

**“B”**

## **Draft Development Agreement**

OFFICIAL BUSINESS

Fee Exempt per Government Code Section 27383

RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:

Napa County  
1195 Third Street, Suite 310  
Napa, California 94559

Attention: Clerk of the Board of Supervisors

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

**DEVELOPMENT AGREEMENT  
BY AND BETWEEN**

**NAPA COUNTY**

**AND**

**DAVID C. CARROLL AND ELIZABETH P. CARROLL, TRUSTEES OF  
THE CARROLL LIVING TRUST DATED MAY 25, 2013**

## DEVELOPMENT AGREEMENT

This Development Agreement (the “**Agreement**”) is entered into on this [REDACTED] day of [REDACTED], 2018, by and between **Napa County**, a political subdivision of the State of California (the “**County**”) and David C. Carroll and Elizabeth P. Carroll, Trustees of The Carroll Living Trust dated May 25, 2013 (the “**Landowner**”). County and Landowner and their respective successors and Transferees are collectively referred to in this Agreement as the “**Parties**” and singularly as a “**Party**.”

### RECITALS

A. **Authorization.** To strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic risk of development, the legislature of California adopted Government Code Sections 65864, et seq. (the “**Development Agreement Statute**”), which authorizes the County and any person having a legal or equitable interest in real property to enter into a development agreement, establishing certain development rights in the property that is the subject of the development project application. The purpose of the Development Agreement Statute is to authorize local agencies, in their discretion, to establish certain development rights regardless of intervening changes in land use regulations.

B. **Property.** Landowner holds legal or equitable interests in a parcel of real property in Napa County located at 1055 Monticello Road, Napa, California, designated as Assessor’s Parcel Number 049-161-009, and is more particularly described in the legal description attached hereto as **Exhibit A** (the “**Property**”) and depicted on the site map attached hereto as **Exhibit B**.

C. **Historical Background.**

The approximately 3.96 acre Property contains extant single family residence, secondary living unit, barn, water tower, accessory buildings and a 2.1- acre vineyard. The Property is the subject of Agreement.

The Property has historically been in agricultural use since at least the 1920’s. In the 1940’s and 1950’s surrounding properties and portions of the once larger subject property were subdivided for single family residential development. The Napa County Code was amended in 1983 and excluded agriculture as a permitted use in Residential Single Zoning Districts. Notwithstanding, agricultural uses continued on the Property, where the prior owners farmed fruit and nut trees and raised goats, sheep, pigs, horses, and chickens at various levels until they sold the Property in 2013. The agricultural uses on the Property may have constituted a legal non-conforming use.

On February 21, 2014, the Landowner filed Zoning Ordinance Text Amendment P14-00040 requesting to change the Residential Single Zoning District regulations applicable to the Property in order to establish agriculture as an allowed use, for the purpose of installing a small vineyard. Early in application processing staff identified that adding agriculture as an allowed use in the Residential Single Zoning District would apply to all like-zoned properties throughout the County which posed potential environmental and General Plan consistency issues. As a result, the application was withdrawn.

On April 9, 2014, the Landowner filed Rezone application P14-00111 requesting rezoning to Residential Country. On August 7, 2014, at the request of the Landowner's previous planning consultant, the item was scheduled for Planning Commission hearing on October 14, 2014. The hearing was subsequently continued due to uncertainty with the Rezone's consistency with the General Plan. However, no further progress was made by the Landowner's prior consultant and the rezoning application became dormant. On October 25, 2016, the County received a neighborhood complaint that the Landowner had installed a new vineyard and an entry gate. The applicant diligently responded to Code Enforcement's notice to correct any potential violations, and processing of the rezoning application resumed.

In 2017, County staff introduced the concept of employing a development agreement as a mechanism to address groundwater use limits, limit the scope of potential environmental impacts, and to ensure project commitments were enforceable. Work began on setting the agreement's specific terms but progress was delayed by the County due to circumstances unrelated to the project, most notably caused by the 2017 Napa Fire Storm response and recovery. The applicant expressed great interest in completing processing, but was accepting of processing delays requested by the County. With County staff's acknowledgement, the Landowner has maintained the vineyard while the application process has continued. Since November 2016 the Landowner has relied on recycled water to meet the irrigation and water use needs of the vineyard in a manner consistent with that being recommended for approval under the Development Agreement.

**D. Project Description.** Landowner proposes the Project, attached hereto as **Exhibit C**, to Rezone an approximately 3.96 acre parcel from RS:B-2, which does not permit agriculture or agricultural land uses, to RC, which permits agriculture and agricultural land use to bring an existing 2.1 acre vineyard planted in 2016 into conformance with County Code. The project includes adoption of this Agreement establishing operating parameters for the agricultural use including: 1) Trailer hauled import of recycled water from Napa Sanitation District ("NSD") for all vineyard-related water demand; 2) Limiting and monitoring groundwater use for existing non-agricultural land uses, not to exceed 1.2 acre-feet annually; 3) Agricultural uses limited to vineyards or other crop raising with no visitation, tours, tastings or marketing events; 4) Vineyard farmed by professional vineyard manager; and 5) Noise and lighting limits to reduce potential for annoyance to adjoining residences; 6) Prohibition on uses requiring a conditional use permit; 7) Contribution of Five Thousand Dollars (\$5,000) to County to be earmarked toward construction of a dedicated groundwater monitoring well.

**E. Environmental Review.** On June 21, 2018, in an Initial Study attached hereto as **Exhibit D**, the County preliminarily determined Project would not have any potentially significant environmental impacts, and Project site is not included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5, and therefore qualifies for adoption of a Negative Declaration pursuant to the California Environmental Quality Act (CEQA) and Napa County's Local Procedures for Implementing CEQA.

