitals, and the mutual covenants and obligations of the parties herein contained, the Stewardship Council and County agree as follows:

1. **Effective Date and Term**. This Agreement shall become effective as of the last date it has been signed by both parties. **("Effective Date").** The provisions of this Agreement shall survive the closing of the transactions contemplated hereby and Stewardship Council's dissolution, winding down or ceasing operations.

2. **Property**. The Property consists of approximately 1,459 acres of real property located in the County of Nevada, State of California, within what is commonly known as the Lake Spaulding Planning Unit and as more particularly described in Exhibit A attached and incorporated by this reference. The Property is expected to be transferred to the University of California.

3. **Funding Allocation.** The County elects to receive the lump sum payment option as described in Exhibit B, and not any of the other options described in Exhibit B. Within 60 days of the recording of the Grant Deed in favor of the University of California in the Official Records of Nevada County (the "Recording Date"), the Stewardship Council will pay the sum of **Twenty Five Thousand Nine Hundred Twenty Five Dollars ($25,925) ("Funding Allocation")**, to be paid to the County of Nevada. The Funding Allocation is based upon the Payment Calculation:
Annual Base Value of $1,037 divided by Capitalization Rate of 4% = Funding Allocation of $25,925

4. **Satisfaction of Tax Neutrality Requirement.**

a. The County hereby agrees with the Tax Neutrality Methodology attached hereto as Exhibit B as being an appropriate method to calculate the Funding Allocation.

b. The parties hereby agree and acknowledge that the Funding Allocation represents a reasonable payment to the County in lieu of property taxes which might otherwise have been received by County from the owner of the Property, and that the Funding Allocation satisfies the Tax Neutrality Requirement with regard to the donation of the Property.

c. The County hereby waives and releases all claims, currently known or unknown, relating to the final calculation of the Funding Allocation and the Tax Neutrality Methodology that was used by the Stewardship Council to determine the amount of the Funding Allocation.

5. **Welfare Exemption.** County agrees that the County Assessor will not unreasonably withhold approval of the Welfare Exemption from Property Taxes in the event that the Property is subsequently conveyed to another organization qualified for said exemption with regard to the Property.

6. **Risk of Loss; Waiver and Release; Estoppel.**

a. County hereby waives and releases the Stewardship Council and any of the Stewardship Council's direct and indirect past, present and future shareholders, partners, members, trustees, officers, directors, principals, parents, subsidiaries, affiliates, employees, agents, contractors, transferees, successor(s), and assignees (collectively, the "**Related Entities**"), from all claims, currently known or unknown, which may arise from any reduction or loss of Funding Allocation, or potential or actual tax loss, and County is estopped from asserting that the Funding Allocation was not a reasonable payment in lieu of taxes, or otherwise does not satisfy the Tax Neutrality Requirement with regard to the donation of the Property.

b. County expressly waives any benefits of Section 1542 of the Civil Code of the State of California, which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE

RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

7. **Distribution of Funding Allocation to Other Local Agencies.**

a. County agrees to pay reasonable and timely distributions from said Funding Allocation to special districts and other local agencies consistent with the methodologies described in Division 1 of the California Revenue and Taxation Code. Distributions from the Funding Allocation shall be the sole responsibility of the County and the Stewardship Council shall have no responsibility to verify or ensure that such distributions are paid or made consistent with the methodologies described in Division 1 of the California Revenue and Taxation Code.

i. In consideration for the additional administrative responsibility of the County to set up the process to allocate payments to special districts, the Stewardship Council will make a $3,000 payment to the County for County's anticipated costs to perform such activities. Said payment will be made at the time the Stewardship Council makes its lump-sum tax neutrality payment to County.

8. **Record Keeping.** County will indicate the Funding Allocation separately on its books of account, charge expenditures made in furtherance of the purposes of this Agreement against the Funding Allocation, and keep records adequate to enable the use of the Funding Allocation with regard to distributions to special districts and local agencies pursuant to Section 7 to be checked readily by the Stewardship Council or its designee, or to the extent permitted by the California Public Records Act, by members of the public.

