SWEETWATER SPRINGS WATER DISTRICT

TO: Board of Directors **AGENDA NO. V-E**

FROM: Ed Fortner, General Manager

Meeting Date: December 3, 2020

SUBJECT: Discussion / Action re Approval of Resolution 20-25 Emergency Contract for Debris Removal at Mt. Jackson Site with Piazza Construction

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RECOMMENDED ACTION: Adopt Resolution No. 20-25 A Resolution of the Board of Directors of the Sweetwater Springs Water District Authorizing the Execution of the Emergency Contract with Piazza Construction for the Mt. Jackson Debris Removal Project.

FISCAL IMPACT: $178,333.00

DISCUSSION:

The Walbridge Wildfire in August of 2020 burned the Mt. Jackson site owned owned by the District. A portion of the site is leased to AT&T and other entities and is critical infrastructure for communications for West Sonoma County. CA DR 4558 is a Federally declared disaster with 100% reimbursement from FEMA.

The District solicited bids for debris removal at the Mt. Jackson site.

Piazza Construction was low bidder for constructing the project at $178,333.00. Piazza Construction can respond quickly to the Mt. Jackson site location to complete debris removal.

The draft contract with Piazza Construction is worded to award the contract up to sixty days after the approval of contract by the Board to make sure all FEMA and CalOES requirements are met to make the contract valid for FEMA and CalOES prior to work starting.

Award of the Emergency Contract for this project is strongly recommended.

Resolution No. 20-25

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE SWEETWATER SPRINGS WATER DISTRICT ADOPTING FINDINGS AND AUTHORIZING A CONTRACT WITH PIAZZA CONSTRUCTION FOR EMERGENCY WORK TO REMOVE DEBRIS AT THE MT. JACKSON SITE IN THE AMOUNT OF $178,333.00, WITH AUTHORIZATION OF CHANGE ORDERS UP TO $10,000.00.

WHEREAS, in the August 2020 Walbridge Wildfire, the vegetation was badly burned at the Mt. Jackson site; and

WHEREAS, this burned vegetation needs to be safely removed to mitigate future damage from widlfires; and

WHEREAS, the District has procured FEMA one hundred percent grant funding for the project; and

WHEREAS, it is the opinion of District staff that this debris should be removed as soon as possible to mitigate future damage and to avoid erosion; and

WHEREAS, the District has used the trusted contractor Piazza Construction for constructing the 2019 CIP which includes the ATEC filter system in Monte Rio; and

WHEREAS, Piazza Construction can respond quickly to the Mt. Jackson site to remove the described debris; and

WHEREAS, District determines that the construction cost of the repair will be approximately $178,033.00; and

WHEREAS, pursuant to California Public Contract Code Section 22168, the public interest and necessity demand the immediate commencement of the debris removal at the Mt. Jackson site and the expenditure of public money for such work to safeguard life, health and property; and

WHEREAS, the competitive bidding of the emergency work needed at the Mt. Jackson site was provided, and Piazza Construction submitted the lowest complete bid; and

WHEREAS, the emergency work necessary at the Mt. Jackson site is statutorily exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to California Public Resources Code Section 15269, subparagraphs (b) and (c).

NOW, THEREFORE BE IT RESOLVED, as follows:

1. The General Manager is hereby authorized and directed to execute on behalf of the District contracts with Piazza Construction for the performance of the emergency work described above at the not to exceed the contract price of $178,330.00 with General Manager authority of up to $10,000 of any approved change orders.

2. District staff is directed to file a notice of exemption from CEQA requirements concerning this emergency work with the Sonoma County Clerk in accordance with California Code of Regulations Title 14, Section 15062.

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I hereby certify that the foregoing is a full, true, and correct copy of a Resolution duly and regularly adopted and passed by the Board of Directors of the SWEETWATER SPRINGS WATER DISTRICT, Sonoma County, California, at a meeting held on December 3, 2020, by the following vote.

