

RECORDED AT THE REQUEST OF AND
RETURN TO:

Napa Sanitation District
1515 Soscol Ferry Road
Napa, CA 94558

Exempt from Recording Fees
Per G.C. 27383

Re: A.P.N. 046-190-065, 046-190-066

INDEMNIFICATION AGREEMENT

THIS INDEMNIFICATION AGREEMENT (this "Agreement") is made as of this ____ day of _____
_____, 20____, ("Effective Date") by and between Fairfield Napa Phase I LLC
("Owner") and the Napa Sanitation District, a California special district ("District") with
reference to the following facts.

RECITALS

A. Owner owns that certain real property located in the County of Napa, California, commonly known as Vista Tulocay Apartments located at Napa County Assessor's Parcel Numbers of 046-190-065 and 046-190-066 and more particularly described in Exhibit A attached hereto and incorporated herein (the "Property").

B. District has an existing public utility easement on the Property, which was recorded on April 21, 2008, as Instrument No. 2008-0009956 in the Official Records of Napa County ("Easement").

C. The District has the right to access and use the Easement for the purposes of constructing, installing, maintaining, repairing, replacing or otherwise taking any actions that the District believes are necessary or prudent for the safe operation of the public utility facilities that are located therein (collectively, "District Operations").

D. The Owner is redeveloping the Property and in connection with such development, Owner plans to install trees, shrubs, concrete, asphalt, signs, parking lot lighting poles, irrigation infrastructure, and storm drain infrastructure ("Site Improvements") within the District's Easement.

E. As a condition to Owner's construction of the Site Improvements, District has requested Owner enter into this Agreement with the District regarding the Site Improvements with the purpose of maintaining District's access to the Easement and the public utility

facilities which are now or may hereafter be installed within the District's Easement ("District Facilities").

AGREEMENT

NOW THEREFORE, Owner and District, for good and valuable consideration agree as follows:

1. Owner shall notify the District in writing at least sixty (60) days prior to installation of any new Site Improvements within the Easement. Owner shall obtain District's written approval prior to installing any new Site Improvements within the Easement .

2. To the fullest extent permitted by law, Owner agrees to indemnify, defend (with counsel approved by District) and hold District, its board members, officers, officials, employees and agents, harmless from any and all claims made against District or any liability, loss or damage suffered by District of any kind or nature, including but not limited to, attorneys' fees, arising from or relating to the Site Improvements or Owner's breach of this Agreement except to the extent caused by the sole negligence or willful misconduct of District.

3. In the event that District Operations or access to District Facilities in the Easement require removal of all or a portion of the Site Improvements, Owner shall remove such Site Improvements at its sole cost and expense within five (5) business days of receipt of a written request to do so from the District. If Owner does not remove the Site Improvements within the 5-day period set forth in the District's request for removal, or if there is an emergency requiring the District to immediately remove the Site Improvements to repair or reconstruct the District Facilities, then Owner shall pay the District all costs incurred for the removal of the Site Improvements within thirty (30) days of receipt from the District of a list of itemized removal costs incurred by the District. Upon completion of District Operations, the District will restore the Property to the condition it was in immediately before the District performed such operations except that the District will not be under any obligation to replace the Site Improvements. Additionally, the District will not be responsible for any repairs to the Site Improvements due to settling and/or cracking. If Site Improvements are removed by the District in order to access the District Facilities or perform District Operations, Owner shall have the right to replace the Site Improvements at its sole cost and expense. Owner's obligations pursuant to this paragraph shall survive the termination or expiration of this Agreement.

4. Owner agrees that the obligations under this Agreement shall be continuing and irrevocable. No modification or waiver of any provision of this Agreement shall be binding upon the District unless such modification or waiver shall be in writing and signed by an authorized officer of the District.

5. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of California.

6. No failure on the part of the District to pursue any remedy under this Agreement shall constitute a waiver on the part of the District of its right to pursue such remedy on the basis of the same or a subsequent breach.

7. If either party is required to utilize the services of an attorney in order to enforce this Agreement, the non-prevailing party will pay any attorney's fees and costs incurred by the prevailing party.

8. Any costs or attorney's fees incurred by the District as prevailing party pursuant to this Agreement shall become a lien and a special assessment against the Property.

9. This Agreement shall run with the Property as both a covenant and an equitable servitude and is binding on Owner's heirs, successors in interest and assigns. It shall be recorded with the Napa County Recorder.

10. In the event that any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had not been contained herein.

11. Any notice or other communication required or permitted to be given under this Agreement shall be in writing and shall be personally delivered or deposited in the U.S. mail, first class and postage prepaid, addressed to the parties at their respective addresses as listed below.

If to Indemnitor: Fairfield Napa Phase I LLC
5510 Morehouse Drive, Suite 200
San Diego, CA 92121

If to Indemnatee: Napa Sanitation District
1515 Soscol Ferry Road
Napa, CA 94558

Notice shall be deemed duly given upon personal delivery or, if mailed, two days after mailing. The foregoing addresses may be changed by notice given as provided in the Agreement.

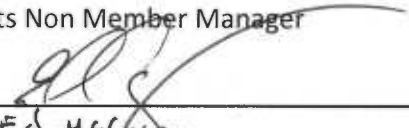
* * * * *

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

OWNER:

FAIRFIELD NAPA PHASE I LLC,
a Delaware limited liability company

By: FFI CHF GP LLC,
a Delaware limited liability company,
its Non Member Manager

By: 
Name: Ed McCarty
Title: S.V.P.

NAPA SANITATION DISTRICT:

Napa Sanitation District, a California Special District

By: _____
Jill Techel
Chair, Board of Directors

ATTEST:

By: _____
Cheryl Schuh
Secretary, Board of Directors

APPROVED AS TO FORM:

By:



John Bakker
District Legal Counsel

Exhibit A

The land referred to herein below is situated in the City of Napa, County of Napa, State of California and is described as follows:

APN 046-190-065, APN 046-190-066



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