

Upon Recordation, Return to:

City of Napa
P.O. Box 660
Napa, CA 94559
Attn: City Clerk

COPY

Exempt From Recording Fees
Govt Code §27383

(For Recorder's Use Only)

**ANNEXATION CONSENT, PROTEST WAIVER
AND WATER SERVICE AGREEMENT BY AND BETWEEN
THE CITY OF NAPA AND NAPA REDEVELOPMENT PARTNERS**

City of Napa 2015
Agreement No. 22A

This Annexation Consent, Protest Waiver, and Water Service Agreement (the "Agreement") between the City of Napa, a chartered municipal corporation (the "City") and Napa Redevelopment Partners ("NRP"), is made pursuant to the authority of the City Charter and Section 56000, *et seq.*, of the California Government Code and dated September 1, 2015 (the "Effective Date") to reflect the first date upon which it is executed by both the City and NRP. The City and NRP may each be referred to herein as a "Party" and collectively as the "Parties."

RECITALS

A. NRP is the owner in fee of certain real property in the County of Napa (hereinafter referred to as the "County"), commonly known as the Napa Pipe Property, which is comprised of two (2) parcels designated with Assessor Parcel Numbers 046-400-030 and 046-412-005, further described in the attached Exhibit A and referred to herein as the "Property."

B. On June 4, 2013, the County adopted Ordinance No. 1382, which rezoned certain portions of the Property to create the Napa Pipe Zoning District (Napa County Code Chapter 18.66). The remainder of the Property, consisting of approximately 74.5 acres located to the east of the existing railroad tracks, and designated Industrial: Airport Compatibility (I:AC) under the County Zoning Code, is referred to herein as the Industrial Zoning District.

C. On November 24, 2014, the County approved a Master Tentative Map, on December 16, 2014, the County approved a Development Plan pursuant to the Napa Pipe Zoning District requirements, and approved that certain Development Agreement By and Between Napa County and Napa Redevelopment Partners, LLC, dated January 13, 2015 (the "DA"), and on February 10, 2015, the County approved the Design Guidelines pursuant to the Napa Pipe Zoning District requirements, which together govern development of the Property. For purposes of this Agreement, the Napa Pipe Zoning District, the Development Plan, the Design Guidelines, the Master Tentative Map, and the DA, as they exist on the Effective Date of this Agreement and as they may be subsequently amended, are collectively referred to as the "Project Approvals."

D. NRP has submitted an application to the City requesting that the City apply to the Napa County Local Agency Formation Commission ("LAFCO"), as provided by Section 56425 of the California Government Code, to amend the City's Sphere of Influence ("SOI"), to extend municipal services, including water service to the Property, and to permit the phased annexation of the Property to the City.

E. On July 21, 2015, the City Council of the City of Napa authorized the City Manager to approve, subject to the satisfaction of certain conditions, the submittal, by NRP, as owner of the Property, and in coordination and consultation with the City, of an application with all necessary and appropriate petitions and supporting materials, to LAFCO to: (i) amend the City's SOI to bring the Property with the City's SOI boundary in accordance with Government Code Section 56425; (ii) extend City services, including water and other municipal services, to the Property in accordance with this Agreement and the City-County Agreements (defined in Section 1 below); and (iii) to annex the Property in two steps in accordance with the proposed 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 "LAFCO Applications"). The Parties hereby acknowledge and agree that it is their mutual understanding and intent that the LAFCO Applications will be processed, and the Phased Annexations approved by LAFCO, in a manner consistent with the Parties' material rights and interests under the Project Approvals, City/-County Agreements and this Agreement.

AGREEMENT

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

1. CONSENT TO PHASED ANNEXATION AND WAIVER OF PROTEST RIGHTS. NRP hereby consents to the annexation of the Property to the City of Napa in two steps, in accordance with the material terms of this Agreement: (i) in the first step, the commercial portions of the Property zoned by County NP-IBP-W:AC, NP-IBP:AC and I:AC would annex to the City as soon as practicable and legally permissible after City action to pre-zone the Property consistent with existing County zoning; (ii) in the second step (the "Second Phase Annexation"), the remainder of the Property, i.e., the predominantly residential and associated open space and community benefit portions of the Property zoned by County NP-MUR-W:AC, would annex to the City on December 31, 2022 such that the entire Property is annexed to the City on December 31, 2022) (hereinafter the "Phased Annexation"), provided that such annexation is legally permissible, and subject to approval of LAFCO.

NRP consent to the Phased Annexation is subject to: (x) City adoption of pre-zoning controls and general plan amendments for the Property consistent with the County Industrial Zoning District and Napa Pipe Zoning District; and (y) City's and County's execution of the following agreements (in substantially the forms set forth in the resolution of the City Council, approved July 21, 2015, authorizing the City Manager to execute Memoranda of Agreements with the County of Napa related to the Napa Pipe Property), which are referred to herein collectively as the "City/County Agreements":

- Memorandum of Agreement Between the City of Napa and Napa County Regarding Regional Housing Needs Allocations for Future Housing Element Planning Periods;
- 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;
- Memorandum of Agreement Between the City of Napa and Napa County Regarding the Provision of Municipal Services for the Napa Pipe Development Project; and
- Memorandum of Agreement Between the City of Napa and Napa County Regarding the Allocation of Property Tax, Sales Tax and Transient Occupancy Tax Revenues Generated by the Napa Pipe Site Consisting of Assessor's Parcels 046-400-030 and 046-412-005 and the Allocation of Property Tax Generated by the Other Properties Within the City's Sphere of Influence.

Subject to the foregoing, NRP expressly waives for itself and its successors, transferees, assignees, and subsequent purchasers of the Property, or any portion thereof, the right to protest, challenge or object to the validity of any such Phased Annexation of the Property, whether such protest, challenge, or objection is brought pursuant to the provisions of California Government Code Sections 57000 through 57090, or on any other basis, and NRP further agrees, for itself and its successors, transferees, assignees, and subsequent purchasers of the Property, or any portion thereof, to take all steps necessary or desirable, as determined by the City, to enable the City to enforce NRP's waiver as set forth in this Section 1 against any and all subsequent owners of all or any portion of the Property.

2. **DA AMENDMENT APPLICATION.** NRP hereby agrees to process with the County a First Amendment to the DA, in full compliance with Government Code Sections 65867, 65867.5, and 65868, as follows:

(a) Section 15.4 of the DA shall be amended by adding the following new Subsection 15.4.5:

15.4.5 Kaiser Road/State Route 221 Intersection Improvements. All language of this Agreement to the contrary notwithstanding, Landowner shall construct and complete the improvements to the intersection of Kaiser Road and State Route (SR) 221 as described and on the schedule set forth in Section 4.4 of Exhibit D (Phasing Plan) to this Agreement.

(b) Exhibit D to the DA (Phasing Plan) shall be amended as shown on Exhibit B to this Agreement.

3. **SUBMITTAL OF LAFCO APPLICATIONS ON BEHALF OF CITY.** Subject to and immediately following the City's and County's execution of the City-County Agreements in substantially the forms described in Section 1 above as reasonably determined by the City, NRP shall file the LAFCO Applications, provided, however, that if the County and NRP fail to execute the DA Amendment in substantially the form described in Section 2 above as reasonably determined by the City, then the City may require the suspension or withdrawal of the LAFCO Applications and this Agreement may be immediately terminated by City by written notice to

NRP without any further action by the Parties and without any liability on the part of the Parties, except as otherwise provided by Section 7.5 below.

NRP shall, as necessary and on behalf of the City, file a LAFCO Application for the Second Phase Annexation to complete the annexation of the entire Property to the City. City and NRP agree to cooperate and coordinate in the preparation, submittal and processing of such Second Phase Annexation Application in order to achieve the purposes of this Agreement to complete the Phased Annexation in accordance with this Agreement, including the schedule for completing the Second Phased Annexation consistent with the material terms of the Project Approvals and the City-County Agreements. In processing the LAFCO Applications, neither Party shall request conditions adverse to or inconsistent with the terms of this Agreement, the Project Approvals or the City/County Agreements.

Without limiting the Phased Annexation consent and protest waiver, as provided in Section 1 above, including its application to subsequent transferees of interests in the Property, or portions thereof, NRP may, with the consent of the City not to be unreasonably withheld, take such necessary and appropriate actions in processing the LAFCO Applications to ensure that LAFCO approvals of the Phased Annexations are not conditioned such that it would be materially inconsistent with NRP's vested rights under the Project Approvals or the Property service commitments under this Agreement. The Parties intend that NRP's rights under this paragraph are reserved to it as master developer of the Property, and therefore that such rights shall not be transferable to a purchaser of a portion of the Property without the consent of the City to such assignment and assumption, not to be unreasonably withheld.