Director	Aye	No
Sukey Robb-Wilder	_____	_____
Tim Lipinski	_____	_____
Richard Holmer	_____	_____
Gaylord Schaap	_____	_____
Larry Spillane	_____	_____

_____

Richard Holmer

President of the Board of Directors

_____

Attest: Julie A. Kenny

Clerk of the Board of Directors

PIAZZA
PC
CONSTRUCTION
General Engineering Contractor

Lic. No. 406456 • P.O. Box 573 • Penngrove • CA 94951 • (707) 876-3410

Sweetwater Springs Water Dist,

P.O. Box 40

Guerneville, CA. 95445

Date Nov. 19, 2020

Re: Tree Clearing around Mt. Jackson Towers and Roadway

Project consist of Mobilization, Masticate Road Side Brush and Trees, 200' Radius around towers, all materials to be chip on site, chipped materials to be left on site. Trees will be cut 2' above ground. No stump removal included. No Permits included in quote.

Item #	Description	Quantity	Unit Cost	Total
1	Mobilization	1 LS	13,100.00	13,100.00
2	Roadside Mastication	1 LS	18,775.00	18,775.00
3	Tree Clearing and Chipping	1 LS	146,455.00	146,455.00
	Total Project			178,330.00

James A. Piazza
Piazza Construction

CONSTRUCTION AGREEMENT (MINOR)
BETWEEN PIAZZA GENERAL CONSTRUCTION, INC. AND THE SWEETWATER SPRINGS WATER DISTRICT

Mt. Jackson Debris Removal Project

THIS CONSTRUCTION AGREEMENT ("Agreement") is entered into and effective as of the date it is fully executed by the parties ("Commencement Date"), by and between the Sweetwater Springs Water District, a California special district ("District"), and Piazza General Construction, Inc., a California corporation ("Contractor") (collectively, "Parties").

District and Contractor, in consideration of the mutual covenants hereinafter set forth, agree as follows:

ARTICLE 1. WORK

Contractor shall complete the work as described and/or depicted in **Exhibit A** ("Work"), attached hereto and incorporated by reference herein, upon the terms and conditions set forth herein.

ARTICLE 2. COMPLETION OF WORK

The Work shall be completed to the satisfaction of District within thirty (30) days of the Commencement Date.

ARTICLE 3. CONTRACT PRICE /PAYMENT

A District shall pay Contractor the aggregate sum of One Hundred Seventy-Eight Thousand Three Hundred and Thirty Dollars and Zero Cents ($178,330.00), for the full and satisfactory completion of the Work in accordance with the terms and conditions of this Agreement ("Contract Price").

B Such compensation shall be paid by District within thirty (30) days following delivery of written notice of District's acceptance of the Work.

ARTICLE 4. INSURANCE

Contractor shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Contractor, Contractor's agents, representatives and employees.

A Minimum Scope of Insurance. Coverage shall be at least as broad as:

1. Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001).

2. Insurance Services Office form covering automobile Liability, code 1 (any auto), or code 8, 9 if no owned auto.

3. Workers' Compensation Insurance as required by the State of California and Employers' Liability Insurance. If no employees are utilized, the Contractor shall sign a declaration as described in California Health and Safety Code Section 19825.

B Minimum Limits of Insurance. Contractor shall maintain limits no less than:

1. General Liability: $2,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

2. Automobile Liability: $2,000,000 per accident for bodily injury and property damage.

3. Workers' Compensation statutory limit and Employer's Liability: $1,000,000 per accident for bodily injury or disease.

C Deductibles and Self-Insured Retention. Any deductibles or self-insured retentions must be declared to and approved by the District. At the option of the District, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the District, its officers, officials, employees and volunteers, or the Contractor shall provide a financial guarantee satisfactory to the District guaranteeing payment of losses and related investigations, claim administration and defense expenses.

D Other Insurance Provisions. The Commercial General Liability and Automobile Liability policies are to contain, or be endorsed to contain, the following provisions:

1. The District, its officers, officials, employees and volunteers are to be covered as Insureds as respects: liability arising out of work or operations as performed by or on behalf of the Contractor; or automobiles owned, leased, hired or borrowed by the Contractor.

2. For any claims related to this project, the Contractor's insurance coverage shall be primary insurance as respects the District , its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the District, its officers, officials, employees or volunteers shall be in excess of the Contractor's insurance and shall not contribute with it.

3. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled by either party, unless thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the District .

