

EXEMPT FROM RECORDING FEES
PER G.C. 27383

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

MATT LEMMON
NAPA SANITATION DISTRICT
1515 SOSCOL FERRY ROAD
NAPA, CA 94558

RECORDER'S USE

SPACE ABOVE THIS LINE FOR

AGREEMENT FOR OUTSIDE SERVICE CONNECTION
SANITARY SEWER

BETWEEN THE FOLLOWING:

James A. Maggetti, Trustee of the James A. Maggetti Survivor's Trust, established under the Maggetti Family Trust UDT dated 11/18/1997 and James A. Maggetti, Trustee of the Barbara J. Maggetti Credit Trust, established under the Maggetti Family Trust UDT dated 11/18/1997

And

THE NAPA SANITATION DISTRICT

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: APN 052-080-026

| |
|---|
| AGREEMENT FOR OUTSIDE SERVICE CONNECTION |
|---|

This Agreement is made and entered into this ____ day of _____, 20____, by and between the Napa Sanitation District, a California special District (hereafter the "District"), and James A. Maggetti, Trustee of the James A. Maggetti Survivor's Trust, established under the Maggetti Family Trust UDT dated 11/18/1997 and James A. Maggetti, Trustee of the Barbara J. Maggetti Credit Trust, established under the Maggetti Family Trust UDT dated 11/18/1997 (hereinafter, jointly, "Owner").

RECITALS

WHEREAS, District owns and operates a sanitary sewer collection, treatment and disposal system in and for the lands within its boundaries;

WHEREAS, Owner are persons owning certain lands located outside the boundaries of District and identified as 410 Stonecrest Drive, Napa (APN 052-080-026) and more particularly described in Exhibit A attached hereto (the "Property") who are desiring to connect a single family dwelling to the public sewer mains owned and operated by District; and

WHEREAS, the property is also outside the District's Local Agency Formation Commission sphere of influence, and state law prohibits LAFCO from approving the provision of service to property that is outside an agency's boundary and sphere of influence, unless there is an existing or impending threat to the health or safety of the public or the residents of the affected territory; and

WHEREAS, the County has determined that the failing septic system on the site is a threat to public health and safety and that conditions of the Property are such that it will not accept a code compliance septic system, necessitating connection to the District's sewer system; and

WHEREAS, District Code Section 5.01.070 allows where special conditions exist relating to any outside sewer, they shall be the subject of a special contract between the applicant and the District, and applicant shall be charged for sewage service in the same degree and manner as others now within the District Boundaries.

AGREEMENT

NOW THEREFORE, in consideration of the mutual promises and conditions hereinafter declared and entered into between the parties hereto, the parties do covenant and promise as follows:

1. District hereby determines that the Property lies outside the District boundary, but inside the sphere of influence of the District.

2. Subject to the limitations set forth below, Owner agrees that prior to connection to the facilities of District, Owner will pay all applicable fees and charges to District associated with connection of the Property.

3. Owner agrees that prior to issuance of a permit to connect to the facilities of the District, Owner will at its sole cost and expense, engage an engineering firm to conduct, and obtain the District's approval of, a study (the "Study") to include the following (collectively, the "Scope of Study"):

a. Determine parcels neighboring the Property, which could be incorporated into District's sphere of influence as part of a future sphere amendment. Owner shall instruct its engineering firm to consider the following in making such determination:

i. Consider parcels that are similarly situated, connected to City of Napa water lines but on private septic systems as well as those neighboring parcels that may feasibly connect to public sanitary sewer in the future;

ii. Research when homes were built and when septic systems were installed;

iii. Submit a drawing of the potential expanded service area; and

b. Evaluate condition and capacity of District's existing downstream sewer infrastructure from the Property to Hillside Avenue for serving (a) the Property and (b) the potential additional parcels described in Section 3(i) above.

c. Create a preliminary design of the sewer improvements (including improvements to existing infrastructure) necessary to serve the (a) Property and (b) the potential additional parcels described in Section 3(i) above.

d. Evaluate easement acquisitions as may be required for the future extension of the sewer main in Stonecrest Drive. District will reasonably cooperate with Owner's engineering firm in this effort.

The Study shall be conducted to the satisfaction of the District. District shall not require additional analysis beyond the Scope of Study without Owner's prior consent. After District approves the Study, the District shall indemnify, defend and hold Owner harmless from claims of

loss and injury to persons related to infrastructure improvements made in accordance with the Study.