4. CITY COMMITMENT TO PROVIDE WATER SERVICE. Subject to and following: (a) the execution by the County and NRP of the DA amendment described herein; (b) the City's and County's execution of the City-County Agreements in substantially the forms described in Section 1 above as reasonably determined by the City; and (c) LAFCO's approval, as provided by Government Code Section 56428(e), of the City's requests to update its SOI and extend municipal services to the Property; the City hereby agrees to provide water service for all domestic (residential and commercial), fire-fighting, irrigation and other associated purposes to the Property upon request of NRP, subject to the same City-wide laws, rules, regulations, and fees applicable to other new users in the City, subject to the following:

4.1 Water Source Payment. Prior to establishing any new connections from the Property to the City's water system, NRP shall make a one-time payment to the City for allocation of sufficient raw water supplies to serve the Project in the amount of nine hundred thousand dollars (\$900,000.00) (the "Water Source Payment").

4.2 Infrastructure Reimbursement Payment. NRP shall fully reimburse the City for the proportional share of costs for certain treatment, transmission and storage infrastructure required to provide water service to the Property, which costs the City has estimated to be one million eight hundred ninety-six thousand dollars (\$1,896,000.00) (the "Infrastructure Reimbursement Payment"), based on the following estimated costs:

Improvements to Barwick Jamieson Treatment Plant:	\$747,000
24-inch conveyance pipeline on Highway 221:	\$112,000

Improvements to Dwyer Road Pump Station:	\$137,000
Imola Tank and Pipeline:	\$900,000

NRP shall make the Infrastructure Reimbursement Payment in eight (8) annual installment payments of two hundred thirty-seven thousand dollars (\$237,000) each, commencing on December 31, 2015, and continuing on each subsequent December 31 through and including December 31, 2022. If NRP fails to make any installment payment on or before the date such payment is required under this Section 2.2, the City may decline to permit any further water service connections from the Property to the City's water system until such payment is made, and the City may avail itself of all other remedies provided by this Agreement. NRP may pre-pay the full amount of the Infrastructure Reimbursement Payment without penalty.

4.3 Construction of Infrastructure Improvements. NRP shall construct, to City standards in effect at the time of construction, all onsite and offsite water infrastructure improvements necessary to serve the Property, including without limitation and as provided in the Development Plan a twelve inch (12") water supply pipeline connecting the existing Jamieson Transmission Line to the south side of the Property along Anselmo Court. Improvement plans for all such improvements shall be reviewed and approved by the City before construction of such improvements may begin and all such improvements must be inspected and approved by the City. In addition, all such improvements and all associated real property interests required to operate and maintain such improvements shall be irrevocably dedicated to and accepted by the City before water service may begin. All City costs incurred in reviewing and approving improvement plans, inspecting and approving completed improvements, and processing the required dedications shall be borne by NRP as provided in Section 7 below.

4.4 Payment of Water Capacity Fees. A Water Capacity Fee (formerly referred to as a "Water Connection Fee") shall be imposed on all development on the Property pursuant to and in the amounts set forth in Table 4 of that certain Napa Pipe Water Capacity Fee Report dated 1 July 15, 2015, a copy of which is attached hereto as Exhibit C. The Water Capacity Fee shall be owed and payable at the time of issuance of each building permit and prior to connecting the permitted improvements to the City's water system. The amount of the Water Capacity Fee shall be the amount identified on Table 4 for the required meter size under the column in effect at the time payment is made. The column for each fiscal year "FY" shall be in effect from July 1 of the year preceding the FY through June 30 of the year of the FY (as an example, the fees shown under the column heading "FY 16" shall be in effect from July 1, 2015 through June 30, 2016).

5. NO USE OF GROUNDWATER. NRP hereby agrees, for itself and for all successors in interest to all or any portion of the Property, that groundwater shall not be used for any purpose on the Property and shall not be exported from the Property for any purpose without the prior express written consent of the City as approved by the City Council.

6. EFFECT OF ANNEXATION, TERM OF DEVELOPMENT AGREEMENT. City agrees to be bound by the terms and conditions of the DA, as amended pursuant to the terms of this Agreement, with respect to any annexed portions of the Property. As provided by California Government Code Section 65865.3, commencing upon the effective date of an annexation of all or any portion of the Property to the City, the DA will remain valid as to the annexed Property until the expiration of the original twenty (20) year Term of the DA, or fifteen

(15) years from the effective date of the annexation, whichever occurs first.

7. CITY COST RECOVERY.

7.1 Annexation-Related Costs. NRP shall timely pay to City the actual and reasonable costs incurred by the City, including its outside consultants, contractors and outside counsel, in drafting, reviewing, revising, processing and implementing this Agreement, including, but not limited to, recording fees, ordinance publication fees, special notice or special meeting costs, staff time in preparing staff reports, and staff time, including legal counsel fees, for preparation and review of this Agreement (collectively, "City Costs"), as determined on a time and materials basis, including any defense costs as set forth in Section 8.

7.2 Pre-Annexation Plan Review Costs. Landowner shall have no obligation to reimburse City for City costs incurred in reviewing or providing comments on plans, drawings, maps or other submittals provided by Landowner or prospective or actual Transferees (as defined under the DA) in connection with Subsequent Approvals (as defined under the DA) processed by County for any portions of the Property not then annexed to the City, except for reviews that would normally be conducted by City of development proposals within the County, including but not limited to reviews with respect to water, sewer, police and fire department and any other City departments responsible for providing essential public services to the Property, and associated facilities, plans, agreements, permits and inspections necessary to such department reviews for Subsequent Approvals.

7.3 Environmental Review Costs. In connection with any environmental review relating to development of the Property for which the City serves as the "lead agency" under the California Environmental Quality Act ("CEQA"), NRP shall timely reimburse the City or pay directly and in advance all actual costs incurred by the City in performing such environmental review, including but not limited to the costs of hiring such consultants and performing such studies as City determines, in its reasonable discretion, are necessary or appropriate to perform such environmental review to comply with CEQA requirements. The City's reasonably detailed invoices for such environmental review costs shall be provided on a not more frequent than monthly basis (or such alternative period as agreed by the Parties).

7.4 Timely Payment. For purposes of this Section 7, "timely" payment or reimbursement shall mean payment by NRP within forty-five (45) days following receipt of a written invoice from the City detailing the recoverable costs incurred by the City.

7.5 Survival of Payment Obligations. NRP's obligations to pay previously incurred City costs under this Section 7 shall survive the termination of this Agreement.

8. INDEMNIFICATION. NRP hereby agrees to defend and indemnify the City against any and all fees and costs arising out of the Parties' negotiation, preparation, execution and implementation of this Agreement, including without limitation all proceedings undertaken by the City to amend its Sphere of Influence and annex the Property to the City, and the Parties shall cooperate in the defense of any third party legal action challenging the Parties' execution and implementation of this Agreement.

9. EFFECTIVE DATE. This Agreement shall take effect upon the first date that it is

signed by both parties, as indicated by their signatures below, and shall remain in effect until terminated by mutual consent of the Parties.

10. BINDING ON SUCCESSORS, HEIRS, AND ASSIGNS. This Agreement shall be recorded with the County Recorder, and all of the provisions hereof shall be binding upon inure to the benefit of the Parties and all of their respective heirs, successors and assigns, representatives, lessees, and all other persons acquiring all or any portion of the Property, or any interest therein, whether by operation of law or in any manner whatsoever. All of the provisions of this Agreement shall be enforceable as equitable servitudes and shall constitute covenants running with the land pursuant to California law, including, without limitation, Civil Code section 1468. Each covenant herein to act or refrain from acting is for the benefit of or a burden upon the Property, as appropriate, runs with the Property and is binding upon each owner, including NRP and all of its successor owners, of all or a portion of the Property during its ownership of such Property.

11. MISCELLANEOUS.

11.1 Incorporation of Recitals and Introductory Paragraph. The Recitals contained in this Agreement and the introductory paragraph preceding the Recitals are hereby incorporated into this Agreement as if fully set forth herein.

11.2 No Third Party Beneficiaries. There are no third party beneficiaries under this Agreement and only the Parties expressly referenced herein shall have the right to enforce this Agreement.

11.3. Other Necessary Acts. Each Party shall execute and deliver to the other all such additional instruments and documents as may be reasonably necessary to carry out and secure to the other Party the full and complete enjoyment of their rights and privileges under this Agreement.

11.4. Construction. This Agreement has been reviewed and revised by legal counsel for each of the Parties and no presumption or rule that ambiguities shall be construed against the drafting Party shall apply to the interpretation or enforcement of this Agreement.