9. **Communications.** The Stewardship Council may include information regarding this Agreement and County in its periodic public reports, press releases, or other public communications.

10. **County's Representations.** County represents that it was represented by Counsel in connection with the negotiation of this Agreement and that in agreeing to execute this Agreement gave due consideration to all relevant factors, including the current and future property tax potential of the Property and any development potential the Property might have had.

11. **Due Authorization.** This Agreement and the performance of County's obligations under it are duly authorized and executed, and are, or will be upon the Effective Date, legal, valid, and binding obligations of County. No consent of any judicial or administrative body, government agency, or other party is required for County to enter into and/or to perform County's obligations under this Agreement, except as has already been obtained. County warrants and represents that it is a political subdivision of the State of California or is otherwise an organization described in Section 170(c)(1) or Section 511(a)(2)(B) of the Internal Revenue Code (IRC), and that the undersigned representative of County is duly authorized and empowered to sign this Agreement.

12. **Indemnification.** County hereby agrees to indemnify, defend, and hold harmless the Stewardship Council and any of the Related Entities from and against any and all claims, demands, losses, costs, expenses, obligations, liabilities, damages, recoveries, and deficiencies, including interest, penalties, and reasonable attorney fees and costs, that any one or more of them may incur or suffer and that result from, or are related to, breach of this Agreement by County or any liability or claim made by the County or by any third party in connection with the County's use, management, or distribution of the Funding Allocation.

The Stewardship Council hereby agrees to indemnify, defend, and hold harmless the County, and the County's past, present, and future officers, directors, and employees, from and against any and all claims, demands, losses, costs, expenses, obligations, liabilities, damages, recoveries, and deficiencies, including interest, penalties, and reasonable attorney fees and costs, that any of them may incur or suffer and that result from, or are related to, breach of this Agreement by the Stewardship Council.

13. **Third Party Beneficiaries**. The Related Entities are express third party beneficiaries of this Agreement and shall be entitled to enforce the provisions hereof against County.

14. **Attorney Fees**. In the event of any action or proceeding to enforce a term or condition of this Agreement, or any action or proceeding in any way arising from this Agreement, the prevailing party in such action, or the nondismissing party when the dismissal occurs other than by a settlement, will be entitled to recover its reasonable costs and expenses, including without limitation reasonable attorney fees and costs of defense paid or incurred in good faith. The "prevailing party," for purposes of this Agreement, will be deemed to be that party who obtains substantially the result sought, whether by settlement, dismissal, or judgment.

15. **Assignment**. The benefits to be provided under this Agreement are personal to County, and may not be assigned or transferred by County without the prior written approval of the Stewardship Council. The Stewardship Council may assign its rights and obligations hereunder to a third party upon written notice to County. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit and burden of the parties and their respective heirs, successors and assigns.

16. **Amendment; Entire Agreement.** This Agreement may not be amended or modified except by written instrument signed by both parties. This Agreement constitutes the entire understanding of the parties concerning the subject matter hereof, and supersedes any and all previous negotiations, agreements, or understandings, if any, regarding the matters contained herein.

17. **Invalidity of Provision**. If any provision of this Agreement as applied to either party or to any circumstance is adjudged by a court of competent jurisdiction to be void or unenforceable for any reason, this fact will in no way affect (to the maximum extent permissible by law) any other provision of this Agreement, the application of any such provision under circumstances different from those adjudicated by the court, or the validity or enforceability of this Agreement as a whole.

18. **Headings**. The headings used in this Agreement are provided for convenience only and this Agreement will be interpreted without reference to any headings.

19. **Governing Law**. This Agreement shall be governed by the laws of the State of California.

20. **Counterparts**. This Agreement may be executed in counterparts which together shall constitute a single agreement.

