

CONSENT TO ASSIGNMENT AGREEMENT

This Consent to Assignment Agreement (“Consent”) is made as of June 6, 2012, by THE NAPA SANITATION DISTRICT, a California Special District (“District”), to THE PETER A. AND VERNICE H. GASSER FOUNDATION, a California corporation (“Assignor”), and GASSER SOUTH, LLC, a Delaware limited liability company (“Assignee”).

Recitals

This Consent is made with regard to the following facts:

A. District and Assignor have entered into a Development and Disposition Agreement and a Purchase and Sale Agreement, both dated November 16, 2011 and amended as of June 6, 2012 (“the Agreements”), pursuant to which District will transfer real property it presently owns to Assignor in exchange for certain consideration including the completion of certain build-to-suit construction work on other real property owned by District.

B. Assignor desires to assign to Assignee all of its right, title, and interest in, to, and under the Agreements and the Premises under the provisions of the Assignment and Assumption of Agreements dated June 6, 2012, between Assignor and Assignee (the “Assignment”), a copy of which is attached to this Consent as Exhibit A.

C. Assignor and Assignee desire to obtain District’s consent to the Assignment and District is willing to consent to the Assignment on the following terms and conditions.

NOW, THEREFORE, in consideration of the mutual covenants contained in this Consent, and for valuable consideration, the receipt and sufficiency of which are acknowledged by the parties, the parties agree as follows.

1. *Assumption and No Release.* Assignee expressly assumes and agrees for the benefit of District to be bound by, and to perform and comply with, every obligation of Assignor under the Agreements. Notwithstanding the Assignment or District’s consent to the Assignment, Assignor will remain jointly and severally liable for the performance of all obligations of Assignor under the Agreements from and after the effective date of this Consent.

2. *Subsequent Assignments; Recapture.* This Consent does not constitute a consent to any assignment and does not relieve Assignee or any person claiming under or through Assignee of the obligation to obtain the consent of District to any future assignment. Notwithstanding the foregoing, District may consent to subsequent assignments of the Agreements, or amend the Agreements without notifying Assignor or anyone else liable under the Agreements, including any guarantor of the Agreements, and without obtaining their consent, and that action by District will not relieve those persons of liability.

3. *Default Under the Agreements.* In the event of any default of Assignee under the Agreements, District may proceed directly against Assignee, any guarantors, or anyone else liable under the Agreements without first exhausting District's remedies against any other person or entity liable under the Agreements to District. Notwithstanding the foregoing, any act or omission of Assignee or anyone claiming under or through Assignee that violates any of the provisions of the Agreements will be deemed a default under the Agreements by Assignor.

4. *Continuation of Assignor's Management of Agreements.* Notwithstanding anything to the contrary in the Assignment, Assignor shall remain District's primary point of contact under the Agreements. Assignee has designated Assignor, one of its members, to act on behalf of Assignee with regard to its obligations under the Agreements and that designation shall not be revoked without the express written approval of District.

5. *General Provisions.*

5.1 *Controlling Law.* The terms and provisions of this Consent will be construed in accordance with and will be governed by the laws of the State of California.

5.2 *Captions.* Captions to the sections in this Consent are included for convenience only and do not modify any of the terms of this Consent.

5.3 *Entire Agreement; Waiver.* This Consent constitutes the final, complete and exclusive statement between the parties to this Consent pertaining to the terms of District's consent to the Assignment, supersedes all prior and contemporaneous understandings or agreements of the parties, and is binding on and inures to the benefit of their respective heirs, representatives, successors and assigns. No party has been induced to enter into this Consent by, nor is any party relying on, any representation or warranty outside those expressly set forth in this Consent. Any agreement made after the date of this Consent is ineffective to modify, waive, or terminate this Consent, in whole or in part, unless that agreement is in writing, is signed by the parties to this Consent, and specifically states that agreement modifies this Consent.

