

## PURCHASE AND SALE AGREEMENT AND JOINT ESCROW INSTRUCTIONS

**THIS PURCHASE AND SALE AGREEMENT AND JOINT ESCROW INSTRUCTIONS** (this “**Agreement**”) is entered into effective as of November 16, 2011 (the “**Effective Date**”) by and between THE NAPA SANITATION DISTRICT, a California special district (“**Seller**”) and THE PETER A. AND VERNICE H. GASSER FOUNDATION, a California corporation (“**Buyer**”). Seller and Buyer are collectively hereinafter referred to as the “**Parties.**”

### RECITALS

A. Seller is a Special District duly organized and existing under the laws of the State of California, and is the owner of that certain real property consisting of a portion of the property located at 935 Hartle Court in the City of Napa (the “**Land**”). The Land is surplus to the District’s needs and is more particularly described in Exhibit A attached hereto and incorporated herein by this reference.

B. Buyer is a California corporation experienced in developing real estate for its own real estate holding portfolio and is developing a mixed use project in the City of Napa, County of Napa, State of California (“**Gasser South**”).

C. Pursuant to that certain Development and Disposition Agreement entered into between the Parties as of October 26, 2011 (the “**DDA**”), Buyer agreed to construct a new, build-to-suit corporation yard and shop building, and a new, build-to-suit administration building for the District (collectively, the “**District Project**”) on certain real property owned by the District and more particularly described in the DDA. Capitalized terms not defined herein shall have the meaning ascribed to them in the DDA. The DDA is incorporated herein by this reference as if fully set forth herein.

D. Buyer desires to buy, and Seller desires to sell, the Land, together with all improvements located thereon and all easements, hereditaments, and appurtenances belonging to or inuring to the benefit of Seller and pertaining to the Land (all of the foregoing collectively hereinafter, the “**Property**”), for the South Napa Century Center .

E. The Parties have each independently determined, and by execution of this Agreement confirm and acknowledge, that the District Project Cost, as defined in the DDA, exceeds the fair market value of the Surplus Property.

F. The DDA provides that the Parties shall enter into this Agreement to reflect the terms and conditions of Seller’s conveyance of the Property to Buyer. The Parties have determined that the purchase and sale of the Property as set forth herein are in their respective best interests.

**NOW, THEREFORE**, for and in consideration of the mutual covenants and agreements contained in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows.

**1. Agreement to Sell and Purchase.** Seller agrees to sell and Buyer agrees to purchase the Property subject to the terms and conditions of this Agreement. Notwithstanding anything to the contrary herein, this Agreement shall automatically terminate in the event that either party exercises its right to terminate for convenience under Section 8.7 of the DDA. District shall provide reasonable assistance to and cooperation with Developer with respect to Developer's processing of applications with the City of Napa for development on the Property.

**2. Payment of Purchase Price.** The purchase price (the "**Purchase Price**") for the Property shall be Two Million Nine Hundred Eighty Thousand Dollars (\$2,980,000.00). Upon District's Acceptance of the District Project, Developer shall be entitled to a credit against the Purchase Price equal to \$130,422.00, which reflects Developer's unreimbursed Predevelopment Costs, and the credit determined pursuant to Section 7 of this Agreement.

**3. Conveyance of Title.** Upon satisfaction of all of the Conditions to Closing, at the Close of Escrow Seller shall vacate the Property and convey by grant deed to Buyer fee simple title to the Property.

**4. Escrow; Escrow Instructions.** The Parties will establish, within five (5) business days following the Effective Date, an escrow (the "**Escrow**") to consummate the purchase and sale of the Property pursuant to this Agreement at the office of First American Title Company, 1700 Second Street, Suite 120, Napa, CA 94559 ("**Title Company**" or "**Escrow Agent**") or such other title company as may be mutually agreed upon by the Parties. Within five (5) business days of establishing the Escrow, the Parties shall deposit with the Escrow Agent a fully executed copy of this Agreement, or executed counterparts thereto, which shall serve as the joint escrow instructions of Buyer and Seller for this transaction, together with such additional instructions as may be executed by the Parties and delivered to the Escrow Agent and such additional documents as the Parties deem appropriate. The date of such deposit shall constitute the "**Opening of Escrow.**"

