City of Napa C2015
Agreement No. 220

Napa County Agreement No. 8412

MEMORANDUM OF AGREEMENT BETWEEN THE CITY OF NAPA AND NAPA COUNTY REGARDING REGIONAL HOUSING NEEDS ALLOCATIONS FOR FUTURE HOUSING ELEMENT PLANNING PERIODS

This Memorandum of Agreement ("**Agreement**") between the City of Napa ("**City**") and Napa County ("**County**") is dated August 25, 2015, to reflect the first date upon which it is executed by both the City and the County, as shown by the signatures of their authorized representatives below, and, subject to the terms set forth herein, shall be binding upon the City and County from the date of its complete execution. The City and County each may be referred to herein as a "Party" and together may be referred to herein as the "Parties."

RECITALS

A. The City and County have entered into a Memorandum of Understanding ("**MOU**") regarding the future development of two parcels of land in unincorporated Napa County comprising approximately 154 acres and commonly referred to as the Napa Pipe site (APNs 046-400-030 and 046-412-005, as and hereafter, the "**Property**"). The Property is depicted in greater particularity on Exhibit A hereto.

B. The County Board of Supervisors has adopted various land use approvals for the development of the Property (the "**Project**"), which approvals include Resolution No. 2014-139, approved by the Board of Supervisors on November 25, 2014, approving a Tentative Map for the Project; Ordinance No. 1393, approved by the Board on December 16, 2014, approving a Development Plan for the Napa Pipe Zoning District portion of the Property; Ordinance No. 1394, approved by the Board on December 16, 2014, approving a Development Agreement for the Napa Pipe Zoning District portion of the Property; and Ordinance No. 1397, approved by the Board on February 10, 2015, approving the Design Guidelines for the Napa Pipe Zoning District portion of the Property.

C. The County desires to rely on housing proposed as part of the Project to meet certain affordable housing obligations imposed on the County by state law. Pursuant to Article 10.6 (the "**Housing Element Law**") (Government Code sections 65580 - 65589.8) of Chapter 3 of the Planning And Zoning Law, the Association of Bay Area Governments ("ABAG") periodically adopts a Regional Housing Needs Allocation ("**RHNA**") for each county and city in the greater San Francisco Bay Area, including Napa County and the City of Napa. Under the Housing Element Law, each city and county must periodically revise the housing element of its general plan utilizing the latest RHNA adopted by ABAG. The current revision to the housing elements of the City and County is designated as the fifth required revision by Government Code Section 65588, and is identified by ABAG as the 2014-2022 planning period.

D. The MOU between the City and County provides in Section 2.3(e) that the City and County may enter into a RHNA agreement as allowed under Government Code Section 65584.07 or any successor statute ("**Section 65584.07**") providing for the transfer to the City of eighty percent (80%) of the County's RHNA obligation for each housing element planning period commencing with the sixth and subsequent revisions (as defined in Government

Code 65588), during such time as the County's Measure P (as approved by the voters in November 2008, and as may be extended by subsequent voter approval) remains in effect, provided that certain requirements of the MOU are satisfied. This Agreement is intended by the County and the City to serve as the RHNA agreement contemplated by Section 2.3(e) of the MOU.

E. Approval of the Project and successful implementation of the MOU will allow the County to meet its RHNA for the 2014-2022 housing element planning period (fifth revision) and obtain a certified housing element. This Agreement provides for RHNA transfers from the County to the City in the sixth and subsequent housing element planning periods, so long as the County's Measure P remains in effect, for the benefit of both the City and the County and in furtherance of City and County policies to preserve agricultural lands in Napa County so as to maintain a viable agriculture-based economy, prevent urban sprawl, direct growth and development into existing cities, and promote infill and smart growth.