4. The Workers' Compensation endorsement shall contain a Waiver of Subrogation against the District. The Contractor shall provide to the District an endorsement from the Worker's Compensation insurer, if any, agreeing to waive all rights of

subrogation against the District for injuries to employees of the Insured resulting from work for the District or use of the District's premises or facilities.

E Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the District .

F Verification of Coverage. Contractor shall furnish the District with original certificates and amendatory endorsements effective coverage required by this clause. The endorsements should be on forms provided by the District or on other than the District's forms provided those endorsements conform to the District's requirements. All certificates and endorsements are to be received and approved by the District before work commences. The District reserves the right to require complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications at any time.

G Subcontractors. Contractor shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each Subcontractor. All coverages for Subcontractors shall be subject to all of the requirements stated herein.

ARTICLE 5. BONDS/CONTRACTOR'S GUARANTEE

A A labor and materials (payment) bond is____**required / _X_ not required** for this Agreement. If required for this Agreement, before beginning the Work, Contractor shall provide a labor and materials bond in the amount of one hundred percent (100%) of the Contract Price, and which conforms with the requirements of Civil Code section 3248, as may be amended from time to time.

B A performance bond is **required / _X_ not required** for this Agreement. If required for this Agreement, before beginning the Work, Contractor shall provide a performance bond in the amount of one hundred percent (100%) of the Contract Price to guarantee faithful performance of the Work.

C Contractor shall guarantee the Work to be free of defects in material and workmanship for a period of one (1) year following the District's acceptance of the Work ("Contractor's Guarantee"). As part of Contractor's Guarantee, Contractor agrees to make, at Contractor's own expense, any repairs or replacements made necessary by defects in material or workmanship which become evident within the one-year guarantee period. The Contractor's Guarantee is effective regardless of whether or not a maintenance bond is required by the District for this Agreement.

D A maintenance bond is **required / _X_ not required** for this Agreement. If required for this Agreement, prior to acceptance of the Work, Contractor shall provide a maintenance bond in the amount of ten percent (10%) of the Contract Price as a security for the Contractor's Guarantee. The maintenance bond shall remain in force for one (1) year following the District's acceptance of the Work.

E Any and all bonds required for this Agreement shall be in a form acceptable to the District Counsel. Any such bond must be issued by a corporate surety which is an admitted surety insurer in the State of California. Any bond signed by an agent must be accompanied by a

certified copy of such agent's authority to act. If the surety on any bond provided by Contractor is declared a bankrupt or becomes insolvent or its right to do business is terminated in any state where any part of the Work is located, Contractor shall, within seven (7) days thereafter, substitute another bond and surety in accordance with the requirements set forth herein.

ARTICLE 6. CONTRACT DOCUMENTS

The contract documents which comprise the entire agreement between District and Contractor consist of this Agreement and exhibits thereto and the following ("Contract Documents"):

- District- approved drawings and specifications, and bid documents for the Work;
- Any written amendment or change order approved by the District after the effective date of this Agreement;
- Any bonds required pursuant to Article 5 of this Agreement;
- **Other: N/A**

The Contract Documents may only be amended by prior written authorization of the General Manager or his designee.

ARTICLE 7. LIQUIDATED DAMAGES

A District and Contractor recognize that time is of the essence of this Agreement and that the District will suffer financial loss if the Work is not completed within the time specified in Article 2 herein, plus any extensions previously authorized in writing by the General Manager or his designee. It is and will be difficult and/or impossible to ascertain and determine the actual damage which District will sustain in the event of and by reason of Contractor's failure to fully perform the Work or to fully perform all of its contract obligations that have accrued by the time for completion as specified in Article 2 herein and/or as specified for completion of any scheduled operations or works described in the Contract Documents. It is agreed in accordance with California Government Code Section 53069.85, as may be amended from time to time, that Contractor will forfeit and pay to District liquidated damages in the sum of $1,500.00 per day for each and every calendar day that expires after the time for completion specified in Article 2 herein and/or as specified for completion of any scheduled operations or works described in the Contract Documents except as otherwise provided by extension of time previously authorized in writing by the General Manager or his designee. It is further understood and agreed in accordance with California Government Code Section 53069.85 that the liquidated damages sum specified in this provision is not manifestly unreasonable under the circumstances existing at the time this contract was made, and that District may deduct liquidated damages sums in accordance with this provision from any payments due or that may become due to Contractor.