**F. Planning Commission Public Hearing.** On July 11, 2018, at a duly noticed public hearing, the Planning Commission, serving as the County's planning agency for purposes of development agreement review pursuant to Government Code Section 65867 (the

"Commission"), considered this Agreement and the Rezone Application. The Commission recommended that the Board of Supervisors ("Board") \_\_\_\_\_.

G. **Project Approvals.** The County has adopted the following land use approval (the "Project Approval"), which is the subject of this Agreement:

Rezone No. P14-00111, recommended for approval of the Project by the Planning Commission and approved by the Napa County Board of Supervisors on \_\_\_\_\_, attached hereto as **Exhibit C**.

H. **Appropriateness of Development Agreement.** The County has determined a development agreement is appropriate for this Project. A development agreement will eliminate uncertainty in the County's land use planning process, secure orderly development and operation of Project consistent with Project Approval, assure progressive and timely installation of necessary improvements appropriate to each stage of Project development, and otherwise achieve the goals and purposes of the Development Agreement Statute. The County desires to provide certainty through this Agreement with respect to specific development criteria that will be applicable to the Property in accordance with sound planning principles. The Agreement guides agricultural development and operation, defines Landowner's status and rights, and defines the rights and obligations of the Parties.

I. **Public Benefits Provided Pursuant to the Development Agreement.** The Board has determined that the development of the Project will afford the County and its citizens and the surrounding region with the following primary benefits (as set forth in Section 10.2 of this Agreement), which include both public benefits provided by the Project in accordance with the Project Approvals and public benefits in excess of those which could be expected from the Project in absence of this Agreement (collectively, the "Public Benefits").

J. **Reasons for this Agreement.**

J.1. **Landowner Benefits.** In exchange for the Public Benefits of the Project, Landowner receive assurances, in accordance with procedures provided by law and in this Agreement, that the County will approve the Project, in accordance with the NCC and RC zoning as of the **Effective Date** and as amended in the future (the "**Applicable Rules**"), attached hereto as **Exhibit E**, subject to the further terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual promises, conditions, and covenants hereinafter set forth, the Parties agree as follows:

## AGREEMENT

1. **Incorporation of Exhibits and Recitals.** The Preamble, Recitals, Exhibits, and all defined terms set forth therein are incorporated into this Agreement.

2. **Interest of Landowner.** The Landowner represents and warrants that it presently has a legal or equitable interest in the entire Property sufficient to satisfy the requirement of California Government Code Section 65865.

**3. Relationship of County and Landowner.** The Project is a private development, that no Party is acting as the agent of the other in any respect hereunder, and that each Party is an independent contracting entity with respect to the terms, covenants, and conditions contained in this Agreement. None of the terms or provisions of this Agreement shall be deemed to create a partnership between or among the Parties in the businesses of Landowner, the affairs of the County, or otherwise, nor shall it cause them to be considered joint venturers or members of any joint enterprise. County and Landowner hereby renounce the existence of any form of joint venture or partnership between them, and agree that nothing contained herein or in any document executed in connection herewith shall be construed as making County and Landowner joint venturers or partners.

**4. Execution and Recording; Effective Date; Term.**

**4.1 Execution and Recording.** Not later than 10 days after the date the Board approves the Project and adopts Agreement (the “**Adoption Date**”), County and Landowner shall execute and acknowledge this Agreement. Not later than 40 days after the Effective Date, the County Clerk shall cause this Agreement to be recorded in the Official Records of Napa County, State of California.

**4.2 Effective Date.** This Agreement shall not become effective and neither Party shall have any rights or obligations hereunder until the “**Effective Date,**” which for purposes of this Agreement shall mean the effective date of County Ordinance No. [REDACTED], which is 30 days after the Adoption Date, [REDACTED], 2018.

**4.3 Term.** The term of this Agreement (the “**Term**”) shall commence on the Effective Date and shall continue thereafter until the earlier of the following: (i) the date that is 15 years after the Effective Date; or (ii) the date this Agreement is terminated pursuant to Section 15.6 of this Agreement.

**4.4 Extension of Term Due to Litigation.** In the event that Litigation is filed by a third party (i.e., an entity other than a Party to this Agreement), or by any party hereto, that seeks to invalidate this Agreement or the Project Approvals, the Term of this Agreement shall be extended for a period of time equal to the length of time from the date a summons and complaint or petition are first served on the defendant(s)/respondent(s) until the date that the resolution of the litigation is final and not subject to appeal; provided, however, that the total amount of time for which the Term may be extended as a result of any and all litigation shall not exceed five years.

**4.5 Rights and Obligation Upon Expiration of the Term or Earlier Termination.** Upon termination of this Agreement, all of the rights, duties, and obligations of the Parties shall terminate and be of no further force and effect, except as otherwise expressly set forth herein; and except as to Landowner’s obligation to provide Public Benefits. Termination shall not affect any pre-existing rights of Landowner, including without limitation those arising from any previously granted Project Approval and Subsequent Approval. Landowner waives all rights to object to or challenge such conditions of approval under the Mitigation Fee Act (Government Code Sections 66000-66011) or any other law or authority.