5.4 *Waiver of Jury Trial; Attorney Fees.* If any party commences litigation against any other party for the specific performance of this Consent, for damages for the breach hereof or otherwise for enforcement of any remedy hereunder, the parties waive any right to a trial by jury and, in the event of any commencement of litigation, the prevailing party shall be entitled to recover from the applicable party such costs and reasonable attorney fees as may have been incurred.

5.5 *Waiver.* Except as explicitly stated in this Consent, nothing contained in this Consent will be deemed or construed to modify, waive, impair, or affect any of the covenants, agreements, terms, provisions, or conditions contained in the Agreements. In addition, the acceptance of rents by District from Assignee or anyone else liable under the Agreements will not be deemed a waiver by District of any provisions of the Agreements.

5.6 *Notice.* Any notice that may or must be given by any party under this Consent will be delivered (i) personally, (ii) by certified mail, return receipt requested, or (iii) by a nationally recognized overnight courier, addressed to the party to whom it is intended. Any notice given to District, Assignor or Assignee shall be sent to the respective address set forth on the signature page below, or to such other address as that party may designate for service of notice by a notice given in accordance with the provisions of this Section 5.6. A notice sent pursuant to the terms of this Section 5.6 shall be deemed delivered (A) when delivery is attempted, if delivered personally, (B) three (3) business days after deposit into the United States mail, or (C) the day following deposit with a nationally recognized overnight courier.

5.7 *Capitalized Terms.* All terms spelled with initial capital letter in this Consent that are not expressly defined in this Consent will have the respective meanings given such terms in the Agreements.

SIGNATURES ON FOLLOWING PAGE.

District, Assignor, and Assignee have executed this Consent as of the above date.

DISTRICT

The Napa Sanitation District,
a California Special District

By: _____
Jill Techel
Chair

Approved as to form:

By: _____
John D. Bakker, District Counsel

Address of District:

935 Hartle Court

Napa, CA 94559

Attention: Tim Healy, General Manager

or

Post Office Box 2480

Napa, CA 94558

Attention: Tim Healy, General Manager

ASSIGNOR:

The Peter A. and Vernice H. Gasser Foundation,
a California corporation

By: _____
Joseph Peatman
President

Address of Assignor:

The Gasser Foundation

433 Soscol Avenue, Suite 120

Napa, CA 94559

Attention: Joe Peatman

ASSIGNEE:
Gasser South, LLC
a Delaware limited liability company

By: _____
Tulocay Partners, LLC, Managing Member of Gasser South, LLC
Fred J. Hearn, Member

Address of Assignee:
Gasser South, LLC
433 Soscol Avenue, Suite 120
Napa, CA 94559

EXHIBIT A
Assignment Agreement

ASSIGNMENT AND ASSUMPTION OF AGREEMENTS

This Assignment and Assumption Agreement (“Assignment”) is made as of June 6, 2012, by and between to THE PETER A. AND VERNICE H. GASSER FOUNDATION, a California corporation (“Assignor”), and GASSER SOUTH, LLC, a Delaware limited liability company (“Assignee”).

Recitals

The Assignment is made with regard to the following facts:

A. Napa Sanitation District (“District”) and Assignor are parties to a Development and Disposition Agreement (“DDA”) and a Purchase and Sale Agreement (“PSA”), both dated November 16, 2011 and amended as of June 6, 2012 (collectively “the Agreements”), pursuant to which District will transfer real property it presently owns to Assignor in exchange for certain consideration including the completion of certain build-to-suit construction work on other real property owned by District.

B. Assignor now desires to assign its right, title, and interest in, to, and under the Agreements to Assignee, and Assignee desires to accept that assignment, on, and subject to, all of the terms and conditions in this Assignment.

NOW, THEREFORE, in consideration of the mutual covenants contained in this Assignment, and for valuable consideration, the receipt and sufficiency of which are acknowledged by the parties, the parties agree as follows:

1. *Assignment and Assumption.* Assignor assigns to Assignee all of its right, title, and interest in, to, and under the Agreements. Assignee accepts this assignment, assumes all of Assignor’s obligations under the Agreements, and agrees to be bound by all of the provisions of the Agreement and to perform all of the obligations of Developer under the DDA and of Buyer under the PSA as a direct obligation to District from and after the effective date of this Assignment. The assignment and assumption is made on, and is subject to, all of the terms conditions and covenants of this Assignment.