11.5. Default; Notice and Opportunity to Cure. Any failure by a Party in the due, prompt and complete observance or performance of any material condition, covenant or obligation of such Party under this Agreement after a period of thirty (30) days following written notice to the defaulting Party specifying the nature thereof, shall constitute a "Default" under this Agreement; provided, however, that the defaulting Party shall not be in Default under this Agreement if the failure to observe or perform the condition, covenant or obligation in question is curable but is of such a nature that it is incapable of being cured with reasonable diligence within said 30 day period and the defaulting Party commences such cure within said 30 day period and diligently and continuously pursues the same to completion.

11.6 Remedies; Limitation on Money Damages. Any Party may institute

an equitable action to cure, correct or remedy any Default under this Agreement or to enjoin any threatened or attempted violation of this Agreement, or to enforce by specific performance the obligations and rights of the Parties hereto, or to obtain any remedies consistent with the foregoing and the purposes of this Agreement. In no event shall any Party be entitled to money damages for breach of this Agreement by any other Party to this Agreement, unless the breach arises from a Party's failure to make a monetary payment required by this Agreement, in which case the non-breaching Party may be entitled to actual money damages, including interest on such actual money damages, as determined by a court of competent jurisdiction to be appropriate to compensate the non-breaching Party for such breach.

11.7. Governing Law, Jurisdiction, and Venue. The interpretation, validity, and enforcement of this Agreement shall be governed and interpreted in accordance with the laws of the State of California. Any suit, claim, or legal proceeding of any kind related to this Agreement shall be filed and heard in a court of competent jurisdiction in the County of Napa.

11.8. Amendments and Modifications. This Agreement may not be amended or modified orally or in any manner other than in a writing signed by both Parties.

11.9. Waivers. Waiver of a breach or default under this Agreement shall not constitute a continuing waiver or a waiver of a subsequent breach of the same or any other provision of this Agreement.

11.10. Notices. All notices required or contemplated by this Agreement shall be in writing, identify that it is with regard to this Agreement and the Napa Pipe Project, and shall be delivered by and to the respective Party as set forth in this section. Communications shall be deemed to be effective upon the first to occur of: (a) actual receipt by a Party's Authorized Representative, or (b) actual receipt at the address designated below, or (c) three working days following deposit in the United States Mail of registered or certified mail sent to the address designated below. Either Party may modify their respective Authorized Representative and contact information identified in this section by providing notice to the other Party. The Authorized Representative of each Party shall be identified on the "Attn" line, below:

NRP:

Attn: Keith Rogal
Napa Redevelopment Partners, LLC
1025 Kaiser Road
Napa, CA 94558

Copy:

Attn: Steve Heath
Farallon Capital Management, LLC
One Maritime Plaza, Suite 2100
San Francisco, CA 94111

City of Napa:

Attn: City Manager
P.O. Box 660
Napa, CA 94559-0660

Copy: City Attorney
P.O. Box 660
Napa, CA 94559-0660

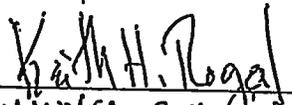
11.11. Signatures. The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity, and authority to enter into and execute this Agreement on behalf of the respective legal entities of NRP and City.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, this agreement is executed on the date(s) indicated below at Napa, California.

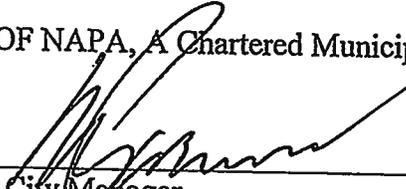
PARTIES' SIGNATURES MUST BE NOTARIZED

NAPA REDEVELOPMENT PARTNERS (NRP):

BY:  Keith H. Rogal for NRP
Its M. ANAKA, ROGER J. PARSONS, LLC

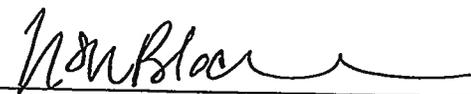
DATE: 9-1-2015

CITY OF NAPA, A Chartered Municipal Corporation

BY: 
City Manager _____

DATE: 8.11.15

ATTEST:

BY: 
City Clerk Lisa Blackmon, Deputy City Clerk

DATE: 8.11.2015

APPROVED AS TO FORM:

BY: 
City Attorney Michael W. Barrett

DATE: 8.11.2015

California All-Purpose Acknowledgment

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

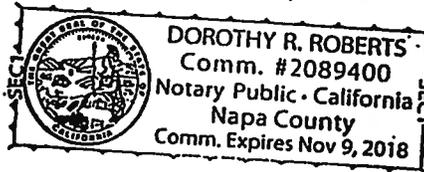
County of Napa

On August 11, 2015, before me, Dorothy R. Roberts, Notary Public, personally appeared Mike Parness, City Manager; and Michael W, Barrett, City Attorney; and Lisa Blackmon, Deputy City Clerk, who provided to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature *Dorothy R. Roberts* (Seal)
Notary Signature



CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of Napa

On 9/11/15 before me, Francisco Javier Carrillo-Carlos

Date

Here Insert Name and Title of the Officer

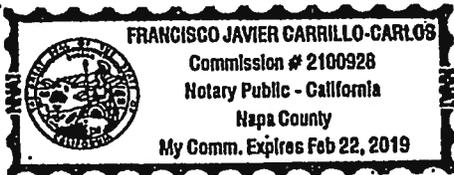
personally appeared Keith Logal

Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) (s) are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature

Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____ Document Date: _____

Number of Pages: _____ Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

Corporate Officer — Title(s): _____

Partner — Limited General

Individual Attorney in Fact

Trustee Guardian or Conservator

Other: _____

Signer Is Representing: _____

Signer's Name: _____

Corporate Officer — Title(s): _____

Partner — Limited General

Individual Attorney in Fact

Trustee Guardian or Conservator

Other: _____

Signer Is Representing: _____

EXHIBIT A
Property Description

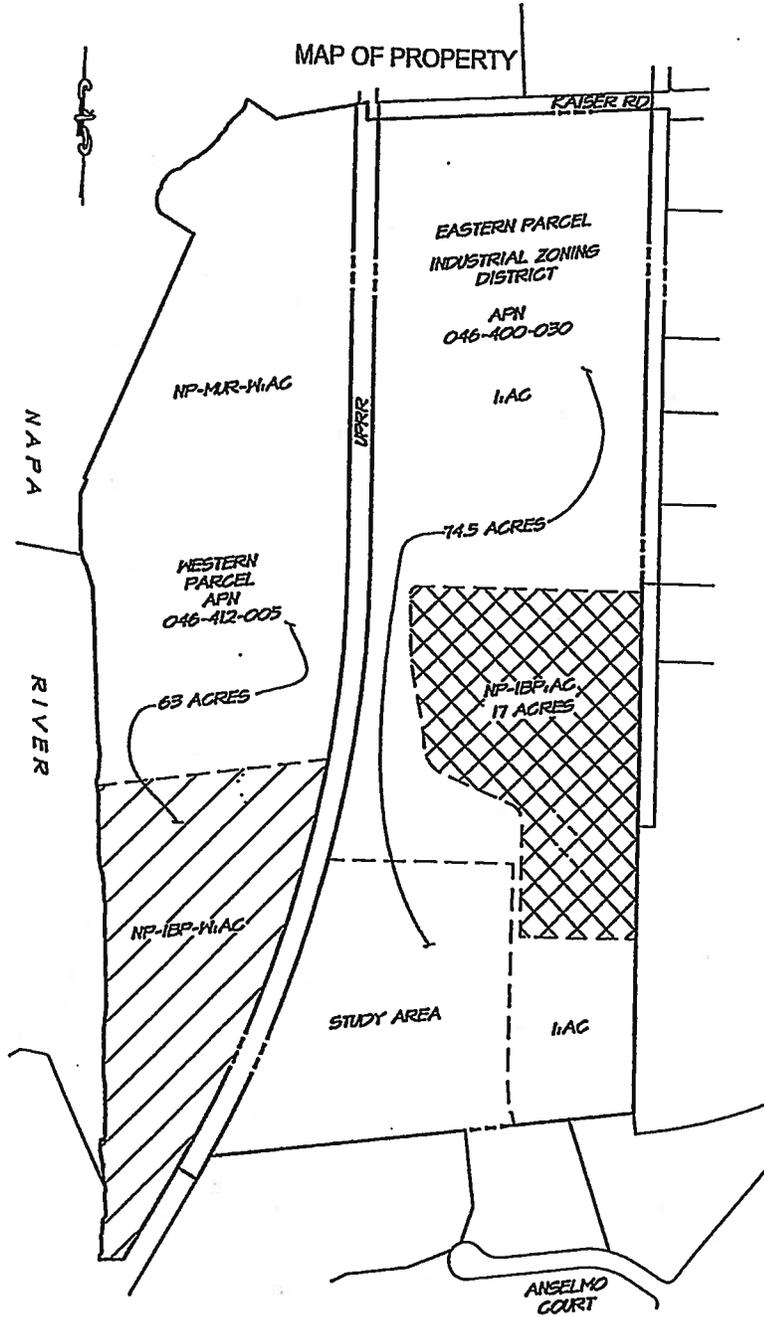


EXHIBIT B
Amendment to Development Agreement Phasing Plan
(Development Agreement Exhibit D)