## 5. Vested Rights.

**5.1 Vested Rights and Permitted Uses.** During the Term of this Agreement, except to the extent County reserves its discretion as expressly set forth in this Agreement or in the Applicable Rules, Landowner shall have the vested right to exercise its discretion within the limits and constraints of the Applicable Rules and this Agreement in operating and maintaining the 2.1 acre vineyard and other agricultural uses within the Property. Landowner acknowledges that nothing in this Agreement is intended to override any review and approval requirements contained in the Applicable Rules or to preclude County from the exercise of any discretionary authority it has under the Applicable Rules, provided that pursuant to Government Code Section 65865.2, “such conditions, terms, restrictions, and requirements for subsequent discretionary actions shall not prevent development of the land for the uses and to the density or intensity of development” set forth in this Agreement.

In addition to the foregoing, this Agreement shall not vest Landowner with any environmental approvals that may be required in connection with the future development of the Property, and that Landowner must submit, process, and obtain the approval of all documentation and information required to comply with CEQA with regard to any development of the Property.

**6. Applicable Rules.** Other than as expressly set forth in this Agreement, during the Term of this Agreement, the terms and conditions of development and operation of a 2.1 acre vineyard and other agricultural uses applicable to the Property, including but not limited to the permitted uses and conduct of those uses shall be those set forth in the Applicable Rules and this Agreement.

During the Term of this Agreement, County shall not prevent development and operating of the vineyard and other agricultural uses consistent with the Project Approval that is in compliance with the Applicable Rules and this Agreement. Nothing contained in this Agreement shall prohibit replanting of vines as deemed necessary by Landowner or the planting of additional vines not to exceed five percent of the existing vineyard total.

Landowner may apply to County for any permits or approvals necessary to develop the Property as specified in the Applicable Rules and this Agreement. This Agreement does not constitute a promise or commitment by County to approve any such permit or approval, or to approve the same with or without any particular requirements or conditions, and County’s discretion with respect to such matters shall be the same as it would be in the absence of this Agreement.

**7. Subsequent Rules and Approvals.** During the Term of this Agreement, no County ordinances, resolutions, rules, regulations, or official policies enacted after the Adoption Date (the “**Subsequent Rule**”) that conflict with the Vested Rights of Landowner to operate and maintain the 2.1 acre vineyard shall be applicable hereunder without Landowner’s written consent; provided, however, that nothing shall prevent County from taking such action as may be necessary and appropriate to protect County residents against specific physical public health or safety impacts.

**7.1 Conflicting Actions.** For purposes of Section 7 above, any action or proceeding of the County (whether enacted by administrative action, or by a commission, board, the legislative body or the electorate) undertaken without the consent of Landowner that has any of the following effects on the Project shall be considered in conflict with the Vested Rights, this Agreement, and the Applicable Rules:

**7.1.1** limiting the location or sites of the vineyard on the Property in a manner that conflicts with the Project Approval;

**7.1.2** requiring the issuance of Subsequent Approvals other than those required or contemplated under the existing County land use regulations;

**7.1.3** limiting the processing or procuring of applications and approvals of Subsequent Approvals that are required to implement the Project Approval;

**7.1.4** imposing or increasing any Development Fees in a manner that conflicts with this Agreement;

**7.1.5** changing or limiting the Project Approval.

**7.2 Change in State or Federal Law.** This Agreement shall not preclude the application to development of the Property of Subsequent Rules mandated and required by changes in state or federal law.

**8. Subsequent Approvals.** Applications for Subsequent Approvals associated with the Project shall be processed by County, and consistent with the Applicable Rules. Development of the Project is subject to a Subsequent Approval of a groundwater permit (NCC Chapter 13.15) in accordance with the Project Approval. In considering, reviewing and acting on applications for Subsequent Approvals, the County shall apply the Applicable Rules. County shall exercise its authority consistent with the Applicable Rules. County shall not use its authority to change the policy decisions reflected by the Project Approval and this Agreement or otherwise to prevent, delay or modify development of the Project as contemplated by the Project Approval.

**9. Project Summary and Public Benefits.**

**9.1 Project Summary.** The Project shall be consistent with the Application as amended to reflect the Project Description attached hereto as **Exhibit C**, and includes the following:

**9.2 Public Benefits.**



**9.2.1 Funding for Dedicated Monitoring Well** – Within 10 days of the Effective Date of this Agreement, Landowner shall contribute \$5,000.00 to Napa County, earmarked toward construction of a dedicated monitoring well in a location within Napa County that supports County groundwater monitoring priorities and sustainability management objectives as set forth in the Napa County Groundwater Monitoring Plan, 2013. Readings from the dedicated groundwater monitoring well will be used to assist the County in determining trends in groundwater usage, adjusting baseline water use estimates, and estimating overall groundwater usage.

**9.2.2 Groundwater Use and Monitoring** – Landowner agrees to limit and monitor groundwater use on the subject property. Groundwater extraction for the subject property shall not exceed 1.2 acre-feet annually based on the MST Subarea fair share threshold extraction rate prescribed by the Water Availability Analysis Guidance Document adopted by the Board on May 12, 2015 and as may be modified. This limitation shall be calculated as the average water used over a three-year period with no yearly use exceeding the 1.2 acre-foot water allotment by more than 15 percent. Within 60 days of the adoption of this agreement, Landowner shall apply for a Groundwater Permit, pursuant to the requirements of NCC Sections 13.15.060 and 13.15.070, and install a meter on all wells serving the parcel. Landowner shall make all good faith efforts to obtain approval of the Groundwater Permit within six months of submitting an application (“**Permit Deadline**”). The well monitoring configuration, and installation thereof, shall conform to a drawing prepared by a qualified well permitting professional selected by Landowner and submitted to County Environmental Health Division. The drawing shall demonstrate conformance with the well monitoring technical standards set forth by the Director of Public Works. On or near the first day of each month Landowner shall read the water meter and provide this data to the Director of Public Works during the first week of April and October of each year. Landowner shall also

grant to the Director of Public Works the right to access and verify the operation and readings of the meters and well levels at any reasonable time during regular working hours. If the meter(s) indicate that the water consumption for Property exceeds the 1.2 acre-feet limitation (as calculated above) Landowner will be required to submit a plan, which will be approved by the Director of Public Works, to reduce water usage.