B Liquidated damages will continue to accrue at the stated rate until final completion of the Work. Accrued liquidated damages may be deducted by District from amounts due or that become due to Contractor for performance of the Work. Liquidated damages may not be waived or reduced by District unless expressly waived or reduced in writing by the General Manager or his designee.

ARTICLE 8. PREVAILING WAGES

A Pursuant to California Labor Code Section 1771, Contractor and any subcontractor shall pay all workers employed in execution of the Work in accordance with the general rate of per diem wages specified for each craft, classification, or type of worker needed to execute the Work. Copies of the prevailing rates of per diem wages are on file at the Recording Secretary's office, and shall be made available to any interested party on request.

B Contractor is required to pay all applicable penalties and back wages in the event of violation of prevailing wage law, and Contractor and any subcontractor shall fully comply with California Labor Code Section 1775, which is incorporated by this reference as though fully set forth herein.

C Contractor and any subcontractor shall maintain and make available for inspection payroll records as required by California Labor Code Section 1776, which is incorporated by this reference as though fully set forth herein. Contractor is responsible for ensuring compliance with this section.

D Contractor and any subcontractor shall fully comply with California Labor Code Section 1777.5, concerning apprentices, which is incorporated by this reference as though fully set forth herein. Contractor is responsible for ensuring compliance with this section.

E In accordance with California Labor Code Section 1810, eight (8) hours of labor in performance of the Work shall constitute a legal day's work under this Agreement. Contractor and any subcontractor shall pay workers overtime pay as required by California Labor Code Section 1815. Contractor and any subcontractor shall, as a penalty to the Town, forfeit twenty-five dollars ($25) for each worker employed in the execution of the contract by the respective contractor or subcontractor for each calendar day during which the worker is required or permitted to work more than 8 hours in any one calendar day and 40 hours in any one calendar week in violation so the provisions of Article 3 of Chapter 1 of Part 7, Division 2 of the California Labor Code, which is incorporated by this reference as though fully set forth herein.

ARTICLE 9. INDEMNIFICATION

Contractor shall indemnify, defend with counsel acceptable to District, and hold harmless to the full extent permitted by law, District and its officers, officials, employees, agents and volunteers from and against any and all liability, loss, damage, claims, expenses and costs (including, without limitation, attorney fees and costs and fees of litigation) (collectively, "Liability") of every nature arising out of or in connection with Contractor's performance of the Work or its failure to comply with any of its obligations contained in this Agreement, except such Liability caused by the active negligence, sole negligence or willful misconduct of the District. Pursuant to California Public Contract Code Section 9201, District shall timely notify Contractor of receipt of any third-party claim relating to this Agreement.

ARTICLE 10. DISCLAIMER CONCERNING LABOR CODE SECTION 6400

Contractor understands and agrees that with respect to performance of the Work, and notwithstanding any provision in this Agreement to the contrary, Contractor, and/or its privities,

including, without limitation, subcontractors, suppliers and other engaged by Contractor in the performance of the Work shall be “employers” for purposes of California Labor Code Section 6400 and related provisions of law, and that neither District nor its officials, officers, employees, agents, volunteers or consultants shall be “employers” pursuant to California Labor Code Section 6400.

ARTICLE 11. TERMINATION

Notwithstanding any other provision set forth herein, District may terminate or suspend this Agreement immediately for cause. Cause for immediate termination or suspension shall include, but not be limited to, any breach of this Agreement by Contractor, including, without limitation, a breach of any of Contractor’s covenants, representations or guarantees provided herein. Upon receipt of notice of termination or suspension, Contractor shall immediately stop all work in progress under this Agreement. Without limiting the generality of the foregoing, District may terminate this Agreement if Contractor fails to perform the Work within the time specified in Article 2, or any written extension thereof. If District terminates this Agreement for cause, District may undertake to have the Work completed by its own workforce or by substitution of contractor, and Contractor shall be liable to District for any excess cost incurred by District as a result. In the event of such termination, Contractor shall be entitled to payment for all Work performed to date of termination to the extent such services were actually performed in accordance with this Agreement. Upon termination, any and all of District’s documents or materials provided to Contractor and any and all of Contractor’s documents and materials prepared for or relating to this Agreement shall be delivered to the District as soon as possible, but not later than ten (10) days after the cessation of the Work.