F. In addition to this Agreement, the City and County have entered into that certain Memorandum of Agreement Between the City of Napa and Napa County Regarding the City of Napa's Sphere of Influence and the Napa Pipe Property (the "**SOI Agreement**"), as provided by California Government Code Section 56428. As described in the SOI Agreement, the City Council has, by resolution dated July 21, 2015, authorized the City Manager to approve, subject to the satisfaction of certain conditions set forth in such resolution, the submittal of an application (the "**LAFCO Application**") to the Napa County Local Agency Formation Commission ("**LAFCO**") to (i) update the City's Sphere of Influence ("**SOI**") boundary to bring the Property within the City's SOI, (ii) extend City services, including water and other required municipal services in accordance with that certain Memorandum of Agreement Between the City of Napa and Napa County Regarding the Provision of Municipal Services for the Napa Pipe Development Project (the "**Municipal Services Agreement**") and that certain Annexation Consent, Protest Waiver and Water Service Agreement By and Between the City of Napa and Napa Redevelopment Partners (the "**Water Agreement**"), and (iii) annex the Property to the City in two steps in accordance with the SOI Agreement.

NOW, THEREFORE, in consideration of the mutual covenants, promises and agreements contained herein, the Parties hereto mutually agree as follows:

TERMS

1. The County has identified the specific portion of the Property zoned NP-MUR-W:AC (the "**Housing Site**"), as an available housing site in its fifth Housing Element revision, and intends to issue, upon application, residential building permits for construction of housing on the Housing Site during the 2014 -2022 housing element cycle, while the Housing Site remains in the County's jurisdiction, in order to satisfy the County's RHNA obligation for the fifth revision.

2. Starting with the sixth revision of the housing element (currently 2023-2030, or as that planning period may be adjusted by ABAG, the Department of Housing and Community Development, or statute) and for all subsequent revisions for the life of the County's Measure P (as approved by the voters in November 2008, and as may be extended by subsequent voter

approval), upon ABAG's adoption of a final RHNA, the County and City shall jointly apply to ABAG to reduce the County's RHNA allocation by 80% and to increase the City's RHNA allocation by 80% of the County's original allocation, as provided for and in conformance with the requirements of Government Code section 65584.07. Accordingly, upon ABAG's approval, the City's share of the RHNA will increase by 80% of the County's original allocation and the County's RHNA shall decrease by 80% of the County's original allocation, as allowed under Government Code section 65584.07.

3. ABAG may determine the City and County's RHNA for the sixth and subsequent revisions of the housing element in one of two ways. ABAG may make the determination based on its methodology adopted under Government Code Section 65584.04. Alternatively, the parties and other cities or counties may form a subregional entity under Government Code Section 65584.03 or any successor statute for purposes of allocating the RHNA among members of the subregional entity. If the parties are members of such a subregional entity, the RHNA prepared by the subregional entity and submitted to ABAG shall be made without reference to the contemplated 80% transfer. Upon ABAG's adoption of a final RHNA, the County and City shall jointly apply to ABAG to reduce the County's RHNA allocation by 80% and to increase the City's RHNA allocation by 80% of the County's original allocation as described in Paragraph 2 above.

4. At all times following the transfers of the County's RHNA allocations described in Sections 2 and 3 above, the County shall prioritize eighty (80%) of the County's Non-Residential Affordable Housing Impact Fees and other funds in the County's affordable housing fund generated County-wide to finance affordable housing projects within the City of Napa in recognition of the City's agreement to assume the County's ongoing RHNA obligation. Notwithstanding the foregoing, County's use of Non-Residential Affordable Housing Impact Fees and other funds in the County's affordable housing fund generated from the Project shall be used in accordance with Section 5.3 of the Affordable Housing Plan attached as Exhibit C to that certain Development Agreement entered into between the County and Napa Redevelopment Partners, LLC, dated as of January 13, 2015.