**9.2.3 Imported Recycled Vineyard Irrigation Water** – Landowner shall source all water required for vineyard operations, including irrigation water as well as any frost and/or heat protection, from reclaimed water provided by NSD, which shall be conveyed to the site by motor vehicle. In the event NSD reclaimed water becomes unavailable as determined by the Director of Public Works, an alternative vineyard operations water source may be approved by the Director of Public Works provided that the source of the alternative water is not derived from ground water wells located within unincorporated Napa County. This condition shall not apply if Property can obtain water from another legally permissible source that does not come from groundwater wells located in unincorporated Napa County.

**9.2.4 Limited Agricultural Use** – Landowner shall limit agriculture uses occurring on the subject property to vineyards or other crop raising. Animal husbandry, including breeding and raising of cattle, sheep, horses, goats, pigs, rabbits and poultry and egg production shall not be permitted. Residential landscaping, vegetable gardens, keeping of household pets, up to two horses, and/or 10 chickens as an accessory to residential land use are not agricultural uses and not subject to this provision. Agricultural uses shall be subject to the following requirements:

- (a) Grape (or other crop) processing shall be conducting at an off-site location.
- (b) No tours and tastings, or marketing events shall occur on the property (private activities associated with residential use are not subject to this limitation).
- (c) Vineyard frost and heat protection apparatus and management practices are permitted provided that sound generation from such activities does not exceed 45 dBa between 10 p.m. and 7 a.m., as measured at the property line of adjoining residential uses.
- (d) Vineyards (or other crop) shall be managed by a qualified farm manager. Vineyard (or other crop) management practices shall comply County Agricultural Commissioner’s Pesticide Use and Enforcement Program.
- (e) Landowner and/or farm manager contact information shall be provided to all property owners abutting the subject property.
- (f) Farm management uses serving off-site agricultural uses, as defined in NCC §18.08.040.E, shall not be permitted on Property. Farming machinery, vehicles, and supplies used for on-site farming activities are permitted on the Property.

**9.2.5 General Plan Policy AG/LU-35** - Landowner agrees not to object to any future County-sponsored General Plan Amendment to delete or replace the provisions of General Plan Policy AG/LU-35 that allows additional residential development of the subject parcel through subdivision into no greater than four parcels of at least ¾ of an acre each in size.

**9.2.6 Prohibition on Conditional Use Activities** - Landowner agrees to not seek approval of any conditionally allowed land uses set forth in RC zoning district, specifically NCC Section 18.64.030, and Exceptions, specifically NCC Section 18.120.010.B.

**9.3 Benefits to Landowner.** Landowner has expended and will continue to expend substantial amounts of time and money on the planning of the Project and construction of infrastructure for and in conjunction with the Project. Landowner represents and County acknowledges that Landowner would not make these expenditures without this Agreement, and that Landowner makes these expenditures in reliance upon this Agreement. A benefit to Landowner under this Agreement is the assurance that Landowner will preserve the right to develop the Property in accordance with the terms of this Agreement. County acknowledges that Landowner will be investing money and planning efforts in the Project in reliance on County’s covenants and representations in this Agreement. County agrees that Landowner may reasonably and justifiably rely on County’s covenants and representations in this Agreement and on the

enforceability of this Agreement.

## **10. Transfers and Assignments.**

**10.1 Transfers Generally.** Subject to the terms of this Section 10.1, Landowner shall have the right to sell, lease, transfer, or assign the Property in whole or in part to any person, partnership, joint venture, firm, or corporation (the “**Transferee**”) at any time during the Term of this Agreement without the consent of County. Any sale or transfer of the Property shall include the assignment and assumption of all rights, duties, and obligations arising from this Agreement to the transferee. Landowner shall no longer be obligated under this Agreement for the Property if Landowner is not in default under this Agreement at the time of the sale or transfer. Landowner shall provide written notice to the County within thirty (30) days after the effective date of any sale, transfer, or assignment of its interest in all or any portion of the Property or any of its interests, rights, and obligations under this Agreement. Upon the closing of such conveyance, transfer, sale, or lease, the Transferee shall be deemed a Party to this Agreement.

**10.2 Effect of Transfer; Agreement Binding on Successors and Assigns.** The burdens of this Agreement are binding upon, and the benefits of this Agreement inure to, all successors in interest of the Parties to this Agreement, and constitute covenants that run with the Property. To provide continued notice, the Parties will record this Agreement and any subsequent amendments to it.

**10.3 Constructive Notice.** Every person or entity who now or hereafter owns or acquires any right, title or interest in or to any portion of the Property is, and shall be, constructively deemed to have consented to every provision contained herein, whether or not any reference to this Agreement is contained in the instrument by which such person acquired an interest in the Property. Every person or entity who now or hereafter owns or acquires any right, title or interest in or to any portion of the Property and undertakes any development activities on the Property is, and shall be, constructively deemed to have consented and agreed to, and is obligated by, all of the terms and conditions of this Agreement, whether or not any reference to this Agreement is contained in the instrument by which such person acquired an interest in the Property.