**5. Title Documents.** Buyer will cause, concurrently with the establishment of Escrow pursuant to Section 4, the Title Company to deliver to Buyer and Seller an updated preliminary title report ("**Preliminary Report**") on the Property issued by the Title Company, setting forth all liens, encumbrances, easements, restrictions, conditions, pending litigation, judgments, administrative proceedings, and other matters of record affecting Seller's title to the Property, together with complete and legible copies of all documents relating to exceptions listed in the Preliminary Report ("**Title Exceptions**"). Buyer shall approve or disapprove each Title Exception as set forth in the Title Report within twenty (20) days following the Effective Date. Buyer's failure to disapprove any Title Exceptions within such time period shall be deemed to be an approval of the Title Exceptions, which shall thereafter constitute "**Permitted Exceptions.**" If Buyer objects to any Title Exception within such twenty (20) day period, Seller shall use its best efforts at Seller's sole expense to remove from title or otherwise satisfy each such exception no

later than seven (7) business days prior to the Close of Escrow and in a form that is reasonably satisfactory to Buyer. If Seller fails to remove or satisfy any title exception to the satisfaction of Buyer, Buyer shall have the option, in its sole discretion, to terminate this Agreement, or to accept title subject to such exception. If Buyer elects to terminate this Agreement, all funds and documents deposited into Escrow by or on behalf of Buyer shall be returned to Buyer, and thereafter neither Seller nor Buyer shall have any further obligations hereunder except as expressly set forth herein.

It shall be a condition to the Close of Escrow that Title Company shall deliver to Buyer no later than seven (7) business days prior to the Close of Escrow, a title commitment for a CLTA Owner's Title Insurance Policy ("**Title Policy**") (or at Buyer's election, an ALTA Owner's Title Insurance Policy) to be issued by Title Company in the amount of \$2,980,000 for the benefit and protection of Buyer, showing fee simple title to the Property vested in Buyer, subject only to the Permitted Exceptions, including such endorsements as may reasonably be requested by Buyer, and committing Title Company to issue the Title Policy to Buyer upon the Close of Escrow.

**6. AS-IS Sale.** Buyer acknowledges that Seller has previously delivered to Buyer copies of all studies, inspections, reports, correspondence and other documentation, including without limitation analyses, surveys, environmental site assessments, and investigations, within its custody or reasonably available to Seller regarding the Property's physical, environmental or geological condition, habitability, or the presence or absence of Hazardous Materials (as defined in the DDA) in, on or under the Property and the compliance by the Property with Environmental Laws (defined in the DDA). Buyer further acknowledges that Buyer has had a fair and full opportunity to conduct, at its sole cost, all such tests, inspections, and other environmental investigations of the Property as Buyer deemed appropriate, has obtained appropriate rights of entry therefor from Seller, and has accepted the results thereof. Prior to the Close of Escrow Buyer hereby acknowledges and agrees that: (i) by purchasing the Property, Buyer shall be deemed to have approved of all such characteristics and conditions of the Property based solely upon Buyer's independent investigation; and (ii) the Property is to be purchased, conveyed to, and accepted by Buyer in its present condition, "AS IS" WHERE IS AND WITH ALL FAULTS, and no patent or latent defect or deficiency in any legal or physical condition of the Property, whether or not known or discovered, shall affect the rights of either Seller or Buyer hereunder, nor shall the Purchase Price be reduced as a consequence thereof, nor shall Seller be obligated to make any expenditures or provide any funds to Buyer; provided, however, that nothing herein is intended to excuse the Seller's obligations under California Health and Safety Code Section 25359.7.

**7. Newly Discovered Conditions on the Property.**

(A) Background. During the course of its due diligence, Buyer discovered certain previously unknown conditions at the Property. The conditions are the following:

(i) Underground Improvements. The existence of certain partially demolished concrete tanks (that were formerly part of the Seller's treatment plant) at the

northwest corner of the property (“the Underground Improvements”). The existence of these structures was previously unknown to Buyer, and Buyer may therefore incur certain previously unanticipated construction costs as a result of their discovery.

(ii) Contamination. The existence of contaminated soil within the footprint of the northern of the two tanks. The contamination must be mitigated in order to comply with legal standards. The extent of contamination and amount of soil that must be mitigated is unknown.

These conditions were not known to both parties at the time that this Agreement (including the Purchase Price) and the DDA were negotiated.

(B) Mitigation of Soils Contamination. Seller acknowledges that it should bear the costs of removing the contaminated soil or otherwise mitigating the contamination. The Seller will bear such costs by providing a credit to be used against the negotiated purchase price. The costs of such contamination are unknown at the present time but are capable of being determined promptly. The parties intend to expeditiously mitigate the contamination as follows: Buyer will direct its environmental consultant to prepare a plan for mitigating the contamination. The proposed plan shall be subject to the review and approval of the Seller. Initially, the parties anticipate that the mitigation plan may only require the removal and appropriate disposal of a minimal amount of soil. Buyer will be responsible for executing the mitigation plan. If in the course of executing the mitigation plan it is determined that the excavation and disposal of additional soil is required, the Seller and Buyer will confer on the scope and estimated cost of the additional contamination prior to beginning each additional phase of the plan. Upon completion of the mitigation plan, Seller will credit the mitigation cost against the Purchase Price based on supporting documentation provided by Buyer, in a form acceptable to Seller. As the amount of proceeds anticipated from the sale of the Property is the consideration for the Seller to proceeding with the DDA, and the costs of the mitigation plan reduce the amount of that consideration, the Seller may determine at any point during the course of the execution of the mitigation plan to terminate the Agreement.

