

# CITY OF AMERICAN CANYON

*Napa Valley's New Destination*



February 3, 2011

Kevin Teague  
Gateway Winery, LLC  
1455 First Street, Suite 217  
Napa, CA 94559

SUBJECT: "Will-Serve" Letter Extension  
Gateway Winery, LLC  
Morris Court  
(APN 057-250-029)

Dear Mr. Teague:

The City has received responses from Holman Teague Roche Anglin, LLP, Attorneys at Law ("Applicant") on behalf of Gateway Winery, LLC ("Owner") for an extension of the "will-serve" letter issued by the City in April 2007 and extended in March 2009. The previous will-serve letters were for construction of a new storage and warehousing complex with winery, distillery, cooperage and office facilities on an 11.06-acre parcel on Morris Court at Napa County Assessor's Parcel Number 057-250-029 ("the Property"). The request is subject to both City and State legal requirements as detailed below.

The project is located within Napa Valley Gateway Unit 4, which was issued a "blanket" will-serve letter for water service by the City of American Canyon on December 3, 2003. Owners are required to obtain individual will-serve letters from the City of American Canyon as lots within Unit 4 are developed. Individual will-serve letters are subject to approval from Napa Valley Gateway Development.

The City's understanding of the current request for water service for the Gateway Winery is based on the representations of the Applicant in a communication dated January 19, 2011, which states that the original project's uses and associated water demand have not changed. However, in an effort to encourage investment for construction, Gateway Winery has applied to Napa County for a tentative parcel map on the project site. According to the Applicant and the summary table below, the water demand is estimated to be 650 gallons per acre, per day.

Building	261,000 square feet
Total lot acreage:	11.06 acres
<u>Anticipated Average Day Demand in gallons per day:</u>	
Domestic	7,189 gpd
Irrigation*	0 gpd
Industrial	0 gpd
<b>Total</b>	<b>7,189 gpd</b>

Anticipated Maximum Day Demand in gallons per day:

Domestic	14,378 gpd
Irrigation*	0 gpd
Industrial	0 gpd
<b>Total</b>	<b>14,378 gpd</b>

\*The irrigation demand will be met by the use of reclaimed water delivered by the Napa Sanitation District.

Water Service Conditions

The City reviews proposed developments to ensure that Will-Serve Letters are issued based on assumed water and sewer demands for specified allowed densities of development, taking into account the overall demand for water and the overall demand for effluent discharge within the City's system.

The City will provide the level of water service requested by the Applicant, subject to the occurrence or satisfaction of the following conditions and/or the continued existence of the following described conditions:

1. Applicant shall be subject to the City's rules and regulations in force at the time application for service for the authorized and described development is made, including all fees and charges, unless otherwise agreed in writing.
2. Applicant shall construct all facilities required to serve the development property which shall be determined by the City based on the authorized and described development. Applicant shall bear 100-percent of the costs of the facilities required to serve the development property, subject to review and approval of the City's Public Works Department. Applicant shall also be responsible for paying its proportionate fair-share allocation of any additional regional facilities required to serve the development property, including, but not limited to, participation in a mutual beneficial assessment district to be initiated by others.
3. Applicant shall submit to the City cost estimates for the construction of all on- and off-site public water facilities required for the authorized and described development. If the City finds the costs reasonable, the Applicant shall pay to the City an amount equal to Applicant's proportionate fair share of 5-percent of the agreed-upon construction costs to cover plan check and inspection services by the City. This fee is fixed and non-refundable. This Will-Serve Letter is conditional upon the City's agreeing in writing to the estimated costs.
4. Because the City faces a cutback of up to 96% in its allocation from the State Water Project during extremely dry years, as documented by the City's Urban Water Management Plan, it is seeking additional water supply in the form of transfers of rights. The cost of this water supply is not known nor is it included in the current City water rates. The City may institute in the future a drought surcharge on all existing and new customers in order to finance a drought reserve. The Applicant agrees to waive any protest to such a drought surcharge during its formulation and implementation and review under the California Environmental Quality Act, Public Resources Code section 21000 *et seq.* ("CEQA").
5. As a result of *Vineyard Area Citizens for Responsible Growth v. Rancho Cordova* (2007) 40 Cal.4<sup>th</sup> 412, the lead agency as defined under CEQA, here the County, in its environmental

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review of a development project, including what is currently proposed by the Applicant, must at a minimum accomplish an environmental review under CEQA that: (a) presents sufficient facts to evaluate the pros and cons of supplying the water that the project will need; (b) presents an analysis that assumes that all phases of the project will be built and will need water, and includes an analysis to the extent reasonably possible of the consequences of the impacts of providing water to the entire project; and (c) where it is impossible to determine that anticipated future water sources will be available, some discussion of possible replacement sources or alternatives to use of anticipated water and of the environmental consequences of those impacts must be presented. *Vineyard, supra*, 40 Cal.4<sup>th</sup> 430-434.