IN WITNESS WHEREOF, Stewardship Council and County have entered into this Funding Agreement to Implement Tax Neutrality Requirement as of the dates set forth below.

Pacific Forest and Watershed Lands Stewardship Council,
a California Nonprofit Public Benefit Corporation

By: Allene Zanger

Title: Executive Director

Date: 1/24/17

COUNTY OF NEVADA

By: Richard A. Haffey
Richard A. Haffey

Title: County Executive Officer

Date: 1/12/17

ATTEST:

Clerk of the Board of Supervisors

By: _______________

Approved as to form:

County Counsel

By: Alison Barratt-Green

Exhibit A

THE LAND DESCRIBED HEREIN IS SITUATED IN THE STATE OF CALIFORNIA, COUNTY OF NEVADA, UNINCORPORATED AREA, AND IS DESCRIBED AS FOLLOWS:

PARCLE 1:
00DR-CFX-00003
SBE# 135-29-4C-1
LCP ID#: 0795

ALL THAT CERTAIN PARCEL OF LAND SITUATE IN SECTION 5, TOWNSHIP 17 NORTH, RANGE 12 EAST, MOUNT DIABLO BASE AND MERIDIAN, AS RECORDED IN BOOK 116, PAGE 63 OF DEEDS OF THE OFFICIAL RECORDS OF THE COUNTY OF NEVADA, STATE OF CALIFORNIA, PARTICULARLY DESCRIBED THEREIN AS FOLLOWS:

ALL OF SAID SECTION 5.
A.P.N. 64-140-02000

PARCLE 2:
00DR-CFX-00004
SBE# 135-29-4C-2
LCP ID#: 0796

ALL THAT CERTAIN PARCEL OF LAND SITUATE IN SECTION 7, TOWNSHIP 17 NORTH, RANGE 12 EAST, MOUNT DIABLO BASE AND MERIDIAN, AS RECORDED IN BOOK 116 , PAGE 63 OF DEEDS OF THE COUNTY OF NEVADA, STATE OF CALFIORNIA, PARTICULARLY DESCRIBED THEREIN AS FOLLOWS:

THE EAST ONE-HALF OF THE NORTHWEST ONE-QUARTER AND THE NORTHEAST ONE-QUARTER OF SAID SECTION 7.

EXECPTING THEREFORM THAT PORTION DESCRIBED IN THE CORRECTED FINAL ORDER OF CONDEMNATION RECORDED JULY 9, 2014, AS INSTRUMENT NO. 2014-0012713, NEVADA COUNTY RECORDS.
A.P.N 64-140-06000 PORTION

PARCEL 3:
00DR-CFX-00005
SBE# 135-29-1-13
LCP ID#: 0797

ALL THAT CERTAIN PARCEL OF LAND SITUATE IN SECTION 1, TOWNSHIP 17 NORTH, RANGE 11 EAST, MOUNT DIABLE BASE AND MERIDIAN, AS RECORDED IN BOOK 115, PAGE 273 OF DEEDS OF THE COUNTY OF NEVADA, STATE OF CALIFORNIA, PARTICULARLY DESCRIBED THEREIN AS FOLLOWS:

ALL SAID SECTION 1 EXCEPT THE NORTHEAST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER THEREOF.

EXCEPTING THEREFROM THAT PORTION AS DESCRIBED IN THE CORRECTED FINAL ORDER OF CONDEMNATION RECORDED JULY 9, 2014 AS INSTRUMENT NO. 2014-0012713.
A.P.N 64-130-08-000

Exhibit B

Adopted 06/27/2012
Amended 06/24/2015
Amended 01/21/2016

PROPERTY TAX NEUTRALITY METHODOLOGY

INTRODUCTION

The Settlement Agreement[1] and Stipulation[2] that established the Land Conservation Commitment require that the Land Conservation Plan being developed by the Stewardship Council provide property tax revenue, other equivalent revenue source, or a lump sum payment, so that the totality of dispositions in each affected county will be "tax neutral" for each county. Section 4.3 of Volume I of the Land Conservation Plan (LCP) adopted by the Stewardship Council in November 2007 described the Stewardship Council's potential strategies and anticipated approach to achieving property tax neutrality at a programmatic level