(C) Underground Improvements. In order to proceed with its contemplated improvements on the Property, Buyer anticipates having to remove at least some of the Underground Improvements. In principle, the Seller is willing to pay for a reasonable amount of the actual, incremental costs of removing the Underground Improvements so long as it is demonstrated that the removal is essential to Buyer’s contemplated plans and the Buyer actually incurs those costs. In order for the parties to negotiate an agreed-upon cost of removing the Underground Improvements, Buyer agrees to (a) have a soils report prepared to determine what type of foundation would be required for the improvements contemplated on the footprint of the Underground Improvements; (b) evaluate whether its site plan could be cost effectively redesigned in a manner that does not require removal of the Underground Improvements; (c) evaluate whether the improvements contemplated on the footprint of the Underground Improvements would require that all of the Underground Improvements be removed or only a portion thereof; and (d) determine the estimated cost of removing the Underground Improvements. No later than December 16, 2011, Buyer shall provide its analysis of the

foregoing issues to the Seller in writing. Thereafter, the parties shall negotiate in good faith to reach agreement on the cost that Seller would be obligated to pay Buyer to reimburse it for the costs of removing, as the case may be, the Underground Improvements or a portion thereof. The parties shall attempt to reach agreement as soon as reasonably possible, but no later than 30 days, after Seller's receipt of the analysis required by this paragraph. As the amount of proceeds anticipated from the sale of the Property is the consideration for the Seller to proceeding with the DDA, and the costs associated with removal of the Underground Improvement effectively reduce the amount of that consideration, the District may determine to terminate the DDA for convenience as a result of the parties' failure to reach agreement on the costs for removing the Underground Improvements. If at the end of the 30-day period the parties have not reached agreement, Seller shall terminate the DDA for convenience, if requested to do so by Buyer.

**8. Release of Claims.** Effective upon the Close of Escrow, Buyer waives releases, remises, acquits and forever discharges Seller, its officers, directors, board members, managers, employees and agents, and any other person acting on behalf of Seller, from any and all claims, actions, causes of action, demands, rights, damages, costs, expenses and compensation whatsoever, direct or indirect, known or unknown, foreseen or unforeseen, which Buyer now has or which may arise in the future on account of or in any way arising from or in connection with the physical condition of the Property or any law or regulation applicable thereto including, without limiting the generality of the foregoing, any federal, state or local law, ordinance or regulation pertaining to Hazardous Materials. This Section 7 shall survive the termination of this Agreement and the Close of Escrow.

BUYER ACKNOWLEDGES THAT BUYER IS FAMILIAR WITH SECTION 1542 OF THE CALIFORNIA CIVIL CODE, WHICH PROVIDES AS FOLLOWS:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.

BY INITIALING BELOW, BUYER EXPRESSLY WAIVES THE BENEFITS OF SECTION 1542 OF THE CALIFORNIA CIVIL CODE WITH RESPECT TO THE FOREGOING RELEASE:

Buyer's initials: \_\_\_\_\_

**9. Closing Documents and Funds.**

(A) **Seller.**

(a) No later than two (2) business days prior to the Close of Escrow (the "Closing Date"), Seller shall deposit into escrow all of the following:

(i) a Grant Deed, substantially in the form attached hereto as Exhibit B (“**Grant Deed**”), duly executed and acknowledged, conveying to Buyer fee simple title to the Property;

(ii) Seller’s affidavit of non-foreign status and Seller’s certification that Seller is a resident of California, each executed by Seller under penalty of perjury as required by state and federal law; and

(iii) such additional duly executed instruments and documents as the Escrow Agent may reasonably require to consummate the transaction contemplated hereby.

(b) Unless Seller elects to have the following charges deducted from any funds to be distributed to Seller at Close of Escrow, no later than one (1) business day prior to Close of Escrow, Seller shall deposit into Escrow immediately available funds in the amount necessary to pay:

(i) one-half (1/2) of all governmental conveyance fees and transfer taxes; and

(ii) one-half (1/2) of all escrow fees and recording fees.