1. Phasing - Generally

1.1 Phased Infrastructure Generally. Throughout development of the Project, construction of Project Infrastructure, Affordable Housing and other Development Agreement obligations will be phased in accordance with the terms and conditions of the Development Agreement, including, without limitation, this Phasing Plan, the Affordable Housing Plan, and the MMRP. Landowner will provide certain Open Space, Affordable Housing, and traffic mitigation improvements in connection with certain levels of development and/or as a pre requisite for commencement of a subsequent Phase or a particular residential or commercial building block or project building within a Phase or sub-Phase, as described herein. Phasing of other Project Infrastructure, including access and utilities (including storm water controls) improvements necessary to accommodate development of a Phase or sub-Phase shall be provided on the basis of adjacency and as-needed, as described in Section 2 below. Approval and construction of Project Infrastructure in connection with each Phase or sub-Phase is intended to maintain a level of flexibility in determining Infrastructure requirements while providing services appropriate for development.

1.2 Local Agency Approval of Phased Infrastructure. The Subdivision Procedures attached as Exhibit I to this Agreement require Landowner to submit with each subdivision map for each Phase identified on the Phasing Plan Diagrams attached hereto as Attachment 1 (each, a "Phase," or if a subdivision map is submitted for less than an entire Phase, each a "sub-Phase") a description of the applicable Project Infrastructure and Open Space to be included within that Phase or sub-Phase (in each case, the "Phase Infrastructure"). Local Agency shall approve or disapprove the Phase Infrastructure based on consistency with the requirements and standards set forth in this Agreement (including as provided in Section 2 below) and the other Project Approvals (including, without limitation, the Development Plan and Master Map), the Subdivision Map Act and applicable Local Agency Subdivision Code and regulations as modified by the Subdivision Procedures and Development Plan, and Existing Local Agency Land Use Regulations.

1.3 Local Agency Approval of Illustrative Phasing Plan. Project Phases described herein are shown on the illustrative Phasing Plan diagrams attached hereto as Attachment 1. In the event of any discrepancy between Attachment 1 and this Agreement, including the text of this Phasing Plan, this Agreement and the text of this Phasing Plan shall control.

2. Adjacency and As-Needed

The primary principles of the Project's Infrastructure phasing are "adjacency" and "as needed", unless otherwise specifically provided in the Development Plan and this Agreement, including, without limitation, this Phasing Plan, the Affordable Housing Plan, the NPIIP and MMRP. When development of a residential or commercial project(s) occurs within a Phase

or sub-Phase, "Adjacent Infrastructure" and other Project Infrastructure needed to provide for adequate access and utilities service for such project will be constructed. These include, for example, streets (and improvements therein and thereon), curbs, gutters, sidewalks, street lights and other streetscape improvements, joint utility trench, utility corridors and related facilities, storm water, wastewater, potable and other water facilities. "Adjacent Infrastructure" means Infrastructure which is near to and may share a common border or end point with a building project or sub-Phase within one of the four identified Phases. Where it is determined by Local Agency and Landowner to be feasible and sufficient to meet the needs of a project or sub-Phase, half-streets may be constructed. Project Infrastructure will be constructed in accordance with this adjacency and as needed principles unless other specific criteria is provided. In all cases, Project Infrastructure must be designed so as to connect with Project Infrastructure previously approved or installed.

3. Open Space Phasing

3.1 Open Space Development. Open Space and associated community facilities and improvements shall be designated in connection with each Phased Final Map and improvement plans approved therewith (unless earlier included in separate improvement plans) consistent with the schedule for construction of open space described in Section 3.2 below. Local Agency, in its sole discretion, may defer Open Space requirements to subsequent project maps, Phases or sub-Phases as it deems it appropriate.

3.2 Schedule for Construction of Open Space. Open Space (as each is more particularly described in the Development Plan) shall be Substantially Completed consistent with the following schedule of performance:

Block P9 (Wetlands Restoration): Prior to issuance of a Certificate of Occupancy for the first residential unit in the Project;

Pedestrian and bicycle connection to Kennedy Park: Prior to issuance of a Certificate of Occupancy for the first residential unit in the Project;

Block 14 – Drydock improvements: Prior to issuance of a Certificate of Occupancy for the 351st residential unit in the Project;

Blocks P3 (Farm): Prior to issuance of a Certificate of Occupancy for the 351st residential unit in the Project;

Block P5: Prior to the issuance of a Certificate of Occupancy for the 351st residential unit in the project;

Block P6: Prior to the issuance of a Certificate of Occupancy for the first residential unit on either Block 18, 20 or 22;

Block P7: Concurrent with the Substantial Completion of Block P5 and shall include a pedestrian connection across the railroad tracks connecting Block P5 to Block P7;

Block P1: Prior to issuance of a Certificate of Occupancy for the hotel on Block E, but

not later than issuance of a Certificate of Occupancy for the 40th residential unit within the geographical area described by Blocks 3, 6, 9 and 12;

Block P2 and Trail: Prior to issuance of a Certificate of Occupancy for the 100th residential unit within the geographical area described by Blocks 3, 6, 9 and 12;

Block P4: Prior to issuance of a Certificate of Occupancy for the 100th residential unit within the geographical area described by Blocks 1, 4, 7, 8, 5 and 2;

Block P8: Prior to issuance of a Certificate of Occupancy for the first residential unit within the geographical area described by Blocks 1 and 2; and

Interim Bicycle and Pedestrian Trail (as shown in the Development Plan): Prior to issuance of a Certificate of Occupancy for the 50th Residential unit in the Project.

4. Transportation Infrastructure

As described in the Napa Pipe Intersection Improvement Plan, in addition to Landowner's obligation to pay its fair share and other costs for transportation-related Project Infrastructure, Landowner must also construct specific Project Infrastructure improvements, regardless of adjacency, as follows:

4.1 Napa Valley Corporate Drive / Anselmo Court. Landowner shall construct a single lane round-about with a by-pass lane on the southbound and eastbound approaches to the intersection, including the bridge improvements to Anselmo Court and Anselmo Court/Corporate Drive, such that all access roads are at flood elevation of 12 feet NGVD29, as referenced in Section 3 of the Napa Pipe Zoning Code. If the right of way for a roundabout cannot be reasonably and timely obtained, then a traffic signal may be installed as an alternative. Regardless of whether this intersection is improved with the roundabout or with the traffic signal, Landowner shall complete the improvements required by this Section 4.1 prior to the issuance of a Certificate of Occupancy for the Membership Warehouse Store or the first residential unit in the Project, whichever is issued first.

4.2 Soscol Ferry Road / Devlin Road. Landowner shall install median treatment improvements on Soscol Ferry Road that control all movements except for the westbound through movement on Soscol Ferry Road, and shall widen Soscol Ferry Road to the west of its intersection with Devlin Road to allow for merging of the two lanes. The merge distance shall be in accordance with County standard roadway design criteria for lane merges. Landowner shall complete such improvement prior to the issuance of a Certificate of Occupancy for the Membership Warehouse Store or the first residential unit in the Project, whichever is issued first.

4.3 Kaiser Road Landscape Median Improvements. Landowner shall design and construct a landscape median on Kaiser Road between State Route 221 and Syar Road ("Kaiser Road Landscape Median Improvements"), including any roadway improvements such as restriping necessary to accommodate the installation of the Kaiser Road Landscape Median Improvements. Construction shall be completed before issuance of a Certificate of Occupancy for the 351st residential unit. Kaiser Road Landscape Median Improvements shall be subject to

the review and approval of the City and County. The Kaiser Road Landscape Median Improvements shall fit within a roadway configuration that includes a minimum 6' westbound bike lane, 12' westbound travel lane, 14' westbound travel lane, 14' eastbound travel lane, 12' eastbound travel lane and 6' eastbound bike lane.