5. At all times while the modifications to the City's and the County's RHNA obligations described herein remain in effect, the County shall limit land uses to governmental uses or uses consistent with applicable zoning in effect on October 8, 2013, as provided in the MOU (unless changes to the zoning and Specific Plan are mutually agreed to by the City and the County) for all properties generally located south of the City of Napa and north of the City of American Canyon, as depicted in the South County Industrial Areas map attached as Exhibit B to the MOU (also attached hereto as Exhibit B), including (a) the Napa County Airport Industrial Area (b) all unincorporated land to the south of the City limits, including but not limited to the Syar Properties, and (c) unincorporated land north of the City of American Canyon generally on the east side of Highway 29 between South Kelly Road and Napa Junction.

6. All other provisions of this Agreement to the contrary notwithstanding, this Agreement shall have no force or effect unless and until all of the following conditions have been satisfied:

a. the City and the NRP shall have executed the Water Agreement described in Recital F above;

b. the County and NRP shall have executed an amendment to the Development Agreement consistent with the terms of the Water Agreement, as described in Recital F above;

c. the Napa County LAFCO shall have approved the City's requests to (i) expand its SOI to include the Property, and (ii) extend municipal services to the Property, as set forth in the City's LAFCO Application described in Recital F above; and

d. at all times since October 8, 2013, the County shall have fully and without exception enforced the limitation on land uses described in Section 5 above.

Provided that the preceding conditions have been satisfied, then upon the effective date of LAFCO's approval of the City's requests to expand its SOI and extend municipal services to the Property, as provided by Government Code section 56428(e), the City and County shall become unconditionally obligated to comply with the terms and conditions of this Agreement.

7. The City and County shall take all steps reasonably necessary to comply with the Government Code section 65584.07 and such other transfer statutes, as applicable, to implement this Agreement, including but not limited to, providing the appropriate documentation to ABAG or any other agency, as required. The parties agree to work together to obtain ABAG and any other approval where required to effectuate this Agreement. City further agrees that it will utilize the revised RHNA that includes the transfer of RHNA contemplated by this Agreement in preparing the City s sixth and subsequent housing element revisions, as applicable.

8. The County shall indemnify, defend, and hold the City and its respective elected and appointed councils, boards, commissions, officers, agents, employees, volunteers, and representatives, harmless from all loss, fines, penalties, forfeitures, costs, damages and other liabilities of any type (whether in contract, tort or strict liability), including but not limited to personal injury, death or property damage (including inverse condemnation) (collectively, "**Liabilities**"), and from any and all claims, demands and actions in law or equity (including attorneys' fees and litigation expenses) directly or indirectly arising out of or alleged to have arisen out of or in any way related to this Agreement (collectively, "**Claims**"), asserted against or incurred by the City to the extent arising from any action of the County or of any employees of the County in their performance of any of the terms, covenants or conditions of this Agreement during the term hereof. The City shall indemnify, defend, and hold the County and its respective elected and appointed councils, boards, commissions, officers, agents, employees, volunteers, and representatives, harmless from any and all Liabilities and Claims (as those terms are defined above) asserted against or incurred by the County to the extent arising from any action of the City or of any employees of the City in their performance of any of the terms, covenants or

conditions of this Agreement during the term hereof. The Parties shall cooperate in the defense of any third party legal action challenging this Agreement.

IN WITNESS WHEREOF, this Agreement has been entered into by, and shall be binding upon, the County and the City as of the date it has been executed by both Parties as shown by the signatures below.

ATTEST: GLADYS I. COIL
Clerk of the Board of Supervisors

By: _____

COUNTY:
COUNTY OF NAPA

By: _____
DIANE DILLON, CHAIR of the BOARD OF SUPERVISORS

On: August 25, 2015

APPROVED _____
BOARD OF SUPERVISORS
COUNTY OF NAPA
GLADYS I. COIL
CLERK OF THE BOARD
BY _____ Deputy

APPROVED AS TO FORM:

By: _____ 8/20/15
MINH TRAN, COUNTY COUNSEL

CITY:
CITY OF NAPA

By: _____
CITY MANAGER

On: 8-11-15

APPROVED AS TO FORM:

By: _____
CITY ATTORNEY

ATTEST:

By: _____
Deputy CITY CLERK **Lisa Blackmon, Deputy City Clerk**

MOU re RHNA for Napa Pipe property

EXHIBIT A
(Property Description)