4. Owner agrees, on behalf of itself, its successors, and assigns that prior to connection to the facilities of the District, Owner will design and construct public sanitary sewer infrastructure, per District standards, extending to the current District sphere of influence line's perpendicular intersection with Stonecrest Drive. The design shall include future infrastructure necessary to extend public sanitary sewer to the east property line of Property. Owner further agrees to enter into an improvement agreement, consistent with the District's standard form, and post appropriate bonds to cover the improvements. Prior to connection to the facilities of the District, Owner shall grant to the District a utility easement across the Property to the Property's eastern border, pursuant to a written and recorded form of easement mutually acceptable to Owner and District.

5. Owner agrees, on behalf of itself, its successors, and assigns that prior to issuance of a permit to connect to the facilities of the District, Owner will enter into a deferred improvement agreement ("DIA"), consistent with the District's standard form, that would require Owner, its successors, or assigns to extend the public sanitary sewer infrastructure in Stonecrest Drive, per District standards, from the location required by paragraph 4 to the east property line of Property.

6. Owner agrees, on behalf of itself, its successors, and assigns to support any future proposal or study that would include the Property in the District's sphere of influence, to support, and not oppose, the amendment of the District's sphere of influence to include the Property, and to support and not oppose the annexation of the Property into the District boundary upon the Property being included within the District's sphere of influence. Owner will initiate annexation of Property into the District's boundary through LAFCO within one year of a sphere amendment.

7. Owner further agrees that connection to the public sanitary sewer under the outside service agreement will only be allowed for the existing single family home served by the failed septic system. The existing accessory structure will not be allowed to connect to public sanitary sewer under this agreement.

8. Owner further agrees to pay such annual sewer service charges to District as may be established, from time to time, by the rules and regulations of the District which are of universal application within the District.

9. Owner hereby agrees to abide by all of the codes, ordinances, rules and regulations of District governing the manner in which sewers shall be used, the manner of connecting thereto, and the plumbing and drainage in connection therewith, the connection permitted herein is for one single family residence.

10. No change in the facilities to be connected to the District's system shall be made without prior approval from the District that such change is to be made. No additional connections shall be connected to the facilities of the Napa Sanitation District without prior approval from the District that such additional facilities are to be connected to the system. Prior to making any such change in facilities or to the addition of any units to the District's system, the

Owner shall pay to the District such additional inspection, connection and annual fees which may then be established by the Board of Directors of the District.

11. Except as provided otherwise herein, Owner hereby agrees to indemnify and hold harmless the District from all claims of loss or injury to third persons, or the property of any person arising out of the construction, operation, maintenance or use of the outside sewer service connection to the Property herein provided; excepting therefrom any such claims of loss or injury arising out of District's gross negligence or willful misconduct.

12. District hereby agrees to use reasonable diligence to provide a regular and uninterrupted service to the Property which is connected to the District's facilities; but shall not be liable for damages, breach of contract, or otherwise, to the Owner for failure, suspension, diminution, or other variations of service occasioned by, or in consequence of, any cause beyond the control of the District, including, but not limited to, acts of God or of the public enemy, fires, floods, earthquakes, or other catastrophes, strikes or failure or breakdown of transmission or other facilities.

13. None of the rights hereby granted to Owner may be assigned or transferred without the prior written consent of the Board of Directors of the District; provided, however, that after Owner obtains, and District approves the Study, and after Owner constructs public sanitary sewer infrastructure, per District standards, extending to the current District sphere of influence line's perpendicular intersection with Stonecrest Drive and connects the Property to such public sanitary sewer infrastructure per District Standards, this Agreement and the DIA shall be freely assignable by Owner to any purchaser of the Property and such purchaser shall expressly agree to assume the Owner's obligations under this Agreement and the DIA. In the event Owner's single family residence located upon the Property ceases to exist, Owner's rights under this agreement shall immediately terminate.

14. In the event Owner shall violate any of the terms of this agreement or any of the codes, ordinances, rules or regulations of the District, as they now or may hereafter exist, District shall give notice of the violations, in writing, to Owner. If the violation is not corrected within 30 days of the date of such notice, District shall have the right to disconnect the outside sewer system of Owner from the District's system. Owner shall not reconnect said system until the violation has been corrected and the cost of such disconnection shall have been paid.

15. This agreement and the provisions hereof are intended to be covenants running with the land by this agreement, and are intended to bind the parties, their heirs, representatives, assigns and successors in interest, and any future owner of the whole or any part of the property covered by this agreement, and this agreement shall be made a matter of official record by recording the agreement in the office of the Recorder of the County of Napa.