6. The City Council of the City of American Canyon adopted a Zero Water Footprint (ZWF) policy on October 23, 2007, which requires development to offset all (100%) of its water demand. As a result of this policy, Applicants who do not meet the ZWF will be required to pay a surcharge on their monthly water rate. The project does not have a ZWF as it is requesting a new demand. Therefore, this project is subject to a water demand surcharge.
7. Financial Obligation for Water Service:
  - a. Monthly water service charge will be \$4.48 per 100 cubic feet. This fee is subject to change to coincide with current City of Vallejo water rates if those rates change. The estimated monthly water service charge based on 7,189 gpd average daily water demand is approximately \$1,292 per month.
  - b. The water capacity fee for the subject use will be \$263,549 (\$18.33 X MMD).
  - c. There are no mitigation fees associated with this project because the project is located in the Napa Valley Gateway Unit 4 subdivision.
  - d. City records as of the date of this letter indicate 155,879 gpd of water are being used by existing projects or have been allocated to permitted development projects within Napa Valley Gateway. Gateway Winery is a permitted development project therefore its demand is included in this number. This number is less than the cap of 191,100 gpd agreed upon between the City of American Canyon and Mr. Charles Slutzkin of Napa Valley Gateway Development on December 13, 2002.
8. The applicant shall connect to Napa Sanitation District's recycled water system in accordance with the District's "Will Serve" letter dated March 28, 2007.
9. The will-serve letter is issued to the project site. The Owner shall be responsible for the distribution of the water demand to the three parcels and common areas. The Owner shall be responsible for compliance with the will-serve letter.
10. The City reserves the right to audit the site's water demand as deemed necessary in order to verify that the applicant's water use is in accordance with this Will-Serve Letter.

This Will-Serve Letter supersedes all prior purported Will-Serve Letters and service commitments to the development of the Property with any use. This Will-Serve Letter will remain valid until March 24, 2013, and is only valid for the authorized development. The City reserves the right to further condition extension of water service if development different from

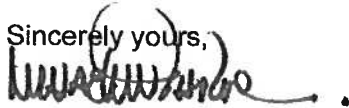
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that presently proposed and authorized is pursued or if events out the City's control affect the City's ability to furnish water.

Except to the extent set forth, this letter does not create a liability or responsibility to the Applicant or to any third party on behalf of the City. The City does not make a determination as to land use entitlements required for the proposed project, and the issuance of this Will-Serve Letter shall not be construed to be an expression of the City of a position regarding the use or intensity of use of the development property or that the County has complied with applicable law in assessing the proposed project under CEQA.

This Will-Serve Letter only becomes effective upon acceptance of the conditions set forth in this letter by execution of the acceptance provision set forth below and the transmittal of the executed acceptance to the City Public Works Department.

Sincerely yours,



Michael W. Throne, P.E.  
Public Works Director

cc: Richard J. Ramirez, City Manager  
William Ross, City Attorney  
Barry Whitley, Finance Director  
Greg Baer, Community Development Department  
Susan Presto, Finance Department  
Utility Billing  
Charles Slutzkin, Napa Valley Gateway

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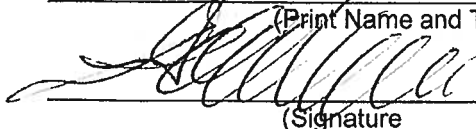
**ACCEPTANCE**  
**of**  
**WILL-SERVE CONDITIONS**  
**for**  
**Gateway Winery, LLC**

**APN 057-250-029**

I, H. William Harlan, accept the conditions set forth in this communication.

H. William Harlan, Owner

(Print Name and Title)



(Signature)

Date:

2-2-11



JMD

Dedicated to Preserving the Napa River for Generations to Come

935 HARTLE COURT  
P.O. BOX 2480  
NAPA, CALIFORNIA 94558-0522  
TELEPHONE (707) 258-6000  
FAX (707) 258-6048

March 28, 2007

Conservation, Development and Planning Department  
County of Napa  
1195 Third Street, Room 210  
Napa, CA 94559

**RECEIVED**

MAR 30 2007

NAPA CO. CONSERVATION  
DEVELOPMENT & PLANNING DEPT.

Re: APN 057-250-029 Lot 5 in Napa Valley Gateway Unit 4

To Whom it May Concern:

The Napa Sanitation District has received a request to provide a "Will Serve" letter for three proposed buildings to be located on the aforementioned parcel. The buildings will total approximately 115,000 square feet and be used for office/warehouse space and wine processing/packaging/shipping. The District has been informed that the proposed uses will generate approximately 7,189 gallons of wastewater a day. Hydraulically, this would be equivalent to approximately 35 single family dwellings.

This property is within the District's boundaries, and the downstream sanitary sewer facilities are adequate to serve this development. The District will allow the proposed development to connect to the public sanitary sewer system upon payment of the appropriate connection and inspection fees, and shall be subject to all applicable rules and regulations of the District. Wastewater pretreatment facilities may be required to bring the strength factor of the winery waste into conformance with NSD Ordinance. Additional conditions of approval will be established by the District at the time a formal application is submitted to the County of Napa Planning Department.

Additionally, it should be noted that this area is within the District's Reclaimed Water Benefit Zone. The development will be required to install the necessary facilities to utilize reclaimed water for landscape irrigation.

This "Will Serve" letter is valid for a period of five years from the date of this letter. If the proposed development has not obtained its required Connection Permits from the District at the end of this time, this "Will Serve" letter shall become void.

If you have any questions regarding this matter, please feel free to contact me.

Sincerely,

Timothy B. Healy, P.E.  
Assistant General Manager/District Engineer

  
by: Todd Herrick  
Senior Engineering Technician

cc: Chris Tibbits, RSA

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