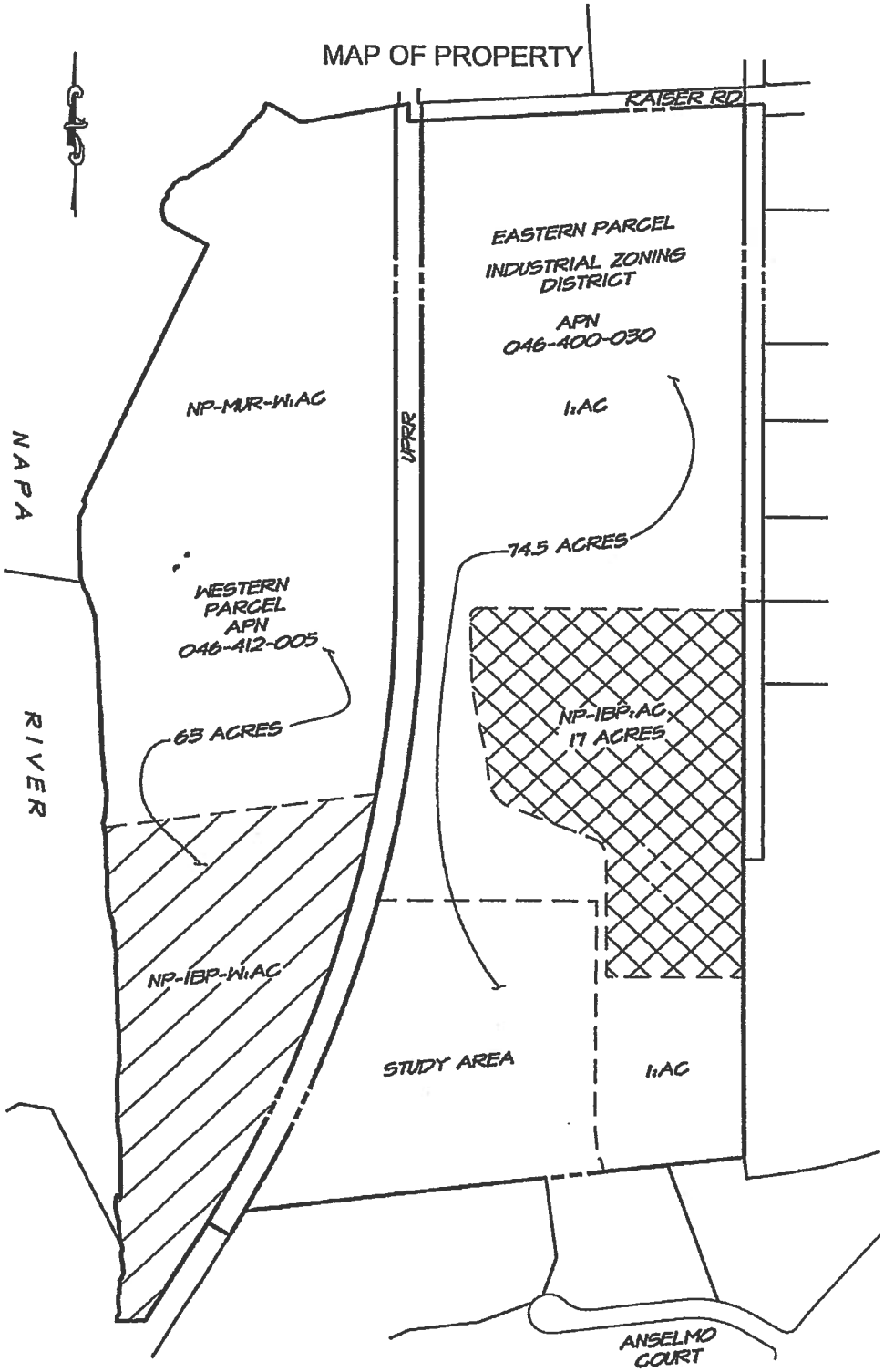
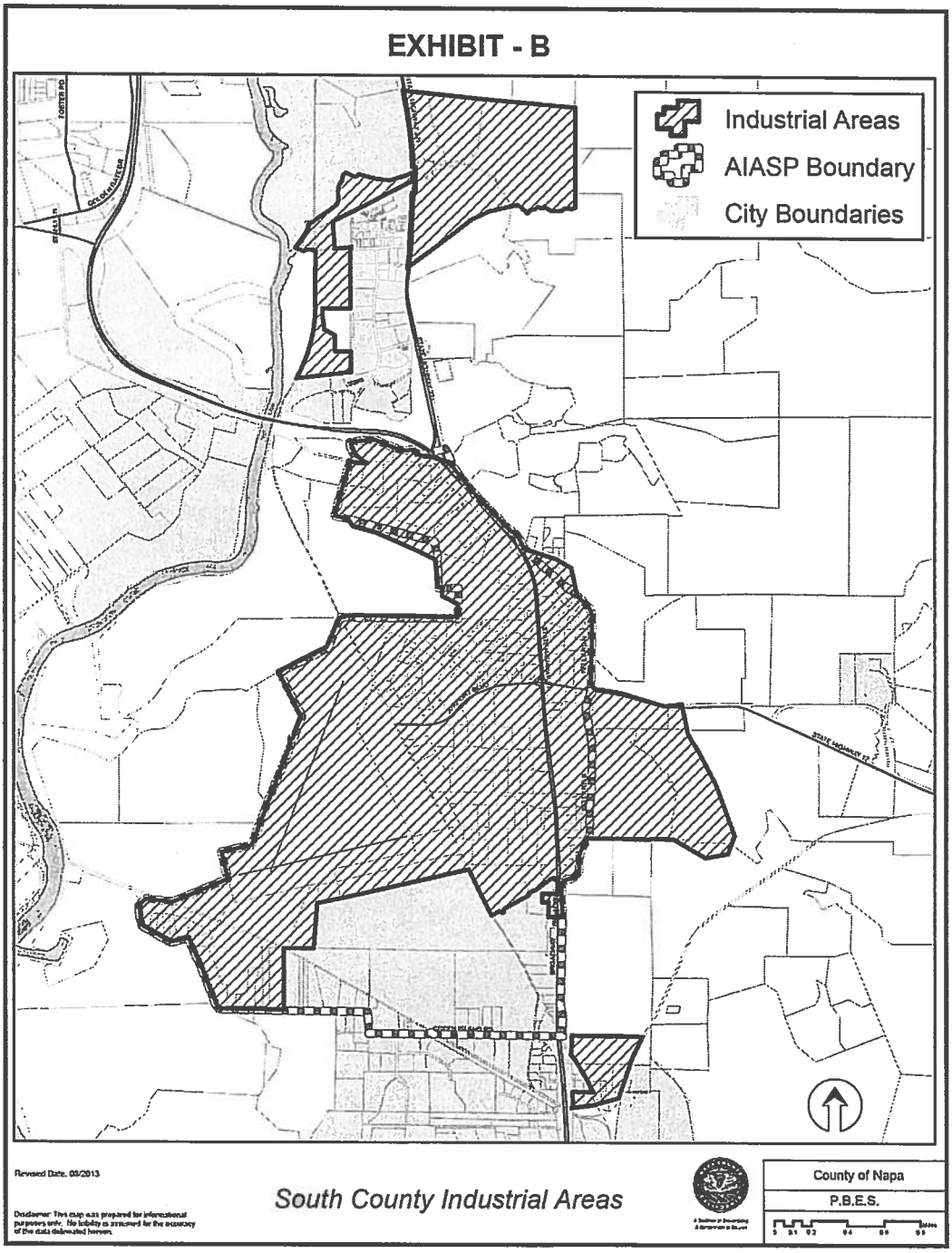
EXHIBIT B
(South County Industrial Areas Map)