4.4 Kaiser Road/State Route 221 Intersection Improvements. Landowner shall construct dual left-turn lanes on northbound SR 221 that are equal in length to the existing two hundred eighty (280) foot single left turn lane. Construction shall be completed as follows:

(A) If the first building permit issued for a structure on the Property is for a Membership Warehouse Store on Block F, construction shall be completed before the issuance of any other building permits for any other structures on the Property;

(B) If the first building permit issued for a structure on the Property is not for a Membership Warehouse Store on Block F, construction shall be completed before either one (but not both) of the following occurs:

i. a building permit is issued for the structure that will contain the three hundredth (300th) residential unit on the Property; or

ii. a Certificate of Occupancy is issued for a Membership Warehouse Store on Block F.

By constructing the turn-lane improvements required by this Section 4.4, the City acknowledges that NRP has fully satisfied its obligation to mitigate the Project's contribution to a cumulative impact at Intersection #17 pursuant to the MMRP, the NPIP (Napa Pipe Intersection Improvement Plan) and the DA. To the extent construction of any other improvements at Intersection #17 are or become necessary to satisfy the requirements of the MMRP and DA, the funding or completion of those other improvements shall not be the responsibility of NRP. Rather, NRP's responsibility for providing fair share payments for improvements at Intersection #17 and for any other improvements at Intersection #17 shall have been fully and completely addressed by the construction of the turn-lane improvements required by this Section 4.4 in lieu of a fair share contribution.

5. Stormwater

An erosion and sediment control plan ("ESCP") shall be submitted for review and approval with the applicable map or improvement permit prior to issuance of grading permits and improvement plans for each residential or commercial development project. The ESCP shall address interim or permanent facilities or control measures, such as straw bale barriers, straw mulching, straw wattles, silt fencing, and temporary sediment ponds, needed to handle storm water overland flow and manage erosion and sediment, control and treat increased stormwater runoff associated with the increase in the amount of impervious surfaces and promote infiltration of runoff from new impervious services as project development occurs in each Phase or Sub-Phase. Streets will most often provide the drainage corridors needed for these flows, but it is also possible that temporary or permanent drainage pipes, basins or swale corridors (and provision of corresponding access)

will be needed in various locations until the final or ultimate drainage systems are completed.

6. Community Facilities Space

Landowner shall provide the Community Facilities space described in Section IV.5 of the Development Plan and Section 15.2.5 of the Agreement prior to the issuance of the first Certificate of Occupancy for a structure on Block 21.

7. Affordable Housing

The phasing requirements associated with development of Affordable Housing are described in the Affordable Housing Plan, Exhibit B to the Agreement.

8. Site Remediation and Grading

Prior to commencement of site grading within the geographical area described by Phases 2, 3 and 4 (i.e., all of the Property except for Block F (the Membership Warehouse Store Parcel) and Block P9 (the Wetlands Restoration Area), soil remediation for the entire Property shall be completed consistent with the Remedial Design and Implementation Plan attached to the 2011 Supplemental Draft Environmental Impact Report for the Napa Pipe project. Grading and filling shall be performed as needed for development of each Phase or sub-Phase and as described in Development Plan.

9. Membership Warehouse Store and Hotel

9.1 Generally.

Phase One includes a Membership Warehouse Store to be located on Block F, as described in the Development Plan. Landowner shall use diligent and good faith efforts as soon as reasonably practicable after the Effective Date of this Agreement to enter into a binding agreement for purchase and sale of the Membership Warehouse Store site, as shown on the Land Use Plan, and for development of a Membership Warehouse Store by such purchaser thereon (the "Purchase Agreement"). Prior to Landowner entering into such a Purchase Agreement, the Local Agency shall not be obligated to issue building permits for private residential or commercial development in Phase Two. Notwithstanding the foregoing, if despite its diligent and good faith efforts, Landowner is unable to enter into such a Purchase Agreement within such two (2) year period, then Landowner shall continue to use such diligent and good faith efforts to enter into a Purchase Agreement but shall nonetheless be entitled to obtain building permits for development in Phase Two and any subsequent Phases in accordance with this Agreement and all applicable laws, subject to compliance with the deposit and payment requirements described below.

9.2 Landowner's Deposit.

Landowner shall provide and maintain a cash deposit, or a letter of credit in such form as is reasonably approved by the City, as provided below ("Landowner's Deposit"). If requested by Landowner, the City may, in its sole discretion, accept a bond, guaranty, or other

form of security:

(A) Landowner's First Deposit. If a Certificate of Occupancy has not been issued for a Membership Warehouse Store on Block F, or for a hotel on Block E, at the time Landowner applies for the building permit for the structure that will contain the first (1st) residential unit on the Property, then Landowner shall provide to the City of Napa ("City") a cash deposit, or a letter of credit in such form as is reasonably approved by the City, in the amount of Seven Hundred Thousand Dollars (\$700,000) (the "First Deposit"), before Indexing. For purposes of this Section 9, "Indexing" means adding to the amount of the deposit or payment stated in this Section 9 the product of the deposit or payment multiplied by the percentage increase, if any, in the Consumer Price Index for All Urban Consumers (base years 1982-1984=100) for the San Francisco-Oakland-San Jose area, published by the United States Department of Labor, Bureau of Labor Statistics from the first day of the month in which the Effective Date occurred to the first day of the most recent month for which the Index is available at any given time. The Local Agency shall not issue the building permit for the structure that will contain the 1st residential unit on the Property unless and until Landowner has made the First Deposit as required herein.

(B) Landowner's Second Deposit. If a Certificate of Occupancy has not been issued for a Membership Warehouse Store on Block F, or for a hotel on Block E, at the time Landowner applies for the building permit for the structure that will contain the seven hundred first (701st) residential unit on the Property, then Landowner shall provide to the City a second cash deposit, or letter of credit in such form as is reasonably approved by the City, in the amount of Two Hundred Thirty One Thousand Five Hundred Dollars (\$231,500), before Indexing (the "Second Deposit"). This Second Deposit shall be in addition to the First Deposit provided by Landowner pursuant to Section 9.2(A) above, bringing the total amount of Landowner's Deposit with the City to Nine Hundred Thirty One Thousand Five Hundred Dollars (\$931,500), before Indexing. The Local Agency shall not issue the building permit for the structure that will contain the 701st residential unit on the Property unless and until Landowner has made the Second Deposit as required herein.

9.3 Landowner's Payments.

(A) First Annual Payment. Concurrent with Landowner's First Deposit, and on each anniversary date thereafter, Landowner shall pay to the City the amount of Three Hundred Fifty Thousand Dollars (\$350,000), before Indexing (the "First Annual Payments");

(B) Second Annual Payment. On the date that the Local Agency issues the building permit for the structure that will contain the 176th residential unit within the Property, and prior to the issuance of such building permit, and on each anniversary date thereafter, Landowner shall pay to the City the amount of Three Hundred Fifty Thousand Dollars (\$350,000), before Indexing (the "Second Annual Payments"). Upon commencing the Second Annual Payments, the total amount of Landowner's annual payment obligations under this Section 9.3 shall be Seven Hundred Thousand Dollars (\$700,000), before Indexing.

(C) Third Annual Payment. Concurrent with Landowner's Second Deposit pursuant to Section 9.2(B) above, and on each anniversary date thereafter, Landowner

shall pay to the City the amount of One Hundred Fifteen Thousand Seven Hundred Fifty Dollars (\$115,750), before Indexing (the "Third Annual Payments"). Upon commencing the Third Annual Payments, the total amount of Landowner's annual payment obligations under this Section 9.3 shall be Eight Hundred Fifteen Thousand Seven Hundred Fifty Dollars (\$815,750), before Indexing.

(D) Fourth Annual Payment. On the date that the Local Agency issues the building permit for the structure that will contain the 824th residential unit within the Property, and prior to the issuance of such building permit, and on each anniversary date thereafter, Landowner shall make pay to the City the amount of One Hundred Fifteen Thousand Seven Hundred Fifty Dollars (\$115,750), before Indexing (the "Fourth Annual Payments"). Upon commencing the Fourth Annual Payments, the total amount of Landowner's annual payment obligations under this Section 9.3 shall be Nine Hundred Thirty One Thousand Five Hundred Dollars (\$931,500), before Indexing.

If Landowner fails to timely make a payment required under this Section 9.3, the City shall be entitled to draw on Landowner's Deposit in any amount up to and including the full amount of Landowner's delinquent payment(s). If the City draws on Landowner's Deposit as provided herein, Landowner shall, within five (5) business days of City's draw, replenish Landowner's Deposit to bring the balance up to the balance amount immediately preceding the City's draw. If Landowner fails to timely replenish Landowner's Deposit as required herein, the Local Agency shall withhold the issuance of building permits for the Project until such time as Landowner's Deposit has been fully replenished as required herein.