(B) **Buyer.**

(a) No later than two (2) business days prior to the Closing Date, Buyer shall deposit into escrow all of the following:

(i) such duly executed instruments and documents as the Escrow Agent may reasonably require to consummate the transaction contemplated hereby.

(b) No less than one (1) business day prior to the Close of Escrow, Buyer shall deposit into Escrow immediately available funds in the amount necessary to pay:

(i) the Purchase Price less the credit described in Section 2 if previously deposited with the District;

(ii) one-half (1/2) of all escrow fees, and recording fees;

(iii) one-half (1/2) of all governmental conveyance fees and transfer taxes; and

(iv) the cost of the Title Policy and any requested endorsements.

**10. Close of Escrow.** Except as may be otherwise provided in this Agreement, the Close of Escrow shall occur within a reasonable period of time (not to exceed 60 days) following the

Board of Directors' acceptance of the Work evidenced by Seller's adoption of a Resolution Accepting Completion of the District Project, substantially in the form of Exhibit F to the DDA or at such time as the District may establish pursuant to Section 8.5 of the DDA. The Escrow Agent shall close Escrow by: (i) causing the Grant Deed to be recorded in the official records of Napa County, California; (ii) issuing the Title Policy and delivering same to Buyer; (iii) paying the closing costs and prorated taxes; (iv) delivering to Seller the monies constituting the Purchase Price less prorated amounts and charges to be paid by or on behalf of Seller; and (v) delivering to Buyer the original Grant Deed, together with a conformed copy thereof indicating recording information thereon. Possession of the Property shall be delivered to Buyer at the Close of Escrow.

**11. Closing Costs.** Each Party shall pay one-half (1/2) of all escrow fees and costs, including without limitation, the costs of preparing documents and instruments, recording fees, and all governmental conveyance fees and all transfer taxes; provided, however, that Buyer shall pay the full cost of the Preliminary Report, the Title Policy, and any requested endorsements thereto.

**12. Prorations.** Real property taxes shall be prorated as of the Close of Escrow. The Escrow Agent shall prorate the taxes based on the most current real property tax bill available at that time. Any additional property taxes that may be assessed after the Close of Escrow but that relate to a period prior to the Close of Escrow, regardless of when notice of those taxes is received or who receives the notice, shall be prorated following the Close of Escrow. Any bond or assessment that constitutes a lien on the Property at the Close of Escrow shall be assumed by Buyer.

**13. Buyer's Conditions to Closing.** The Close of Escrow and Buyer's obligation to purchase the Property are conditioned upon: (i) the performance by Seller of each obligation to be performed by Seller under this Agreement within the applicable time period, or the waiver by Buyer of such obligation; (ii) Seller's representations and warranties contained in this Agreement being true and correct as of the Effective Date and the Close of Escrow; and (iii) the commitment by Title Company to issue and deliver the Title Policy, subject only to the payment of the regularly scheduled premium therefor.

Should any condition to closing fail to occur, excepting any such conditions that have been waived by Buyer, Buyer shall have the right, exercisable by giving written notice to Seller, to cancel the escrow, terminate this Agreement, and recover any and all amounts paid by Buyer to Seller or deposited with the Escrow Agent by or on behalf of Buyer.

**14. Seller's Conditions to Closing.** The Close of Escrow and Seller's obligation to sell the Property pursuant to this Agreement are conditioned upon: (i) the performance by Buyer of each obligation to be performed by Buyer under this Agreement within the applicable time period, or waiver by Seller of such obligation; (ii) Buyer's representations and warranties contained in this Agreement being true and correct as of the Effective Date and the Close of Escrow; (iii) Seller's determination that Buyer is not in default of any of its obligations under the DDA; and (iv) unless the DDA has been terminated, Seller's approval of the Work and the

District Project Cost, as defined in the DDA, and as evidenced by Seller's adoption of a Resolution Accepting Completion of the District Project, substantially in the form of Exhibit H to the DDA. **Seller shall have no obligation to vacate the Property, convey the Property to Buyer, or proceed to Close of Escrow on the Property in the event that District terminates the DDA as a result of Buyer's default thereon. In such event, Seller pursuant to Section 8.5 of the DDA does have the option to require Buyer to complete the purchase of the Property.**

**15. Seller's Representations and Warranties.** Seller hereby represents and warrants that except as otherwise disclosed in writing to Buyer, as of the Effective Date and as of the Close of Escrow, Agreement and all other documents delivered or to be delivered in connection herewith prior to or at the Close of Escrow: (a) have been duly authorized, executed, and delivered by Seller; (b) are binding obligations of Seller; (c) are collectively sufficient to transfer all of Seller's right, title and interest in and to the Property; and (d) do not violate the provisions of any agreement to which Seller is a party or which affects the Property. Seller further represents and warrants that the person(s) who has (have) executed this Agreement on behalf of Seller is (are) authorized to do, that Seller has the legal right to enter into this Agreement and to perform all of its terms and conditions, and that this Agreement is enforceable against Seller in accordance with its terms. **Seller makes no warranties with respect to the physical or environmental condition of the Property.**