## **11. Lender Obligations and Protections.**

**11.1 Encumbrances on Property.** The Parties agree that this Agreement shall not prevent or limit Landowner in any manner from encumbering the Property, any part of the Property, or any improvements on the Property with any Mortgage securing financing with respect to the construction, development, use, or operation of the Project.

**11.2 Mortgage Obligations.** A Mortgagee not in legal possession of the Property or any portion thereof shall not be subject to the obligations or liabilities of the Landowner under this Agreement, including the obligation to construct or complete construction of improvements or pay fees. A Mortgagee in legal possession shall not have any obligation or duty under this Agreement to construct or complete the construction of improvements, or to pay, perform, or provide any fee, dedication, improvements, or other imposition. A Mortgagee in legal possession of the Property or portion thereof shall only be entitled to use of Property or to

construct any improvements on the Property in accordance with the Project Approvals and this Agreement if Mortgagee fully complies with the terms of this Agreement.

**11.3 Mortgage Protection.** This Agreement shall be superior and senior to any lien placed upon the Property, or any portion thereof, after the date of recording this Agreement, including the lien for any deed of trust or Mortgage. Notwithstanding the foregoing, no breach of this Agreement shall defeat, render invalid, diminish or impair the lien of any Mortgage made in good faith and for value, but all the terms and conditions contained in this Agreement shall be binding upon and effective against any Person or entity, including any deed of trust beneficiary or Mortgagee that acquires title to the Property, or any portion thereof, by foreclosure, trustee's sale, deed in lieu of foreclosure, or otherwise, and any such Mortgagee or successor to a Mortgagee that takes title to the Property or any portion thereof shall be entitled to the benefits arising under this Agreement.

**11.4 Notice of Default to Mortgagee; Right of Mortgagee to Cure.** If County receives notice from a Mortgagee requesting a copy of any notice of Default given Landowner under this Agreement and specifying the address for service thereof, then County shall deliver to such Mortgagee, concurrently with service thereon to Landowner, any notice given to Landowner with respect to any claim by County that Landowner is in Default and/or Certificate of Non-Compliance. Each Mortgagee shall have the right during the same period available to Landowner to cure or remedy, or to commence to cure or remedy, the Default or non-compliance as provided in this Agreement; provided, however, that if the Default, noncompliance or Certificate of Non-Compliance is of a nature which can only be remedied or cured by such Mortgagee upon obtaining possession, such Mortgagee may seek to obtain possession with diligence and continuity through a receiver or otherwise, and shall thereafter remedy or cure the Default, noncompliance or Certificate of Non-Compliance within ninety (90) days after obtaining possession. If any such Default, noncompliance or Certificate of Non-Compliance cannot, with diligence, be remedied or cured within such ninety (90) day period, then such Mortgagee shall have such additional time as may be reasonably necessary to remedy or cure such Default, noncompliance or Certificate of Non-Compliance (including but not limited to proceeding to gain possession of the Property) if such Mortgagee commences cure during such ninety (90) day period, and thereafter diligently pursues completion of such cure to the extent possible.

**12. Estoppel Certificate.** Any Party may, at any time, and from time to time, deliver written notice to any other Party requesting such Party to certify in writing that, to the knowledge of the certifying Party, (a) this Agreement is in full force and effect and a binding obligation of the Parties, (b) this Agreement has not been amended or modified either orally or in writing, and if so amended, identifying the amendments, (c) the requesting Party is not in Default in the performance of its obligations under this Agreement, or if in Default, to describe therein the nature and amount of any such Default, and (d) such other information as may reasonably be requested. A party receiving a request hereunder shall execute and return such certificate within 30 days following the receipt thereof. The County Executive Officer, or his or her designee, shall have the right to execute any certificate requested by Landowner hereunder. County acknowledges that a certificate hereunder may be relied upon by Transferees, lenders, and Mortgagees.

### **13. Annual Review.**

**13.1 Review Date.** The annual review date for this Agreement shall occur each year on the anniversary date of the Effective Date of this Agreement (the “**Annual Review Date**”). The annual review letter required hereunder shall be submitted by the Landowner (or a Transferee) pursuant to Section 13.

**13.2 Required Information from Landowner.** Not more than 60 days and at least 45 days prior to the Annual Review Date, Landowner shall provide a letter to County’s Director of Planning, Building and Environmental Services demonstrating its compliance with this Agreement, including, but not limited to, compliance with the requirements regarding the public benefits to be provided under this Agreement.

**13.3 County Report.** Within 40 days after Landowner submits its letter, County shall review the information submitted and all other available evidence on Landowner’s compliance with this Agreement. All such available evidence including public comments and final staff reports shall, upon receipt by County, be made available as soon as practicable to Landowner. County shall notify Landowner in writing whether it has complied with the terms of this Agreement. If County finds Landowner in compliance, County shall issue a Certificate of Compliance. If County finds Landowner is not in compliance, County shall issue a Certificate of Non-Compliance after complying with the procedures set forth in Section 13.4. County’s failure to timely complete the annual review is not deemed to be a waiver of the right to do so at a later date, but Landowner shall be deemed in compliance otherwise

**13.4 Non-compliance with Agreement; Hearing.** If County, on the basis of substantial evidence, finds that Landowner has not complied with the terms of this Agreement, it shall specify in writing to Landowner, with reasonable specificity, the respects in which Landowner has failed to comply. County shall specify a reasonable time for Landowner to respond, provide additional evidence of compliance or to meet the terms of compliance, which time shall be not less than 30 days, and shall be reasonably related to the time necessary for Landowner to adequately bring its performance into compliance; provided, however, that if the non-compliance solely involves a monetary Default, then County may require payment in 30 days. If after the reasonable time for Landowner to meet the terms of compliance has passed and County, on the basis of substantial evidence, continues to find that Landowner has not complied, then County shall issue a Certificate of Non-Compliance.