Immediately upon the issuance of a Certificate of Occupancy for a Membership Warehouse Store on Block F or a hotel on Block E, Landowner's obligations to maintain Landowner's Deposit and make the annual payments under Subsections 9.2 and 9.3 shall terminate, and the City shall be entitled to retain all previously-made payments. If Landowner remains in full compliance with its deposit and payment obligations under this Section 9 at the time of such termination, then the full remaining balance of Landowner's Deposit shall be released and returned to Landowner, and no further payments shall be required.

9.4 Hotel Development. Landowner may develop the hotel in any of Phases Two, Three or Four.

10. Floodgates.

Two floodgates shall be constructed as shown in the Development Plan, one located at the north end of the Property and the other located south of the most southerly railroad crossing. The floodgates shall be dedicated to and operated and maintained by the Flood Control District. The floodgates shall be installed prior to issuance of the first Certificate of Occupancy for any occupiable building structure (residential or non-residential) west of the railroad tracks.

11. Phases -- Generally

This Section 11 is intended to clarify and explain the descriptions and requirements of the preceding Phasing Plan provisions. However, to the extent that this Section 11 is inconsistent with or conflicts with any of the provisions or requirements of the preceding Sections 1 through 10, the provisions of the preceding Sections 1 through 10 shall control and govern the implementation and phasing of the Project.

11.1 Phase One. Membership Warehouse Store, Wetlands Restoration and Site Remediation and Fill Activities. The elements of Phase One, including the development of a Membership Warehouse Store use on Land Use Block F, associated gas station and a wetlands restoration area, are described Figure 1 of the Phasing Plan diagram, Attachment 1, to this Exhibit. Soil remediation and site grading shall be completed for development of the warehouse retail site. Wetlands restoration is contemplated within Phase One but must be completed no later than issuance of a Certificate of Occupancy for the first residential unit in the Project.

11.2 Phase Two. Residential and Commercial Development, Continuing Care Retirement Center, Open Space, including connection to Kennedy Park, and Drydocks. The elements of Phase Two are described in Figure 2 of the Phasing Plan diagram, Attachment 1 to this Exhibit. Development in Phase Two includes approximately 40,000 s.f. of neighborhood retail and restaurants, up to a total of 350 residential units on Blocks 11 13, Blocks 16-18, and a continuing care retirement complex on Block 10.

Prior to commencement of site grading for development in Phase Two, soil remediation for the entire Property shall be completed consistent with the Remedial Design and Implementation Plan attached to the 2011 Supplemental Draft Environmental Impact Report. Grading and filling shall be performed as needed for development of each Phase or sub-Phase and as described in Development Plan.

Phase Two Project Infrastructure includes the Kaiser Road segment from the Property entrance to Route 221. The two railroad crossings shown in the Phase Two Phasing Plan Diagram, and as further described in the Development Plan, shall be completed prior to issuance of a Certificate of Occupancy for the first residential project in Phase Two. Approvals for a third crossing should also be obtained at this time. The third crossing shall be installed in connection with the improvement of Block P5.

The pedestrian/bicycle connection to Kennedy Park and improvements to the drydocks (Block 14) shall be provided as described in Section 3, above. Other improvements to associated Open Space shall be provided as described in Section 3, above.

11.3 Phase Three. Residential and Commercial Development, Hotel, Third Railroad Crossing and Open Space. The elements of Phase Three are described in Figure 3 of the Phasing Plan diagram, Attachment 1 to this Exhibit. Development in Phase Three includes a hotel, up to a total of 350 residential units on Blocks 3, 6, 9 and 19 22.

The improvements in Phase Three include a third railroad crossing and associated fencing and flood gates for pedestrian and bicycle use, as shown on the Phasing Plan Diagram and as described in the Development Plan. Such facilities shall be constructed in conjunction with the construction of Block P5 and P7.

Improvements to associated Open Space shall be provided as described in Section 3, above.

Concurrent with Phase Three or Phase Four, or subsequently, development may occur within the Industrial Zoning District on the Eastern Parcel, subject to all applicable Local Agency requirements for that zone, of up to ninety thousand (90,000) gsf of office space and seventy-five thousand (75,000) gsf of warehouse/R&D development. Development within the Industrial Zoning District is not tied to any Phase, and is subject to completion of applicable soil remediation and site grading.

11.4 Phase Four. Residential and Commercial Development and Open Space. The elements of Phase Four are described in Figure 4 of the Phasing Plan diagram, Attachment 1 to this Exhibit, and in the Development Plan. Development in Phase Four includes the completion of commercial development on Blocks C & D immediately north of the hotel site, and up to a total of 245 residential units on Blocks 1, 2, 4, 5, 7, 8 and the balance of Block 15.

Open Space improvements shall be provided as described in Section 3, above.

Notwithstanding the foregoing, development of the hotel may occur in any of Phases Two through Four and shall not be a prerequisite for commencement of any Phase.

11.5 Phasing Flexibility. Subject to the prerequisites for development of each Phase as identified in this Phasing Plan and Attachment 1 hereto, Development in another Phase may proceed prior to completion of the Project Infrastructure and Open Space identified for a prior Phase, provided that development of Project Infrastructure and Open Space remains consistent with the principles outlined herein, and that for each building project or sub-Phase previously initiated Landowner has committed in an associated Improvement Agreement to provide the as-needed or Adjacent Infrastructure and required Open Space and is otherwise proceeding in compliance with the requirements of the Affordable Housing Plan.

EXHIBIT C

Napa Pipe Water Capacity Fee Report dated 1 May 2015
(adopted by the City Council on June 2, 2015)

**NAPA PIPE WATER CAPACITY FEE
REPORT**

City of Napa, California

15 July 2015



BLACK & VEATCH
Building a world of difference

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Introduction

The City has recently updated its water capacity fee structure. Updated capacity fees reflect the value of the additional capacity available to new connections to the City water system. In some cases, separate analyses are conducted for large or unusual development projects whereby a developer plans to contribute improvements to the water system as part of the development agreement process. The City requires this separate analysis related to the Napa Pipe development project to determine the amount of capacity fees it will exact upon this project in consideration of planned contributed improvements.

The Napa Pipe fee calculation will be based on the approach and methodology used to develop the citywide capacity fee structure and related fees. The analysis also incorporates the capital contributions that the Napa Pipe will make as part of the development process. The underlying capacity fee analysis is contained in a separate report held by the City and is the basis used for the Napa Pipe analysis.

Similar to the citywide water capacity fee analysis, the fee calculations in this study are based upon a recoupment (buy-in) approach that identifies the demand that new water connections place on the City's water system. The demand units required per connection are multiplied by the cost per unit for each component of the water system and summed to determine the gross fee. Debt service credits and any existing fee fund balances, if available, are then calculated and deducted from the gross fee to arrive at a net fee per water connection.



Capacity Fee Background

The City has sought outside professional assistance (Black & Veatch Corporation) to conduct this analysis to develop fair and legal water capacity fees to be imposed on new connections related to the Napa Pipe development project. The development project will utilize existing capacity within the City of Napa water system. This report provides the background and approach to value the water capacity fees that could be charged to the project.

PURPOSE OF CAPACITY FEES

Often called by different names (impact fees, development fees, connection fees, system development charges, and excess capacity charges), utility capacity fees are one-time payments used to contribute the proportional share for capital improvements previously made that resulted in available capacity for future demand. The contributions can be solely used for capital investments thereby offsetting costs that would otherwise have to be borne by existing water customers. Capacity fees have limitations and should not be regarded as the total solution for utility infrastructure financing needs. Rather, they should be considered one component of a comprehensive portfolio to help ensure adequate provision of utility public facilities with the goal of maintaining current levels of utility service within a community or within a service area. By California law, capacity fees can only be used for capital-related improvements, not operating or maintenance costs.

LEGAL FRAMEWORK

Assembly Bill 1600

To guide the widespread imposition of capacity charges, the State Legislature adopted the Mitigation Fee Act (Act) with Assembly Bill 1600 in 1987 and subsequent amendments. The Act, contained in California Government Code (beginning with Section 66000), establishes requirements on local agencies for the imposition and administration of fee and charge programs. The Act requires local agencies to document five findings when adopting a fee. In 1997, the legislature provided for specific statutory authority for public agencies to impose and collect certain charges (designated as "capacity fees") to allow for financing and capital cost recovery for facilities (new or existing) to meet the demands imposed on such system from new users (see California Government Code Section 66013).

The five findings in the Act required for adoption of the maximum justified fees documented in this report are: 1) Purpose of Fee, 2) Use of Fee Revenues, 3) Benefit Relationship, 4) Burden Relationship, and 5) Proportionality. They are each discussed below and are supported throughout the rest of this report.

Purpose of Fee

- ☐ Identify the purpose of the fee (§66001(a)(1) of the Act).