More recently, on September 17, 2009, the Stewardship Council adopted a funding policy. This policy further clarified the Stewardship Council's approach to property tax neutrality and identified several potential vehicles to achieving this requirement. On March 30, 2011, the Stewardship Council adopted a set of guidelines which describe scenarios in which the Stewardship Council will make property tax payments to affected counties and further defined a set of overarching assumptions regarding property tax neutrality payments.

Table 1 in Appendix A lists the estimated acreage and estimated annual property taxes associated with PG&E watershed lands which have been recommended by the Stewardship Council Board of Directors for donation. The estimated total tax liability that would be subject to tax neutrality will depend upon the total acreage actually transferred, and the types of organizations receiving fee title to the lands. No PG&E watershed lands will be recommended for donation in counties that are not listed in Table 1.

PURPOSE OF PROPOSED METHODOLOGY

The purpose of this methodology is to establish a standard payment process when lands are transferred to organizations that are exempt from paying property taxes. The following methodology will be applied to all counties which experience a loss in property tax revenues due to a recommended donation of fee title as part of the Stewardship Council's Land Conservation Commitment.

DETERMINING TAX NEUTRALITY PAYMENT AMOUNT

Following the Stewardship Council approval of a fee-title donation, the Stewardship Council will work with the affected county to calculate the payment amount for inclusion in the Stewardship Council's Land Conservation and Conveyance Plan (LCCP).

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[1] *Opinion Modifying the Proposed Settlement Agreement of Pacific Gas & Electric Company, PG&E Corporation and the Commission Staff, and Approving the Modified Settlement Agreement,* December 18, 2003: *http://www.stewardshipcouncil.org/documents/Settlement_Agreement.pdf*

[2] *Stipulation Resolving Issues Regarding the Land Conservation Commitment,* September 25, 2003: *http://www.stewardshipcouncil.org/documents/Stipulation_Agreement.pdf*

1. Using the legal description and/or survey of lands identified for transfer to an organization which is exempt from paying property taxes, the Stewardship Council and PG&E will prepare an estimate of the annual taxes on lands to be donated. If assessed values on the lands recommended for donation change prior to the transfer of land, the Stewardship Council will revise the payment calculation included in the proposed tax neutrality funding agreement prior to its execution by the parties.

2. The reduction in annual taxes caused by the donation of acres to organizations exempt from property tax will constitute the "Annual Base Value" for the funding calculation.

3. The county will select either the lump-sum, installment payment, or annual payment in perpetuity option (described below) for the selected fee-title donation and communicate their preference in writing to the Stewardship Council.

4. The Stewardship Council will provide a draft funding agreement for county review and approval using the Annual Base Value and payment option. The draft funding agreement is expected to include, among other items, the following acknowledgements by the county:

    a. Payment by the Stewardship Council satisfies the tax neutrality requirement as specified in the Settlement and Stipulation for the subject fee-title donation.

    b. The county has issued (or will not reasonably withhold) a Welfare Tax Exemption for the new landowner, if required.

    c. The county will agree to distribute the lump-sum, installment payment, or annual payment to the applicable special districts as dictated in the relevant Tax Rate Area at the time of payment. In consideration for the additional administrative responsibility of the county to set up the process to allocate payments to special districts, the Stewardship Council will make a $3,000 payment to the county for county's anticipated costs to perform such activities for the first fee title donation of lands in the county. Said payment will be made at the time the Stewardship Council makes its lump-sum tax neutrality payment or installment payments to county or sets aside funds for an endowment account to generate funds for annual tax neutrality payments to county. For subsequent fee title donations, if a county expects to incur more than $3,000 in costs to perform such activities, then it shall make a request to the Stewardship Council for increased funding no later than 60 days following the recording of the grant deed for each additional fee title donation or the execution of a tax neutrality funding agreement, whichever comes later. The Stewardship Council will review each funding request and provide the county with sufficient funds to cover all reasonable anticipated costs.