ARTICLE 12. CONTRACTOR CLAIMS

Contractor claims will be negotiated with owner.

ARTICLE 13. INDEPENDENT CONTRACTOR

It is understood and agreed that in the performance of this Agreement, Contractor (including its employees and agents) is acting in the capacity of an independent contractor, and not as an agent or employee of the District. Contractor has full control over the means and methods of performing said services and is solely responsible for its acts and omissions, including the acts and omissions of its employees and agents.

ARTICLE 14. LICENSES/PERMITS

Contractor represents that Contractor has all licenses, permits, or qualifications of whatsoever in nature, which are legally required for Contractor to perform the Work. Contractor shall, at Contractor’s sole cost and expense, keep in effect at all times during the term of this Agreement, any such licenses, permits or qualifications. **Contractor is required to possess current A licenses.**

ARTICLE 15. INSPECTION

All Work done and materials furnished, if any, shall be subject to inspection and approval by the District .

ARTICLE 16. SUBCONTRACTORS

Contractor must obtain the District's prior written consent for subcontracting any Work pursuant to this Agreement, including safety orders under Title 8 of California Code of Regulations. Any such subcontractor shall comply, to the extent applicable, with the terms and conditions of this Agreement. Any agreement between Contractor and a subcontractor pursuant to this Agreement shall provide that the subcontractor procure and maintain insurance coverage as required herein and which shall name District as an additional insured.

ARTICLE 17. COMPLIANCE WITH LAWS/NON-DISCRIMINATION

Contractor shall comply with all applicable local, state and federal laws, regulations and ordinances in the performance of this Agreement. Contractor shall not discriminate in the provision of service or in the employment of persons engaged in the performance of this Agreement on account of race, color, national origin, ancestry, religion, gender, marital status, sexual orientation, age, physical or mental disability in violation of any applicable local, state or federal laws or regulations.

ARTICLE 18. NOTICES

All notices required or permitted by this Agreement, including notice of change of address, shall be in writing and given by personal delivery or sent postage prepaid and addressed to the parties intended to be notified, as set forth herein. Notice shall be deemed given as of the date of delivery in person or as of the date deposited in any post office or post office box regularly maintained by the United States Postal Service, unless otherwise stated herein. Notice shall be given as follows:

District :	Ed Fortner, General Manager Sweetwater Springs Water District Post Office Box 48 Guerneville, CA 95446
Contractor:	Piazza Construction Post Office Box 573 Penngrove, CA 95445 Attention: James A. Piazza

ARTICLE 19. GOVERNING LAW/VENUE

This Agreement shall be construed and its performance enforced under California law. Venue shall be in the Superior Court of the State of California in the County of Sonoma.

ARTICLE 20. NON-WAIVER

The District's failure to enforce any provision of this Agreement or the waiver of any provision in a particular instance shall not be construed as a general waiver of any part of such provision. The provision shall remain in full force and effect.

ARTICLE 21. NO THIRD PARTY BENEFICIARIES

The Parties do not intend, by any provision of this Agreement, to create in any third party any benefit or right owed by one party, under the terms and conditions of this Agreement, to the other party.

ARTICLE 22. ASSIGNMENT

No assignment in transfer in whole or in party of this Agreement shall be made without the prior written consent of District.

ARTICLE 23. SEVERABILITY

If any term or portion of this Agreement is held to be invalid, illegal, or otherwise enforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall continue in full force and effect.

ARTICLE 24. HEADINGS

The headings of the sections and exhibits of this Agreement are inserted for convenience only. They do not constitute part of this Agreement and are not to be used in its construction.

[SIGNATURES ON FOLLOWING PAGE.]

IN WITNESS WHEREOF, District and Contractor have caused this Agreement to be executed the day and year first above written.

FOR DISTRICT

By_____

Ed Fortner
General Manager

Date: _____

FOR CONTRACTOR

By_____

(Print Name) _____

Piazza General Constriction, Inc.