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Many agencies follow a policy that new users or new development will not burden existing ratepayers with the cost of public facilities required to accommodate growth. The purpose of the capacity fee documented by this report is to implement this policy by providing a funding source from new users for infrastructure that is available to meet their demands on the system. Table 6 summarizes the major categories of existing infrastructure that makes it possible to serve existing and new water customers. The exaction of the capacity fee advances a legitimate interest by enabling the City to meet the water system needs of new users.

Use of Fee Revenues

- ☐ Identify the use to which the fees will be put. If the use is financing facilities, the facilities shall be identified. That identification may, but need not, be made by reference to a capital improvement plan as specified in §65403 or §66002, may be made in applicable general or specific plan requirements, or may be made in other public documents that identify the facilities for which the fees are charged (§66001(a)(2) of the Act).

The capacity fee documented by this report will be used to "buy-in" to the current water system so long as sufficient capacity is available. The City projects future infill development will create a need for additional capacity. As such, the proposed water capacity fee is also based on the City's water capital improvement program (CIP) and may be used to fund the costs associated with adding additional system capacity as identified in the CIP. Collected revenues will be used to contribute the proportional share to the City for capital investments previously made that resulted in available capacity for future demand, for new facilities, to upgrade existing facilities, or for other capital infrastructure costs to keep the system operating at acceptable levels and to meet stringent water quality requirements. The cost of the existing water facilities was determined by the City's fixed asset records for the water system.

Benefit Relationship

- ☐ Determine the reasonable relationship between the use of capacity fees and the type of development project on which the fees are imposed (§66001(a)(3) of the Act).

The City's existing facilities and system provide a network of service accessible to the buildings and facilities resulting from new users or new development. Capacity fee revenues will be used to upgrade the existing system which will benefit all new users as well as to pay a portion of the debt service on outstanding bonds which were issued in part to construct capacity-related water facilities. Thus, there is a reasonable relationship between the use of fee revenues and the types of new users or new development that will pay the charge.



Burden Relationship

- ☐ Determine the reasonable relationship between the need for the public facilities and the types of development on which the fees are imposed (§66001(a)(4) of the Act).

The need for the facilities is based on the cumulative demands for service imposed on the system based on the number of new accounts within the proposed development. These demands are represented by service units for each customer type to be served by the system. Service units are based on the size of water meters and the rated flow capacity of each meter size. Thus, there is a reasonable relationship based on sound engineering principles for the charges imposed.

Proportionality

- ☐ Determine how there is a reasonable relationship between the fees amount and the cost of the facilities or portion of the facilities attributable to the development on which the fee is imposed (§66001(b) of the Act).

This reasonable relationship between the capacity fee for a specific development project and the cost of the facilities attributable to the water demand resulting from that development project will reflect the estimated water system capacity demand of that project. The total charge for a specific project is based on the project's projected use of existing water system capacity. The schedule of charges converts the estimated capacity that a development project will use in the water system into a charge based on the number of water meters and each meter's required peak flow to meet the demand generated by that project. Projects that are projected to demand more water service and capacity through larger metered connections will, correspondingly, pay a higher charge, as they have the ability to use more of the system's capacity. Thus, the schedule of fees ensures a reasonable relationship between the capacity fee for a specific development project and the cost of the facilities associated with water demand resulting from that development project.

GENERAL FEE METHODOLOGIES

There is no single established method for the determination of capacity fees that is both appropriate for all situations and completely equitable to all new customers. There are, however, various approaches which are currently recognized and utilized within the fee setting industry, some to a greater extent than others, by government agencies. These methods can be categorized as follows:

- ☐ **System Buy-In or Recoupment.** Fees are designed to derive from the new customer an amount per connection equal to the "equity" in the system attributable to similar existing customers. New development would pay for its share of the useful life and remaining capacity of existing facilities from which new development would benefit. (Note: The word "equity" refers to



that portion of system value for which there is no offsetting debt. It does not imply ownership of, or title to, utility facilities.)

- ☐ **Incremental Cost-Pricing.** Fees are designed to derive from the new customer the marginal, or incremental cost of system expansion associated with new customer growth. This method is based on the premise that new connections to a utility system should be responsible for those costs which they cause to be incurred for the most recent or next increment of required system capacity, except as such costs are recovered from user fees or other utility charges.
- ☐ **Planned Facility or Growth Approach.** Fees are based on a long-term CIP or master planning document that identifies facilities needed to provide additional capacity to the system required to support new connections. In effect, the level of service standard of the existing system is not adequate to support new connections. The additional capacity may or may not benefit existing customers. If existing customers would benefit in part by the addition of new facilities, the cost of this portion benefitting existing customers must be borne through revenues other than capacity fees.

Regardless of methodology employed, revenues derived from capacity fees are commonly used to offset part or all capital costs to accomplish any of the following objectives:

- ☐ To pay the capital costs of capacity provided for growth.
- ☐ To provide rate relief to existing system users by recovering that portion of the annual existing and future capacity capital costs associated with growth, including debt service requirements and direct asset purchases from current revenues.
- ☐ To accumulate reserves to finance system improvements and expansions required to meet growth needs.

Based on discussions with City staff, the City of Napa water system assets contain enough excess capacity that new connections can utilize during the foreseeable future. As the City continues to monitor and plan for future connection demand, City staff should update the fee analysis to determine if additional capital projects are needed to accommodate growth. Given that there is sufficient capacity in the current water system assets, this water capacity fee analysis solely utilizes the Buy-In approach.

Credits

Regardless of the methodology, a consideration of credits is integral to the implementation of a defensible capacity fee methodology. There are two types of credits with specific characteristics, both of which should be acknowledged in fee studies. The first is a revenue credit which could occur when other revenues may contribute to the capital costs of infrastructure covered by the fee. We have integrated this type of credit into the capacity fee calculation, thus reducing the



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fee amount. The second type of credit is a site-specific credit or developer reimbursement for dedication of land or construction of system improvements; these credits are determined on an individual basis based on hydraulic modeling and project impacts directly attributed to the project and therefore are not included in a schedule of development fees. For this analysis and report, this second type of credit is discussed in the next section related to the specifics of the proposed Napa Pipe development project.



Napa Pipe Fee Calculation

The Napa City Council will consider granting water service to a proposed development project outside the City's service area which will place a large demand on the City's water system assets. This project is commonly referred to as the Napa Pipe project. If City Council approves water service to the project, the proposed project will require a projected potable water demand 266,400 gallons per day, which equals 300 acre feet per year. This number includes water for indoor residential, commercial and community facility uses, and a relatively small amount of water for irrigation of rear yards. Total potable water demands include 10 percent for unaccounted-for water, which is the difference between the quantity of water supplied to a water purveyor's system and the metered quantity of water used by the customers and includes water lost through leaky pipes, illegal service connections, meter inaccuracies and water used for fighting fires.

Given current discussions between the City and Napa County and City and Developer, there is a reasonable chance that the project will receive City water and therefore will be paying water capacity fees as it develops. Current discussions require the Developer to make lump-sum payments towards specific capacity producing assets that were recently installed by the City rather than collecting water capacity fees for these assets. Assuming these payments occur, these specific assets must be removed from the water capacity fee calculation to avoid a double-payment. Therefore, a separate water capacity fee has been calculated below for Napa Pipe. This fee is only applicable based on the specific payments and assets described below. Should discussion between the City and Developer change, a revised water capacity fee will need to be calculated.

NAPA PIPE CONTRIBUTED CAPITAL

As part of the agreement to develop, the Napa Pipe project will contribute approximately \$2.795 million toward existing water rights and water system asset capacity available to the project. Table 1 presents this contribution separated by water system function and asset.



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Table 1 – Proposed Napa Pipe Project Contribution

Line No.	Project Description	Total Cost (\$)
Treatment		
1	Barwick Jameison Treatment Plant	747,000
2	Total Treatment Contribution	\$ 747,000
Transmission & Distribution		
3	24-inch Pipeline Hwy 221	112,000
4	Dwyer Road Pump Station	137,000
5	Imola Tank and Pipeline	899,000
6	Total T&D Contribution	\$ 1,148,000
Water Rights		
7	SWP Entitlements - Town of Yountville	900,000
8	Total Water Rights Contribution	\$ 900,000
9	Total Contributed Capital Payments	\$ 2,795,000

Assuming project approval, Napa Pipe will contribute the amount listed in Table 1. The water rights payment of \$900,000 will be paid up front prior to the first water service connection. The treatment, transmission & distribution infrastructure contributions will be paid in eight (8) equally distributed payments of \$237,000 starting in December 2015 with the final payment being made by December 31, 2022, or earlier if the Developer so chooses. The contributed amount has been considered as a credit to the capacity fee analysis. This contribution is credited by reducing the existing asset value of the assets listed above. For example, the \$900,000 contribution related to the SWP Entitlements-Town of Yountville water rights, the existing asset value for these entitlements has been reduced by the \$900,000 contribution. Therefore, this "credit" yields a lower proposed capacity fee. Similarly the Napa Pipe contributions to the treatment, transmission and distribution amounts reduce the value of the related assets value calculation, thus resulting in lower proposed fees.