2. *No Further Modifications without Assignor Consent.* Assignee shall not modify or amend the Agreements after the date of this Assignment without first obtaining the express written consent of Assignor.

3. *Indemnification of Assignor.* Assignee shall protect, defend, indemnify and hold Assignor harmless from all costs, expenses, claims, causes of action and damages (including without limitation, reasonable attorney fees and costs), which arise in connection with the Agreements (as the same may be amended from time to time after the date of this Assignment) from and after the date of this Assignment.

4. *General Provisions.*

4.1 *Further Assurances.* Each party to this Assignment will, at its own cost and expense, execute and deliver such further documents and instruments and will take such other actions as may be reasonably required or appropriate to evidence or carry out the intent of purposes of this Assignment.

4.2 *Enforcement by District.* District is a third party beneficiary of this Assignment. As such, the provisions of this Assignment inure to the benefit of, and are enforceable, by District.

4.3 *Controlling Law.* This Assignment will be governed by, and construed in accordance with, California law.

4.4 *Captions.* Captions to the sections in this Assignment are included for convenience only and do not modify any of the terms of this Assignment.

4.5 *Entire Agreement; Waiver.* This Assignment constitutes the final, complete and exclusive statement between the parties to this Assignment pertaining to the terms of Assignor's assignment of the Agreements to assignee, supersedes all prior and contemporaneous understandings or agreements of the parties, and is binding on and inures to the benefit of their respective heirs, representatives, successors and assigns. Neither party has been induced to enter into this Assignment by, nor is either party relying on, any representation or warranty outside those expressly set forth in this Assignment. Any agreement made after the date of this Assignment is ineffective to modify, waive, or terminate this Assignment, in whole or in part, unless that agreement is in writing, is signed by the parties to this Assignment, and specifically states that agreement modifies this Assignment.

4.6 *Waiver.* Except as explicitly stated in this Assignment, nothing contained in this Assignment will be deemed or construed to modify, waive, impair, or affect any of the covenants, agreements, terms, provisions, or conditions contained in the Agreements.

4.7 *Notice.* Any notice that may or must be given by any party under this Consent will be delivered (i) personally, (ii) by certified mail, return receipt requested, or (iii) by a nationally recognized overnight courier, addressed to the party to whom it is intended. Any notice given to District, Assignor or Assignee shall be sent to the respective address set forth on the signature page below, or to such other address as that party may designate for service of notice by a notice given in accordance with the provisions of this Section 5.8. A notice sent pursuant to the terms of this Section 5.8 shall be deemed delivered (A) when delivery is attempted, if delivered personally, (B) three (3) business days after deposit into the United States mail, or (C) the day following deposit with a nationally recognized overnight courier.

4.8 *Capitalized Terms.* All terms spelled with initial capital letter in this Consent that are not expressly defined in this Assignment will have the respective meanings given such terms in the Agreements.

DISTRICT:

The Napa Sanitation District,
a California Special District

By: _____
Jill Techel
Chair

Approved as to form:

By: _____
John D. Bakker, District Counsel

Address of District:

935 Hartle Court
Napa, CA 94559
Attention: Tim Healy, General Manager
or
Post Office Box 2480
Napa, CA 94558
Attention: Tim Healy, General Manager

ASSIGNOR:

The Peter A. and Vernice H. Gasser Foundation,
a California corporation

By: _____
Joseph Peatman
President

Address of Assignor:

The Gasser Foundation
433 Soscol Avenue, Suite 120
Napa, CA 94559
Attention: Joe Peatman

ASSIGNEE:

Gasser South, LLC
a Delaware limited liability company

By: _____
Tulocay Partners, LLC, Managing Member of Gasser South, LLC
Fred J. Hearn, Member

Address of Assignee:
Gasser South, LLC
433 Soscol Avenue, Suite 120
Napa, CA 94559

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