Date: _____

APPROVED AS TO FORM:

_____

Rachel Hundley
District Counsel

EXHIBIT A

SCOPE OF WORK AND CONTRACT PRICE

See attached two-page Contractor proposal to the District.

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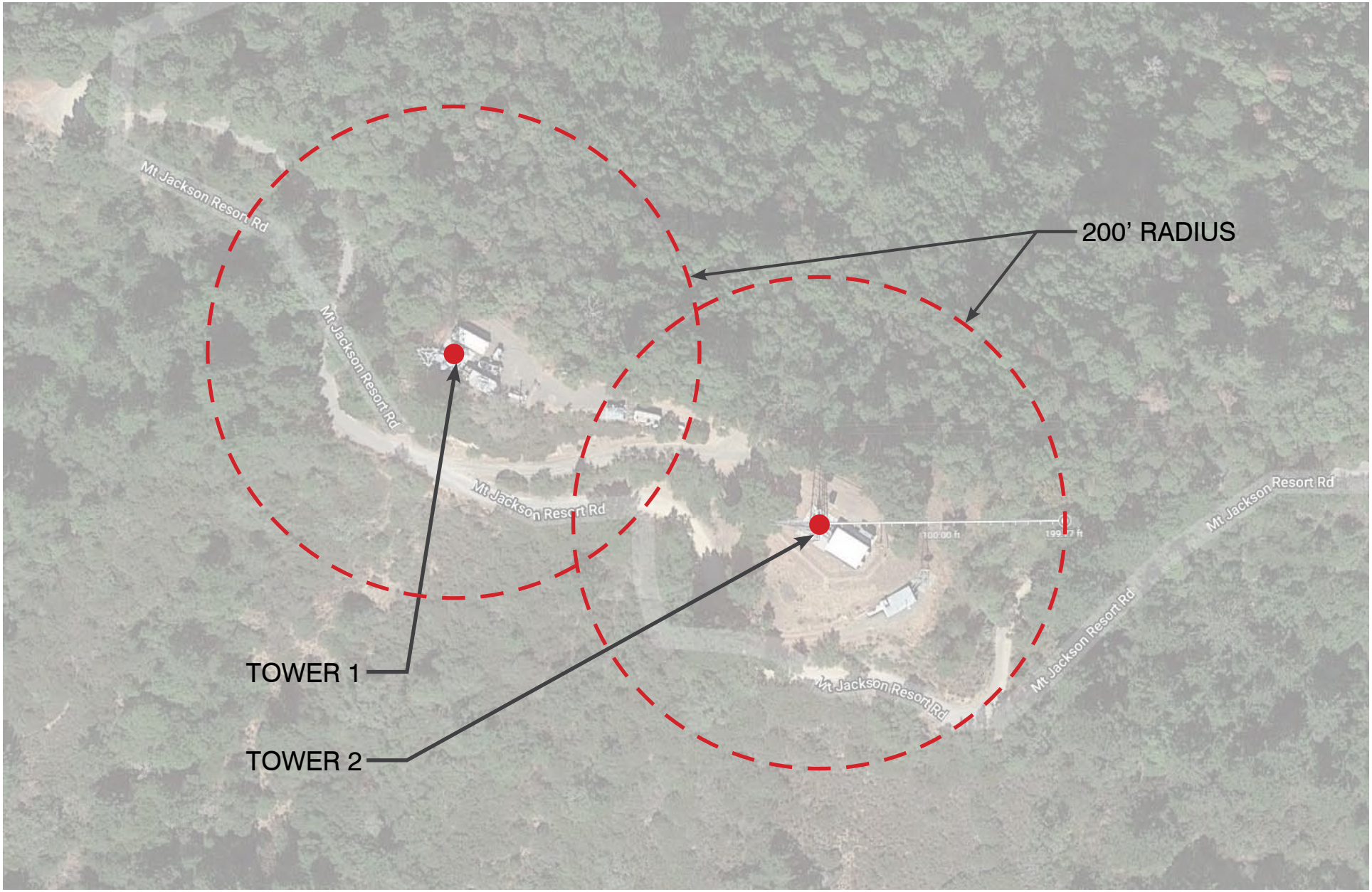
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