NAPA PIPE FEE CALCULATION

Table 2 reflects Napa Pipe's proposed contribution of \$2.795 million. The full amount of the asset values for treatment and transmission and distribution is deducted from this analysis. Table 3 shows the proposed capacity fees based on this scenario.



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Table 2 – Napa Pipe Project Contributing Toward Treatment, Transmission & Distribution, and SWP Entitlements

Line No.	Description	Rd/D Approach
Buy-in to Existing Assets		
Capacity-producing Assets		
1	Asset Value (\$)	267,458,295
2	Less Other Contributed Capital Payments (\$)	0
3	Net Treatment Asset Value (\$)	267,458,295
4	Peak Demand (gpd)	25,145,000
5	Existing Asset Cost per Gallon (\$)	10.64
6	Less: Outstanding Debt at Net Present Value (\$/gallon)	2.18
7	Net Cost per Gallon of Capacity	\$ 8.46
Other Assets		
8	Land Cost per New Connection (\$)	437,918
9	Miscellaneous Assets Cost per New Connection	1,639,796
10	Total Costs (\$)	2,077,714
11	Less Other Contributed Capital Payments (\$)	0
12	Total Net Miscellaneous Assets Costs (\$)	2,077,714
13	Existing Connections	25,586
14	Asset Cost per New Connection	\$ 81.21

Table 3 – Proposed Capacity Fees – Napa Pipe Contributing Toward Treatment, Transmission & Distribution, and SWP Entitlements

Line No.	Meter size	Meter Equivalents	Buy-In Component per Meter	Buy-In Component per Account	Total Buy-In Fee
1	3/4"	1.00	\$4,687	\$81	\$4,768
2	1"*	1.00	\$4,687	\$81	\$4,768
3	1"	1.67	\$7,812	\$81	\$7,893
4	1.5"	3.33	\$15,624	\$81	\$15,705
5	2"	5.33	\$24,998	\$81	\$25,079
6	3"	10.00	\$46,871	\$81	\$46,952
7	4"	16.67	\$78,118	\$81	\$78,199
8	6"	33.33	\$156,235	\$81	\$156,316
9	8"	53.33	\$249,976	\$81	\$250,057
10	10"	76.67	\$359,341	\$81	\$359,422
11	12"	143.33	\$671,811	\$81	\$671,892

* Each single-family residential development project will be required to install a 1" water meter (to accommodate water flow required for residential fire sprinklers); however, the capacity fee will be based on a 3/4" meter, based on the estimated cost of providing water service to each single-family home (which includes both metered municipal water service as well as fire service).

Notes to table: All Capacity Fees are calculated based on meter size. Any development project required to install an unmetered dedicated



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fire service connection of a specified pipe size will be charged 10% of the fee identified above for the meter size equivalent to the specified fire service pipe.

Table 4 presents the proposed capacity fees over a 20-year period using the Engineering News Record Construction Cost Index (ENR-CCI) as an inflation factor for each year of the period. The ENR-CCI is a general construction cost index typically used to adjust current and projected values of utility assets to account for the effect of inflation. The factor 3.26 percent represents the annual average change in the ENR-CCI over the past 10 years and is a reasonable indicator of long-term construction cost changes and therefore a reasonable factor to calculate the capacity fee for a 20-year period.



Table 4 -- Proposed Water Capacity Fee Schedule, Napa Pipe Contributes Treatment, Transmission & Distribution, and SWP Entitlements -- Escalated over 20 years

Meters Size	Escalation Factor	R1716	R1717	R1718	R1719	R1720	R1721	R1722	R1723	R1724	R1725	R1726
3/4"	3.26%	\$4,768	\$4,923	\$5,084	\$5,250	\$5,421	\$5,598	\$5,780	\$5,968	\$6,163	\$6,364	\$6,571
1" (w/ residential fire sprinklers)	3.26%	\$4,768	\$4,923	\$5,084	\$5,250	\$5,421	\$5,598	\$5,780	\$5,968	\$6,163	\$6,364	\$6,571
1"	3.26%	\$7,893	\$8,150	\$8,416	\$8,690	\$8,974	\$9,266	\$9,568	\$9,880	\$10,202	\$10,535	\$10,878
1.5"	3.26%	\$15,705	\$16,217	\$16,746	\$17,292	\$17,855	\$18,437	\$19,038	\$19,659	\$20,300	\$20,962	\$21,645
2"	3.26%	\$25,079	\$25,897	\$26,741	\$27,613	\$28,513	\$29,442	\$30,402	\$31,393	\$32,417	\$33,473	\$34,565
3"	3.26%	\$46,952	\$48,483	\$50,063	\$51,693	\$53,380	\$55,121	\$56,918	\$58,773	\$60,689	\$62,668	\$64,711
4"	3.26%	\$78,199	\$80,748	\$83,381	\$86,099	\$88,906	\$91,804	\$94,797	\$97,887	\$101,078	\$104,374	\$107,776
6"	3.26%	\$156,316	\$161,412	\$166,674	\$172,107	\$177,718	\$183,512	\$189,494	\$195,672	\$202,051	\$208,638	\$215,439
8"	3.26%	\$250,057	\$258,209	\$266,626	\$275,318	\$284,294	\$293,562	\$303,132	\$313,014	\$323,218	\$333,755	\$344,636
10"	3.26%	\$359,422	\$371,139	\$383,238	\$395,732	\$408,633	\$421,954	\$435,710	\$449,914	\$464,581	\$479,727	\$495,366
12"	3.26%	\$671,892	\$693,796	\$716,413	\$739,768	\$763,885	\$788,788	\$814,502	\$841,055	\$868,473	\$896,785	\$926,021
Meters Size	Escalation Factor	R1727	R1728	R1729	R1730	R1731	R1732	R1733	R1734	R1735	R1736	
3/4"	3.26%	\$6,786	\$7,007	\$7,235	\$7,471	\$7,715	\$7,966	\$8,226	\$8,494	\$8,771	\$9,057	
1" (w/ residential fire sprinklers)	3.26%	\$6,786	\$7,007	\$7,235	\$7,471	\$7,715	\$7,966	\$8,226	\$8,494	\$8,771	\$9,057	
1"	3.26%	\$11,233	\$11,599	\$11,977	\$12,368	\$12,771	\$13,187	\$13,617	\$14,061	\$14,520	\$14,993	
1.5"	3.26%	\$22,351	\$23,079	\$23,832	\$24,609	\$25,411	\$26,239	\$27,095	\$27,978	\$28,890	\$29,832	
2"	3.26%	\$35,691	\$36,855	\$38,056	\$39,297	\$40,578	\$41,901	\$43,267	\$44,677	\$46,134	\$47,638	
3"	3.26%	\$66,820	\$68,998	\$71,248	\$73,571	\$75,969	\$78,445	\$81,003	\$83,644	\$86,370	\$89,186	
4"	3.26%	\$111,290	\$114,918	\$118,664	\$122,532	\$126,527	\$130,652	\$134,911	\$139,309	\$143,851	\$148,540	
6"	3.26%	\$222,462	\$229,715	\$237,203	\$244,936	\$252,921	\$261,166	\$269,680	\$278,472	\$287,550	\$296,924	
8"	3.26%	\$355,871	\$367,472	\$379,452	\$391,822	\$404,595	\$417,785	\$431,405	\$445,469	\$459,991	\$474,987	
10"	3.26%	\$511,515	\$528,190	\$545,409	\$563,189	\$581,549	\$600,508	\$620,084	\$640,299	\$661,173	\$682,727	
12"	3.26%	\$956,209	\$987,381	\$1,019,570	\$1,052,808	\$1,087,130	\$1,122,570	\$1,159,166	\$1,196,955	\$1,235,975	\$1,276,268	

Notes to table:

- All Capacity Fees are calculated based on meter size.
- 1" Meter (w/ residential fire sprinklers) -- Each single-family residential development project will be required to install a 1" water meter (to accommodate water flow required for residential fire sprinklers); however, the capacity fee will be based on a 3/4" meter, based on the estimated cost of providing water service to each single-family home (which includes both metered municipal water service as well as fire service).
- Any development project required to install an unmetered dedicated fire service connection of a specified pipe size will be charged 10% of the fee identified above for the meter size equivalent to the specified fire service pipe.