**16. Seller's Covenants.** Seller covenants that from the Effective Date and through the Closing Date, Seller: (i) shall not permit any liens, encumbrances, or easements to be placed on the Property, other than Permitted Exceptions; (ii) shall not enter into any agreement regarding the use, sale, rental, management, repair, improvement, or any other matter affecting the Property that would be binding on Buyer or the Property after the Close of Escrow other than the Lease without the prior written consent of Buyer; (iii) shall not permit any act of waste or act that would tend to diminish the value of the Property for any reason, except that caused by ordinary wear and tear; and (iv) shall maintain the Property in its condition as of the Effective Date, ordinary wear and tear excepted, and shall manage the Property substantially in accordance with Seller's established practices.

**17. Buyer's Representations, Warranties and Covenants.** Buyer represents, warrants and covenants that this Agreement and all other documents delivered in connection herewith, prior to or at the Close of Escrow: (i) have been duly authorized, executed, and delivered by Buyer; (ii) are binding obligations of Buyer; and (iii) do not violate the provisions of any agreement to which Buyer is a party. Buyer further represents and warrants that the persons who have executed this Agreement on behalf of Buyer have are duly authorized to do, that Buyer has the legal right to enter into this Agreement and to perform all of its terms and conditions, and that Agreement is enforceable against Buyer in accordance with its terms.

**18. Deleted.**



**19. Brokers.** Each Party warrants and represents to the other that no person or entity can properly claim a right to a real estate commission, brokerage fee, finder's fee, or other compensation with respect to the transaction contemplated by this Agreement, except that Buyer has a commission agreement with James B. Henry under a separate agreement. Each Party agrees to defend, indemnify and hold harmless the other Party from any claims, expenses, costs or liabilities arising in connection with a breach of this warranty and representation. The terms of this Section shall survive the termination of this Agreement and the consummation of the Close of Escrow.

**20. Notices.** Except as otherwise specified in this Agreement, all notices to be sent pursuant to this Agreement shall be made in writing, and sent to the Parties at their respective addresses specified below or to such other address as a Party may designate by written notice delivered to the other parties in accordance with this Section. All such notices shall be sent by:

(i) personal delivery, in which case notice is effective upon delivery;

(ii) certified or registered mail, return receipt requested, in which case notice shall be deemed delivered on receipt if delivery is confirmed by a return receipt;

(iii) nationally recognized overnight courier, with charges prepaid or charged to the sender's account, in which case notice is effective on delivery if delivery is confirmed by the delivery service;

(iv) facsimile transmission, in which case notice shall be deemed delivered upon transmittal, provided that (a) a duplicate copy of the notice is promptly delivered by first-class or certified mail or by overnight delivery, or (b) a transmission report is generated reflecting the accurate transmission thereof. Any notice given by facsimile shall be considered to have been received on the next business day if it is received after 5:00 p.m. recipient's time or on a non-business day.

**Buyer:** The Gasser Foundation  
433 Soscol Avenue, Suite 120  
Napa, California 94559  
Attention: Joe Peatman  
Telephone: (707) 255-1646  
Facsimile: (707) 255-4338

**Seller:** The Napa Sanitation District  
935 Hartle Court  
Napa, California 94559  
OR  
Post Office Box 2480  
Napa, California 94558  
Attention: Timothy Healy, General Manager  
Telephone: (707) 258-6000, x530

Facsimile: (707) 258-6048

**With a copy to:** John D. Bakker  
Meyers Nave  
555 12<sup>th</sup> Street, Suite 1500  
Oakland, CA 94607  
Telephone: (510) 808-2000  
Facsimile: (510) 444-1108

**20. Litigation Costs.** If any legal action or any other proceeding, including arbitration or action for declaratory relief, is brought for the enforcement of this Agreement or because of an alleged breach or default in connection with this Agreement, the prevailing Party shall be entitled to recover reasonable attorneys' fees and other costs, in addition to any other relief to which such Party may be entitled.

**21. Waivers; Modification.** No waiver of any breach of any covenant or provision of this Agreement shall be deemed a waiver of any other covenant or provision hereof, and no waiver shall be valid unless in writing and executed by the waiving party. An extension of time for performance of any obligation or act shall not be deemed an extension of the time for performance of any other obligation or act, and no extension shall be valid unless in writing and executed by the waiving party. This Agreement may be amended or modified only by a written instrument executed by the Parties.