5. The Stewardship Council will fund the settlement amount according to the terms of the tax neutrality funding agreement as described in number 4 above no later than 60 days following the recording of the grant deed for the fee title donation or the execution of a tax neutrality funding agreement, whichever comes later.

OPTIONS FOR FUNDING PROPERTY TAX NEUTRALITY PAYMENTS

The Stewardship Council is presenting three options for making tax neutrality payments: (1) a one-time lump-sum payment; (2) annual installment payments for a maximum number of five years totaling the lump-sum amount; or (3) funding of an independent trustee to continue annual payments in lieu of taxes in perpetuity.

Lump-sum payment

Lump-sum payments in satisfaction of property tax neutrality would be calculated based upon the net present value of the Annual Base Value at the time that lands are removed from the property tax rolls. The lump-sum payment will be calculated using a discounted cash flows analysis for perpetual payment streams, otherwise known as a Capitalization Rate (Cap Rate).

The Cap Rate calculation requires an assumption of a long-term rate of return on comparable investments, and a long-term inflation rate. In order to develop a Cap Rate for a lump-sum payment, the Stewardship Council considered multiple long-term inputs, including long term equity and fixed income returns (Dow Jones Industrial Average, S&P 500, U.S. Treasury, CalPERS), weighted average borrowing costs for subject counties, and discount rate assumptions for pension and other post-employment benefits.

Based upon the analysis described above, **the Stewardship Council is offering counties a Cap Rate of 4.0%** to be used in the calculation of a lump-sum payment in satisfaction of property tax neutrality. The calculation for arriving at a lump-sum payment is as follows:

Lump Sum Value = Annual Base Value ÷ 4.0%

The following table provides an example of the application of the Cap Rate to various Annual Base Values:

Annual Base Value	$500	$1,000	$5,000	$10,000
Lump Sum at 4.0%	$12,500	$25,000	$125,000	$250,000

Lump-sum payments would be allocated based upon the applicable Tax Rate Area at the time of payment. The Stewardship Council envisions making these lump-sum payments as unrestricted payments in lieu of property taxes, subject to the distribution method described in section 4.c above. Counties and special districts would be free to determine the best use of the funds pursuant to the needs of the county or special district, including, if desired investment in a shared investment pool of the county's choosing.

Installment Payments

The Stewardship Council is willing to pay the amount calculated for the lump-sum payment in annual installment payments totaling the lump-sum amount for a maximum number of five years.

Annual payments in perpetuity

The Stewardship Council is in negotiations with a professional investment manager to act as investment manager and trustee for an endowment to support the management and monitoring of conservation covenants after the Stewardship Council's dissolution. The Stewardship Council is prepared to make this arrangement available to counties which prefer to receive an annual payment in lieu of property taxes on lands which are removed from the tax rolls.

Under this structure, the Stewardship Council will make a contribution to an endowment account which would be designed to generate enough income to compensate for the lost property tax revenues and pay for annual investment management and trustee fees. The contribution to the endowment account would be calculated based upon the Annual Base Value for lands approved for donations and the expected payout ratio of 4%.

Annual payments out of the endowment account will be calculated based upon a rolling 20 quarter average of the account's ending balance[3]. The practice of calculating payments based upon a rolling average (smoothing) has been shown to reduce the number of significant declines in annual distributions, and increase the total value of payments and invested assets[4].

Annual payments to counties would be allocated based upon the applicable Tax Rate Area at the time of payment by the receiving county. The Stewardship Council envisions making these annual payments as unrestricted payments in lieu of property taxes, subject to the distribution method described in section 4.c above. Counties and special districts would be free to determine the best use of the funds pursuant to the needs of the county or special district.