* * * * *

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed in their name, or in their corporate names, by their officers thereunto duly authorized, in triplicate, the day and year first above written.

OWNER:

James A. Maggetti, Trustee of the James A. Maggetti Survivor's Trust, established under the Maggetti Family Trust UDT dated 11/18/1997

By: _____
James A. Maggetti, Trustee

James A. Maggetti, Trustee of the Barbara J. Maggetti Credit Trust, established under the Maggetti Family Trust UDT dated 11/18/1997

By: _____
James A. Maggetti, Trustee

NAPA SANITATION DISTRICT:

Napa Sanitation District, a California Special District

By: _____
Timothy B. Healy, PE
General Manager

APPROVED AS TO FORM:

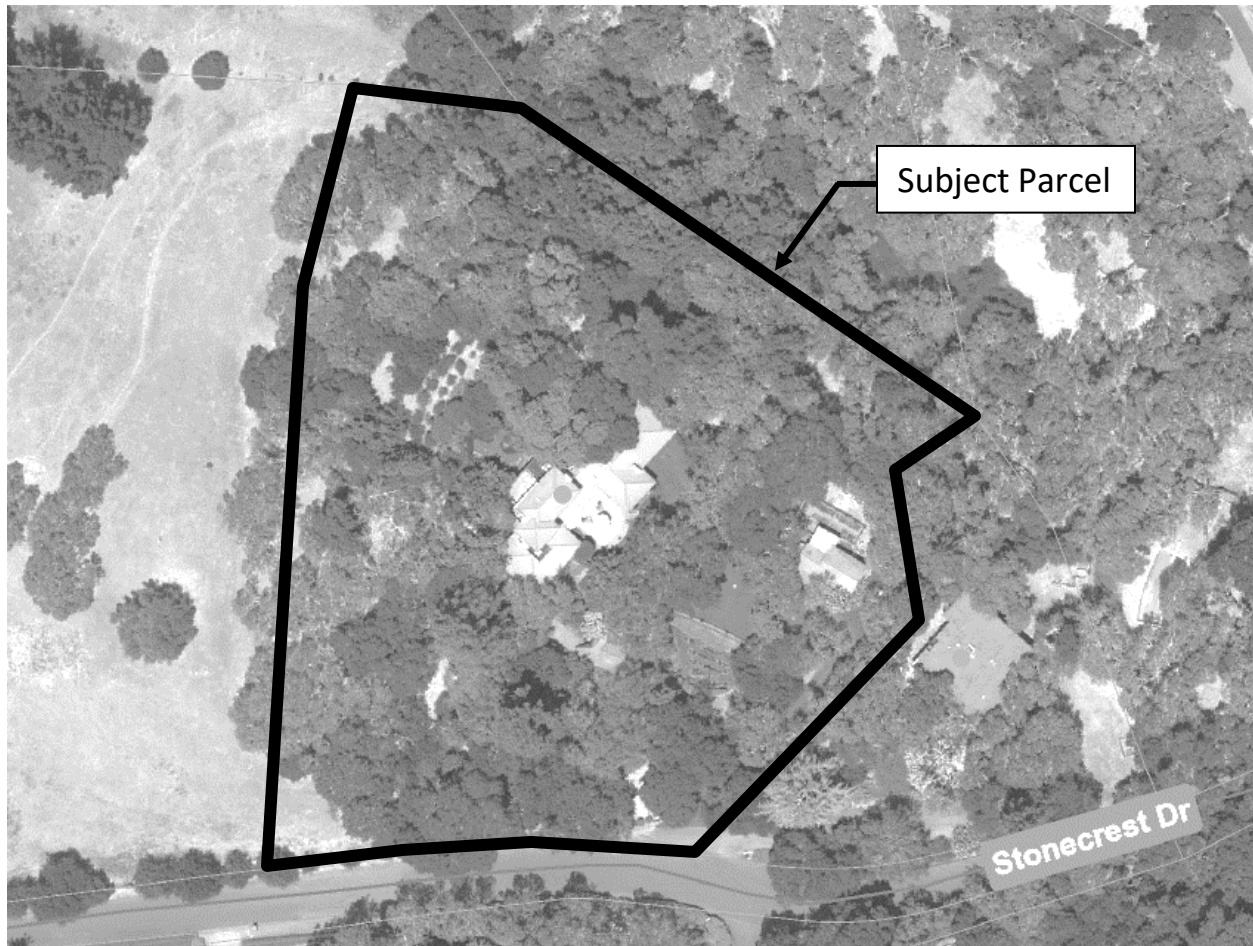
By:

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 052-080-026



2889526.1