**22. Successors.** This Agreement shall bind and inure to the benefit of the respective heirs, personal representatives, successors and assignees of the Parties.

**23. Provisions Not Merged With Deeds.** None of the provisions, terms, representations, warranties and covenants of this Agreement are intended to or shall be merged by the Grant Deed, and neither the Grant Deed nor any other document shall affect or impair the provisions, terms, representations, warranties and covenants contained herein except as otherwise specifically provided herein. Without limiting the generality of the foregoing, Seller's representations, warranties and covenants contained herein shall survive the Close of Escrow except as otherwise specifically provided herein.

**24. Construction.** The section headings used herein are solely for convenience and shall not be used to interpret this Agreement. The Parties acknowledge that this Agreement is the product of negotiation and compromise on the part of both Parties, and the Parties agree, that since both Parties have participated in the negotiation and drafting of this Agreement, this Agreement shall not be construed as if prepared by one of the Parties, but rather according to its fair meaning as a whole, as if both Parties had prepared it.

**25. Entire Agreement.** This Agreement, including Exhibits A and B attached hereto and incorporated herein by this reference, contains the entire agreement between the Parties with respect to the subject matter hereof, and supersedes all prior written or oral agreements,

understandings, representations or statements between the Parties with respect to the subject matter thereto.

**26. Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be an original and all of which taken together shall constitute one and the same instrument.

**27. Severability.** If any term, provision, or condition of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall continue in full force and effect unless the rights and obligations of the Parties have been materially altered or abridged thereby.

**28. No Third Party Beneficiaries.** Nothing in this Agreement is intended to or shall confer upon any person, other than the Parties and their respective successors and assigns, any rights or remedies hereunder.

**29. Parties Not Co-Venturers.** Nothing in this Agreement is intended to or shall establish the Parties as partners, co-venturers, or principal and agent with one another.

**30. Time of the Essence.** Time is of the essence for each condition, term, obligation and provision of this Agreement.

**31. Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of California without regard to principles of conflicts of laws.

**32. Time for Performance.** When the time for performance of any obligation under this Agreement is to be measured from another event, such time period shall include the day of the other event. If the day of the time for performance is not a regular business day, then the time for such performance shall be by the regular business day following such day.

**SIGNATURES ON FOLLOWING PAGE.**

**IN WITNESS WHEREOF**, the Parties have executed this Agreement as of the date first written above.

**BUYER:**

**THE PETER A. AND VERNICE H. GASSER  
FOUNDATION,  
A California corporation**

By: \_\_\_\_\_  
Joseph Peatman  
President

**SELLER:**

**THE NAPA SANITATION DISTRICT,  
A California Special District**

By: \_\_\_\_\_  
Jill Techel  
Chair

**ATTEST:**

\_\_\_\_\_  
District Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
District Counsel

Exhibit A  
**LEGAL DESCRIPTION**

EXHIBIT A  
NC 210

Parcel 2 (Remainder between RR ROWS)

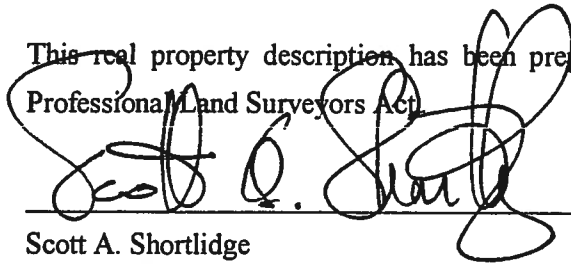
**Land Description** of a portion of land out of the Tulocay Rancho, situate in the City of Napa, California, being a portion of the Lands of the Napa Sanitation District according to that certain instrument recorded on August 4, 1947 in Book 272, Page 320 Official Records of Napa County, California,; said portion of land being more particularly described as follows:

**Commencing** at the southeast corner of the Napa Sanitation District parcel, as shown on the attached sketch, same corner being on the north right of way line of Imola Avenue; **Thence** along the east line of the Napa Sanitation District parcel, North  $00^{\circ} 11' 30''$  East – 82.30 feet for the **Point of Beginning** hereof; **Thence** leaving said east line of and across the Napa Sanitary District parcel for the following three (3) courses: (1) North  $76^{\circ} 23' 20''$  West – 76.88 feet, (2) South  $49^{\circ} 04' 54''$  West – 68.35 feet, and (3) North  $79^{\circ} 12' 38''$  West – 116.45 feet to the point of intersection with the easterly curving line of the re-aligned Napa Valley Wine Train Right-of-Way, a curve to the right from which point the center bears North  $67^{\circ} 24' 54''$  East; **Thence** along the said easterly right of way line, in a northeasterly direction 660.76 feet along the arc of said curve to the right, having a radius of 1011.84 feet and through a central angle of  $37^{\circ} 24' 57''$ ; **Thence** leaving said easterly right of way line and across the Napa Sanitation District parcel for the following two (2) Courses: (1) South  $73^{\circ} 25' 39''$  East – 246.61 feet to the beginning of a tangent curve to the right, (2) in a southeasterly direction 87.13 feet along the arc of said curve to the right, having a radius of 70.00 feet and through a central angle of  $71^{\circ} 19' 03''$  to the point of intersection with the east line of the Napa Sanitation District parcel; **Thence** along said east line South  $00^{\circ} 11' 30''$  West – 507.87 feet to the **Point of Beginning**,

Containing 4.17 acres of land area, more or less.

Bearing and distances used in the above descriptions are based on the California Coordinate System of 1983, Zone II. Multiply distances shown by 1.00001876 to obtain ground distances.

This real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyors Act.



Scott A. Shortlidge  
Licensed Land Surveyor  
California No. 6441

9-14-2002  
Date



## Napa River - Contract 2 - Right of Way

-----  
 \* Prepared by: MARK THOMAS & CO., INC. CGAC09584  
 \* Routine: Area Summary Coord File BOUNDARY.CRD 9/16/02 17:43:25  
 \* Input Scale Factor: 1.000000 Output Scale Factor: 1.000000  
 -----

NC 210 Remainder between new and existing RR Right of ways.

| Pt.No. | Angle-Right | Bearing      | Distance | Pt.No. |
|--------|-------------|--------------|----------|--------|
| 3007   |             | N 76°23'20"W | 76.88    | 3008   |
| 3008   | 125°28'14"  | S 49°04'54"W | 68.35    | 3009   |
| 3009   | 231°42'28"  | N 79°12'38"W | 116.45   | 3010   |

|                |             |             |             |                     |
|----------------|-------------|-------------|-------------|---------------------|
| CURVE DEF: Arc |             |             |             | CURVE DIR: CW       |
| RAD: 1011.84   | LEN: 660.76 | TAN: 342.64 |             | CEN. ANG: 37°24'57" |
| CHORD: 649.08  | MO: 53.46   | EXT: 56.44  |             | DEGREE: 5°39'45"    |
| SEG: 23258     | TRI: 311033 |             | SEC: 334291 |                     |

|      |            |              |         |      |
|------|------------|--------------|---------|------|
| 3010 | 326°37'32" | N 67°24'54"E | 1011.84 | 998  |
| 998  | 37°24'57"  | N 75°10'10"W | 1011.84 | 3004 |

|      |            |              |        |      |
|------|------------|--------------|--------|------|
| 3010 | 255°20'00" | N 03°52'38"W | 649.08 | 3004 |
| 3004 | 290°26'59" | S 73°25'39"E | 246.61 | 3005 |

|                |            |            |           |                     |
|----------------|------------|------------|-----------|---------------------|
| CURVE DEF: Arc |            |            |           | CURVE DIR: CW       |
| RAD: 70.00     | LEN: 87.13 | TAN: 50.22 |           | CEN. ANG: 71°19'03" |
| CHORD: 81.61   | MO: 13.12  | EXT: 16.15 |           | DEGREE: 81°51'04"   |
| SEG: 729       | TRI: 2321  |            | SEC: 3050 |                     |

|      |            |              |       |      |
|------|------------|--------------|-------|------|
| 3005 | 270°00'00" | S 16°34'21"W | 70.00 | 3011 |
| 3011 | 71°19'03"  | N 87°53'24"E | 70.00 | 3006 |

|      |            |              |        |      |
|------|------------|--------------|--------|------|
| 3005 | 215°39'31" | S 37°46'08"E | 81.61  | 3006 |
| 3006 | 217°57'38" | S 00°11'30"W | 507.87 | 3007 |