Participating counties would be enrolled in a common service model in the investment management account. All counties would share a common investment policy and investment management agreement. Funds will be invested in a commingled account, with the investment manager providing an individual accounting to each individual county.

Considerations of the Annual Payment Approach

The viability of the annual payment option is subject to a level of participation by the counties which meets the minimum account size (estimated at $1 million).

Under this approach annual payments may exceed the original Annual Base Value in some years, and be lower in others, as the payment amount is reliant upon the ending market value of the account.

The Stewardship Council's transaction process is expected to occur serially, over the span of several years. It is likely that the viability and pricing of the annual payment approach will not be known for the initial transactions. Therefore, the Stewardship Council may make the initial annual payments directly to counties until the minimum account size is reached.

Please see Appendix B for more details on the annual payment option.

[3] During the initial four years, the trustee will calculate payments based upon the number of available quarters (e.g. year 1 – rolling 4 quarters, year 2 – rolling 8 quarters, etc.)
[4] Smarter Giving for Private Foundations, AllianceBernstein, https://www.alliancebernstein.com/Research-Publications/Black-Books/Foundations-and-Endowments/Stories/Foundations_BlackBook.htm

Appendix A

Estimated acreage and annual property taxes associated with PG&E watershed lands which have been recommended by the Stewardship Council Board of Directors for donation.

Table 1

County	Acres Recommended for Donation	Estimated Annual Taxes on Lands Recommended for Donation ($)
Alpine	410	$2,941
Amador	2,040	$8,577
Butte	1,263	$12,329
Calaveras	60	$48
Fresno	267	$2,228
Lake	986	$31,795
Madera	220	$12,296
Mendocino	847	$16,778
Nevada	1,867	$13,103
Placer	2,683	$57,064
Plumas	2,986	$29,928
Shasta	23,591	$81,872
Tehama	151	$1,125
Tuolumne	868	$379
Yuba	41	$530

Please see Appendix B for more details on the annual payment option

Appendix B
Annual Payment Details

TRUSTEE SELECTION

The Stewardship Council is performing due diligence for the selection of an investment manager and trustee to administer the trust account for annual payments to counties. Selection will be based upon many factors, including (but not limited to): organization history and reputation, investment management experience, fee structure, and administrative capabilities. Additional information on the selection process can be provided upon request.

Trustee's Responsibilities:
Upon the Stewardship Council's funding of the trust account, the trustee would assume all responsibilities for making annual payments to counties in lieu of property taxes, including:

Trust administration

Interpret the trust document.

Distribute trust assets according to the trust document.

Perform principal and income accounting.

Prepare and file tax returns.

Address specific beneficiary issues, reporting, etc.

Investment management

Invest the trust portfolio assets objectively for the benefit of all interested parties.

Manage portfolio assets in a tax-efficient and tax-effective manner.

Review investment performance to ensure the portfolio is meeting the established goals and objectives.

The Annual Payment Structure

Using the inputs described in the term sheet, the Stewardship Council will make a contribution to the trust account on behalf of the participating county. The following example illustrates the funding and payout process.

EXAMPLE: Calculation of Contribution to Trust Account

Annual Base Value:	$5,000 per year
Annual Payout Percentage:	4.00%

Contribution Calculation: $\$5,000 \div 0.04 = \$125,000$

The actual annual payout is dependent upon the following factors:

Annual Rate of Return: The annual rate of return will depend upon investment selections and market and economic performance. While past results are not an accurate predictor of future results, the annual return of the S&P 500 has averaged approximately 9%-10% since 1925[5].

Estimated Annual Fees: Annual investment management and trust administration fees will be deducted from the account and are expected to be approximately 1% - 2%, depending upon the selected investment manager and trustee.