Any Certificate of Non-Compliance shall be made in writing with reasonable specificity as to the reasons for the determination, and a copy shall be provided to Landowner in the manner prescribed in Section 13.3.

If County issues a Certificate of Non-Compliance, then the Board shall conduct a hearing within 30 days of the County’s issuance of the Certificate of Non-Compliance, or at the next available, regularly scheduled hearing thereafter. The Landowner shall be given not less than ten (10) days written notice of the hearing and copies of the evidence upon which County made its determination. Landowner will be given the opportunity to present evidence at the hearing. If the Board of Supervisors determines that Landowner is not in compliance with this Agreement, it

may proceed to County's rights and remedies, including, modifying or terminating this Agreement at a subsequent public hearing.

**13.5 Appeal of Determination.** The decision of the Board as to Landowner's compliance shall be final, and any Court action or proceeding to attack, review, set aside, void or annul any decision of the determination by the Board shall be commenced within 30 days of the final decision by the Board.

**13.6 Costs.** Costs reasonably incurred by County in connection with the annual review and related hearings shall be paid by Landowner in accordance with the County's schedule of fees and billing rates for staff time in effect at the time of review.

**13.7 No Limits on Remedies for Default.** The rights and powers of the County under this Section are in addition to, and shall not be limited to the rights of the County to terminate or take other action under this Agreement on account of the commission by Landowner of an event of Default.

**14. Indemnification.** Landowner agrees to indemnify, defend, and hold harmless County, County's designee, and their respective elected and appointed councils, boards, commissions, officers, agents, employees, volunteers and representatives from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict liability, including but not limited to personal injury, death or physical property damage) and from any and all claims, demands, and actions in law or equity (including attorneys' fees and litigation expenses) (collectively, "**Claims**") by any third party, that may arise, directly or indirectly, from the acts, omissions, or operations of Landowner or Landowner's agents, contractors, subcontractors, agents, or employees pursuant to this Agreement.

Notwithstanding the foregoing, Landowner shall have no indemnification obligation with respect to the gross negligence or willful misconduct of County or their respective contractors, subcontractors, agents or employees, or by any one or more persons directly or indirectly employed by or acting as an agent for Landowner or any of Landowner's contractors or subcontractors.

The indemnity under this Section 14 shall survive termination of this Agreement. Except as otherwise provided herein, Landowner shall timely pay all costs incurred by County in defending Claims or challenges, and Landowner shall be solely responsible to pay, in a timely manner and on County's behalf, any and all awards of money damages, attorney fees and court costs against County resulting from such Claims.

**15. Amendment, Cancellation or Suspension Modification Because of Conflict with State or Federal Laws.**

**15.1 Modification Because of Conflict with State or Federal Law.** In the event that Laws or regulations enacted after the Adoption Date of this Agreement prevent or preclude compliance with one or more provisions of this Agreement or require substantial and material changes in Project Approvals, the Parties shall meet and confer in good faith in a reasonable attempt to modify this Agreement to comply with such change in Laws. Any such amendment

of the Agreement shall be approved by the Board, in accordance with existing local laws and this Agreement.

**15.2 Amendment by Mutual Consent.** This Agreement may be amended in writing from time to time by mutual consent of the Parties hereto and in accordance with the procedures of State law, the NCC, and this Agreement.

**15.3 Substantive Amendments.** Any substantive amendment to the Agreement shall require approval of an amendment to this Agreement in accordance with State law and NCC. The term “**Substantive Amendment**” is defined to include the following: (a) any change to the Term of this Agreement; (b) any changes to the permitted uses of the Project or the density and/or intensity of use of the Project; (c) any changes to provisions in this Agreement or the Project Approvals related to monetary contributions or payments by Landowner; or (d) any other proposed amendment reasonably determined by the County Executive Officer to be a Substantive Amendment.

**15.4 Minor Amendment.** A “**Minor Amendment**” is any amendment of this Agreement other than a Substantive Amendment. Subject to compliance with the requirements of Section 15.2, a Minor Amendment may be approved by means of a written agreement, without a public hearing, by the County Executive Officer.

**15.5 Amendment Exemptions.** No Subsequent Approval and no amendment of a Project Approval or a Subsequent Approval, shall require an amendment to this Agreement. Upon approval of an amendment to a Project Approval, the meaning of the term “**Project Approval**” as used in this Agreement shall be amended to reflect the approved amendment to the Project Approval, and, along with any Subsequent Approval or amendment to a Subsequent Approval, shall be deemed to be incorporated automatically into the Project and vested under this Agreement (subject to any conditions set forth in the Subsequent Approval or amendment). Notwithstanding the foregoing, in the event of any direct conflict between the terms of this Agreement and a Subsequent Approval, or between this Agreement and any amendment to a Project Approval or Subsequent Approval, the terms of this Agreement shall prevail.

**15.6 Cancellation by Mutual Consent.** This Agreement may be terminated in whole or in part by the mutual consent of all the Parties or their successors in interest, in accordance with the provisions of the State law and the NCC. Any fees or payments of any kind paid pursuant to this Agreement prior to the date of mutual termination shall be retained by County.

**15.7 Suspension by County.** County may suspend a portion of this Agreement, if it finds, in its reasonable and sole discretion, that suspension is necessary to protect persons or property from a condition which would create an immediate and serious risk to the physical health and safety of the general public or residents or employees who are occupying or will occupy the Property, such as might be the case in the event of a major earthquake or natural disaster of similar magnitude.