Perimeter: 1764.05 Accum.Perimeter: 1764.05

Sq. Feet: 181509 Acres: 4.17

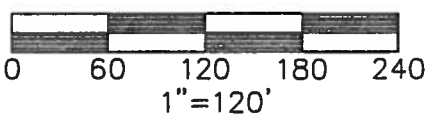
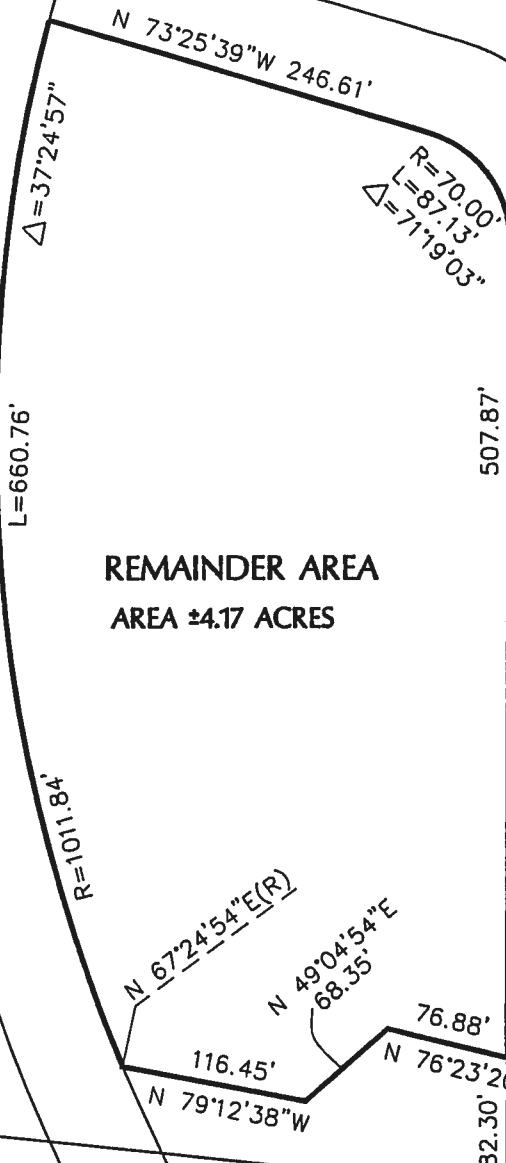
Accum. - Sq. Feet: 181509 Acres: 4.17

LANDS OF NAPA SANITATION DISTRICT

RE-ALIGNED NAPA VALLEY WINE TRAIN RIGHT OF WAY

NAPA VALLEY WINE TRAIN RIGHT OF WAY

REMAINDER AREA  
AREA ±4.17 ACRES



**LEGEND**

POB = POINT OF BEGINNING  
POC = POINT OF COMMENCEMENT

BEARINGS AND DISTANCES USED ARE BASED ON THE CALIFORNIA COORDINATE SYSTEM OF 1983, ZONE III. MULTIPLY DISTANCES SHOWN BY 1.0000639 TO OBTAIN GROUND DISTANCES.

**PLAT TO ACCOMPANY DESCRIPTION  
REMAINDER SOUTH OF ANIMAL SHELTER**

**MARK THOMAS & CO. INC.**  
CONSULTING CIVIL ENGINEERS & MUNICIPAL PLANNERS  
OFFICES IN SAN JOSE, PAPER VALLEY, SACRAMENTO, SALINAS, WALNUT CREEK  
PLACENTIA, ANAHEIM, REDWOOD CITY

|                    |                                   |                     |            |
|--------------------|-----------------------------------|---------------------|------------|
| DESIGNED BY<br>AMR | APPROVED BY<br><i>[Signature]</i> | JOB NO.<br>81-50009 | SHEET<br>1 |
| CHKD BY<br>SAS     | BY<br>SCOTT A. SHORTLIDGE         | FILE NO.            | OF 1       |
| DATE<br>09/16/02   | PLS NO. 6441 EXP. 12/31/02        |                     |            |
| SCALE<br>1"=120'   |                                   |                     |            |



Exhibit B

Recording Requested by  
and when Recorded, return to:

NAPA SANITATION DISTRICT  
Post Office Box 2480  
Napa, CA 94558  
Attn: General Manager

EXEMPT FROM RECORDING FEES PER  
GOVERNMENT CODE §§6103, 27383

---

(SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE)

**GRANT DEED**

For valuable consideration, receipt of which is hereby acknowledged, The Napa Sanitation District, a California Special District (“Grantor”) hereby grants to The City of Napa, a California Municipal Corporation (“Grantee”) all that real property located in the City of Napa, County of Napa, State of California described in Exhibit A attached hereto and incorporated herein.

**IN WITNESS WHEREOF**, Grantor has executed this Grant Deed as of

\_\_\_\_\_.

**GRANTOR**

THE NAPA SANITATION DISTRICT

By: \_\_\_\_\_

EXHIBIT A to Grant Deed

(Attach legal description.)

ACKNOWLEDGMENT

State of California            )  
  ) ss.  
County of Napa                )

On \_\_\_\_\_, 20\_\_\_\_ before me, \_\_\_\_\_, a Notary Public, in and for said State and County, personally appeared \_\_\_\_\_, who proved 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.

\_\_\_\_\_  
NOTARY PUBLIC