As envisioned, the trustee will make annual payments based upon a rolling 20 quarter average of the account balance[6]. The practice of calculating payments based upon a rolling average (smoothing) has been shown to reduce the number of significant declines in annual distributions, and increase the total value of payments and invested assets[7]. However, this does not guarantee against the possibility of losses in investment principal resulting in payments in some years being less than the county would have otherwise received from property taxes.

The following examples illustrate the payment methodology in two theoretical scenarios. Scenario A shows anticipated annual payments to a county with a stable rate of return. While it is unrealistic to expect no volatility in investment returns, Scenario A shows that the growth in annual payments should keep pace with, or exceed annual inflation, when invested in a balanced portfolio [8].

Scenario B shows actual market returns for the S&P 500 index from 1980 to 2010. While historical returns do not predict future performance, the time period in Scenario B provides a more realistic assumption of variability in stock market returns. Please note that the proposed investment portfolio would not include a 100% allocation to the S&P 500 or to equities. A model portfolio would include diversification among equities (small cap, large cap, international) and fixed income investments. This diversification would likely reduce the estimated annual return and reduce volatility.

Please note that both of the scenarios are provided for illustrative purposes only and do not constitute a prediction of future performance on behalf of the Stewardship Council or the prospective investment manager.

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[5] Based upon Historical Average Return of the S&P 500 index 1925-2010.
http://apps.finra.org/investor_information/smart/401k/401104.asp
Past performance does not guarantee future results.

[6] During the initial four years, the trustee will calculate payments based upon the number of available quarters (e.g. year 1 – rolling 4 quarters, year 2 – rolling 8 quarters, etc.).

[7] Smarter Giving for Private Foundations, AllianceBernstein, https://www.alliancebernstein.com/Research-Publications/Black-Books/Foundations-and-Endowments/Stories/Foundations_BlackBook.htm

[8] Bureau of Labor Statistics, CPI Rate: Jan 1913 to Nov 2011 http://www.bls.gov/data/inflation_calculator.htm

Scenario A: $125,000 earning a stable return[9]

Year	Beginning Balance	Annual Return %	Annual Return $	Annual Distribution (4%)	Fees -1%	Ending Balance
0	125,000	9.00%	11,250	-	(1,250)	135,000
1	135,000	9.00%	12,150	(5,400)	(1,350)	140,400
2	140,400	9.00%	12,636	(5,508)	(1,404)	146,124
3	146,124	9.00%	13,151	(5,620)	(1,461)	152,194
4	152,194	9.00%	13,697	(5,737)	(1,522)	158,632
5	158,632	9.00%	14,277	(5,859)	(1,586)	165,464
6	165,464	9.00%	14,892	(6,103)	(1,655)	172,598
7	172,598	9.00%	15,534	(6,360)	(1,726)	180,046
8	180,046	9.00%	16,204	(6,631)	(1,800)	187,818
9	187,818	9.00%	16,904	(6,916)	(1,878)	195,927
10	195,927	9.00%	17,633	(7,215)	(1,959)	204,387
11	204,387	9.00%	18,395	(7,526)	(2,044)	213,211
12	213,211	9.00%	19,189	(7,851)	(2,132)	222,417
13	222,417	9.00%	20,018	(8,190)	(2,224)	232,020
14	232,020	9.00%	20,882	(8,544)	(2,320)	242,038
15	242,038	9.00%	21,783	(8,913)	(2,420)	252,489
16	252,489	9.00%	22,724	(9,297)	(2,525)	263,390
17	263,390	9.00%	23,705	(9,699)	(2,634)	274,763
18	274,763	9.00%	24,729	(10,118)	(2,748)	286,626
19	286,626	9.00%	25,796	(10,554)	(2,866)	299,002
20	299,002	9.00%	26,910	(11,010)	(2,990)	311,912
21	311,912	9.00%	28,072	(11,486)	(3,119)	325,379
22	325,379	9.00%	29,284	(11,981)	(3,254)	339,428
23	339,428	9.00%	30,549	(12,499)	(3,394)	354,084
24	354,084	9.00%	31,868	(13,038)	(3,541)	369,372
25	369,372	9.00%	33,243	(13,601)	(3,694)	385,320
26	385,320	9.00%	34,679	(14,189)	(3,853)	401,957
27	401,957	9.00%	36,176	(14,801)	(4,020)	419,313
28	419,313	9.00%	37,738	(15,440)	(4,193)	437,417
29	437,417	9.00%	39,368	(16,107)	(4,374)	456,304
30	456,304	9.00%	41,067	(16,802)	(4,563)	476,005