**16. Default.** Subject to Section 15, a Party’s violation of any material term of this Agreement or failure by any Party to perform any material obligation of this Agreement required to be performed by such Party shall constitute a default (the “**Default**”).

**16.1 Default by Landowner.** Pursuant to California Government Code Section 65865.1, if County determines following a noticed public hearing and on the basis of substantial evidence that Landowner has not complied in good faith with Landowner's obligations pursuant to this Agreement, County shall by written notice to Landowner specify the manner in which Landowner has failed to comply and state the steps Landowner must take to bring itself into compliance. If Landowner does not commence all steps reasonably necessary to bring itself into compliance as required and diligently pursue steps to completion within 30 days after receipt of the written notice from County specifying the manner in which Landowner has failed to comply, then Landowner shall be deemed to be in default under the terms of this Agreement. County may then: (1) seek a modification of this Agreement, (2) terminate this Agreement, or (3) seek any other available remedies as provided in this Agreement.

**16.2 Default by County.** If County has not complied with any of its obligations and limitations under this Agreement, Landowner shall by written notice to County specify the manner in which County has failed to comply and state the steps necessary for County to bring itself into compliance. If County does not commence all steps reasonably necessary to bring itself into compliance as required and diligently pursue steps to completion within 30 days after receipt of the written notice from Landowner specifying the manner in which County has failed to comply, then County shall be deemed to be in default under the terms of this Agreement. Landowner may then exercise any or all of the following remedies: (1) seek a modification of this Agreement; (2) withhold payments that might be otherwise due to County under this Agreement; and/or (3) seek a specific performance or similar equitable remedy as provided in this Agreement. Except as provided below, if County adopts or enforces any moratorium, de facto or de jure, or other similar limitation (whether relating to the rate, timing, or sequencing of the development or construction of all or any part of the Project and whether enacted by initiative or otherwise) affecting the processing or approval of building permits, occupancy certificates, or other entitlement to use which is applied to the Project, then Landowner may exercise any or all of the following remedies: (1) immediately seek a modification of this Agreement; (2) withhold payments that might be otherwise due to County under this Agreement, until County reverses its enactment of such moratorium or limitation; and/or (3) seek any other available remedy as provided in this Agreement.

**17. Remedies for Default.** Subject to the notice and opportunity to cure provisions in Section 18 below, the available remedies for any Party in the event of a Default by the other Party (except with respect to a payment Default) shall be an action in mandamus, or for damages, specific performance, or other injunctive or declaratory relief. In addition, upon the occurrence of a Default and subject to the procedures described in Section 18, the non-defaulting Party shall have the right to terminate this Agreement, but any such termination shall not affect such Party's right to seek such remedies as are provided for in this Agreement on account of the Default for which this Agreement has been terminated, and shall be subject to the procedures specified in this Agreement. Any legal action by a Party alleging a Default shall be filed within one hundred eighty (180) days from the end of the default procedure described in Section 18.

**18. Procedure Regarding Defaults.** For purposes of this Agreement, a Party claiming another Party is in Default shall be referred to as the "**Complaining Party**," and the Party alleged to be in Default shall be referred to as the "**Party in Default**." A Complaining Party shall not exercise any of its remedies as the result of Default unless such Complaining Party first



gives notice to the Party in Default as provided in this Section 18, and the Party in Default fails to cure such Default within the applicable cure period.

**18.1 Notice; Meet and Confer.** The Complaining Party shall give written notice of Default to the Party in Default, specifying the Default alleged by the Complaining Party. Delay in giving such notice shall not constitute a waiver of any Default nor shall it change the time of Default.

Before sending a Notice of Default, the Party which may assert that the other Party has failed to perform or fulfill its obligations under this Agreement shall first attempt to meet and confer with the other Party to discuss the alleged failure and shall permit such Party a reasonable period, but not less than 10 days, to respond to or cure such alleged failure; provided, however, the meet and confer process shall not be required (i) for any failure to pay amounts due and owing under this Agreement or (ii) if a delay in sending a notice would materially and adversely affect a Party or its rights under this Agreement. The Party asserting such failure shall request and if, despite the good faith efforts of the requesting Party, such meeting has not occurred within 7 business days of such request, such Party shall be deemed to have satisfied the requirements of this Section 18 and may proceed in accordance with the issuance of a notice of default.

**18.2 Cure.** The Party in Default shall have 30 days from receipt of the Notice of Default to effect a cure prior to exercise of remedies by the Complaining Party. If the nature of the alleged Default is such that it cannot practicably be cured within such 30 day period, then it shall not be considered a Default during that 30 day period so long as: (a) the cure was commenced at the earliest practicable date following receipt of the notice; (b) the cure was diligently prosecuted to completion at all times thereafter; (c) at the earliest practicable date (in no event later than 30 days after the curing Party's receipt of the notice), the curing Party provided written notice to the Complaining Party that the cure cannot practicably be completed within such 30 day period; and (d) the cure was completed at the earliest practicable date. The Party in Default shall diligently endeavor to cure, correct or remedy the matter complained of, provided such cure, correction or remedy shall be completed within the applicable time period set forth herein after receipt of written notice (or such additional time as may be agreed to by the Complaining Party to be reasonably necessary to correct the matter).

**18.3 Failure to Assert.** Any failures or delays by a Complaining Party in asserting any of its rights and remedies as to any Default shall not operate as a waiver of any Default or of any such rights or remedies. Delays by a Complaining Party in asserting any of its rights and remedies shall not deprive the Complaining Party of its right to institute and maintain any actions or proceedings, which it may deem necessary to protect, assert, or enforce any such rights or remedies.