[9] Annual return based upon historical performance of the S&P 500 index 1925-2010. These figures are provided for illustrative purposes only and do not constitute a prediction of future performance on behalf of the Stewardship Council or the prospective investment manager.

Scenario B: $125,000 at historical S&P 500 returns[10]

Year	Beginning Balance	Annual Return %	Annual Return $	Annual Distribution (4%)	Fees (1%)	Ending Balance
1980	125,000	25.8%	32,213	0	(1,250)	155,963
1981	125,000	-9.7%	(12,163)	(6,239)	(1,250)	105,349
1982	105,349	14.8%	15,550	(4,214)	(1,053)	115,631
1983	115,631	17.3%	19,969	(4,420)	(1,156)	130,025
1984	130,025	1.4%	1,820	(4,680)	(1,300)	125,865
1985	125,865	26.3%	33,140	(4,769)	(1,259)	152,977
1986	152,977	14.6%	22,365	(5,039)	(1,530)	168,774
1987	168,774	2.0%	3,426	(5,546)	(1,688)	164,966
1988	164,966	16.6%	27,401	(5,941)	(1,650)	184,777
1989	184,777	31.7%	58,556	(6,379)	(1,848)	235,106
1990	235,106	-3.1%	(7,288)	(7,253)	(2,351)	218,214
1991	218,214	30.5%	66,490	(7,775)	(2,182)	274,747
1992	274,747	7.6%	20,936	(8,622)	(2,747)	284,313
1993	284,313	10.1%	28,659	(9,577)	(2,843)	300,551
1994	300,551	1.3%	3,967	(10,503)	(3,006)	291,009
1995	291,009	37.6%	109,361	(10,951)	(2,910)	386,510
1996	386,510	23.0%	88,743	(12,297)	(3,865)	459,090
1997	459,090	33.4%	153,152	(13,772)	(4,591)	593,880
1998	593,880	28.6%	169,731	(16,248)	(5,939)	741,424
1999	741,424	21.0%	155,996	(19,775)	(7,414)	870,230
2000	870,230	-9.1%	(79,191)	(24,409)	(8,702)	757,927
2001	757,927	-11.9%	(90,118)	(27,380)	(7,579)	632,850
2002	632,850	-22.1%	(139,860)	(28,770)	(6,329)	457,891
2003	457,891	28.7%	131,369	(27,683)	(4,579)	556,999
2004	556,999	10.9%	60,601	(26,207)	(5,570)	585,823
2005	585,823	4.9%	28,764	(23,932)	(5,858)	584,797
2006	584,797	15.8%	92,339	(22,547)	(5,848)	648,741
2007	648,741	5.5%	35,616	(22,674)	(6,487)	655,196
2008	655,196	-37.0%	(242,423)	(24,252)	(6,552)	381,969
2009	381,969	26.5%	101,069	(22,852)	(3,820)	456,366
2010	456,366	15.1%	68,729	(21,817)	(4,564)	498,715
Annualized Return :		9.6%	(1980-2010)			

[10] Annual return based upon historical performance of the S&P 500 index 1980-2010. These figures are provided for illustrative purposes only and do not constitute a prediction of future performance on behalf of the Stewardship Council or the prospective investment manager.