**19. Attorneys' Fees and Costs in Legal Actions by Parties to the Agreement.** If either Party brings an action or proceeding (including, without limitation, any cross-complaint, counterclaim, or third-party claim) against another Party by reason of a Default, or otherwise arising out of this Agreement, the prevailing Party in such action or proceeding shall be entitled to its costs and expenses of suit, including but not limited to reasonable attorneys' fees (including, without limitation, costs and expenses), which shall be payable whether or not such

action is prosecuted to judgment. **“Prevailing Party”** shall include, without limitation, a Party who dismisses an action for recovery hereunder in exchange for payment of the sums allegedly due, performance of covenants allegedly breached, or consideration substantially equal to the relief sought in the action.

**20. Attorneys’ Fees and Costs in Legal Actions by Third Parties.** If any person or entity not a Party to this Agreement initiates an action at law or in equity to challenge the validity of any provision of this Agreement, the Project Approvals or the Subsequent Approvals, the Parties shall cooperate in defending such action. Landowner shall bear its own costs of defense as a real party in interest in any such action, and Landowner shall timely reimburse County for all costs (including court costs) and attorneys’ fees incurred by County in defense of any such action or other proceeding. For purpose of this provision, **“timely”** reimbursement means full payment but Landowner of all costs incurred by County, as applicable, not later than 45 days following Landowner’s receipt of an invoice from County describing costs previously incurred by County in defense of such action. In its sole discretion, Landowner may tender its defense of such action to Landowner or defend the action itself. Upon tender of defense to Landowner by County, Landowner shall defend through counsel approved by County, which approval shall not be unreasonably withheld, and Landowner shall bear all attorneys’ fees and costs from the date of tender.

**21. Third Party Court Action/Limitation on Action.** If any court action or proceeding is brought by any third party to challenge any Project Approval or this Agreement, then (a) Landowner shall have the right to terminate this Agreement upon 30 days’ notice, in writing to County, given at any time during the pendency of such action or proceeding, or within 90 days after the final determination therein (including any appeals), irrespective of the nature of such final determination, and (b) any such action or proceeding shall constitute a Permitted Delay(s).

**22. Agreement Runs with the Land.** Except as otherwise provided for in this Agreement, all of the provisions, agreements, rights, terms, powers, standards, covenants, and obligations contained in this Agreement shall be binding upon the Parties and their respective heirs, successors and assignees, representatives, lessees, and all other Persons acquiring the Property, or any portion thereof, or any interest therein, whether by operation of law or in any manner whatsoever. All of the provisions of this Agreement shall be enforceable as equitable servitudes and shall constitute covenants running with the land pursuant to applicable laws, including, but not limited to, Section 1468 of the Civil Code of the State of California, and the burdens and benefits shall be binding upon and inure to the benefit of each of the Parties and their respective heirs, successors (by merger, consolidation, or otherwise), assigns, devisees, administrators, representatives, and lessees.

**23. Excuse for Nonperformance.** Notwithstanding anything to the contrary in this Agreement, Landowner and County shall be excused from performing any obligation or undertaking provided in this Agreement, except any obligation to pay any sum of money under the applicable provisions hereof, in the event and so long as the performance of any such obligation is prevented or delayed, retarded or hindered by act of God, fire, earthquake, flood, explosion, action of the elements, war, civil unrest, quarantine restrictions, invasion, insurrection, riot, mob violence, sabotage, inability to procure or shortage of labor, equipment, facilities, materials or supplies in the open market, failure of transportation, freight embargoes, strikes,

lockouts, labor disputes, condemnation, requisition, changes in Laws, litigation, orders of governmental, civil, military or naval authority, the failure of any governmental agency, public utility or communication or transportation provider to issue a permit, authorization, consent, or approval required for development, construction, use, or operation of the Project or portion thereof within typical, standard or customary timeframes, or any other cause, whether similar or dissimilar to the foregoing, not within the control of the Party claiming the extension of time to perform (a “**Permitted Delay**”). The Party claiming such extension shall send written notice of the claimed extension to the other Party within 30 days from the commencement of the cause entitling the Party to the extension.

**24. Third Party Beneficiary.** This Agreement is made and entered into solely for the protection and benefit of the Landowner and County, and their respective successors and assigns, and no other Person shall have any right of action based upon any provision in this Agreement.

**25. Notice.** Any notice to any Party required by this Agreement, the enabling legislation, or the procedure adopted pursuant to Government Code Section 65865, shall be in writing and given by delivering the same to such party in person or by sending the same by registered or certified mail, or express mail, return receipt requested, with postage prepaid, to the party’s mailing address. The respective mailing addresses of the Parties are, until changed as hereinafter provided, the following:

**County:** Napa County  
1195 Third Street, Suite 310  
Napa, California 94559  
Attn: County Executive Officer

With a copy to: Napa County Counsel  
1195 Third Street, Suite 301  
Napa, California 94559

**Landowner:** David C. and Elizabeth P. Carroll  
1055 Monticello Road  
Napa, California 94558

With a copy to: Coblenz, Patch, Duffy & Bass, LLP  
700 Main Street, Suite 3000  
Napa, CA 94558  
Attn: Jeff Dodd

Any Party may change its mailing address at any time by giving written notice of such change to the other Party at least 10 days prior to the date such change is affected. All notices under this Agreement shall be deemed given, received, made or communicated on the date personal delivery is effected or, if mailed, on the delivery date or attempted delivery date shown on the return receipt.

**26. Severability.** Except as set forth herein, if any term, covenant or condition of this Agreement or the application thereof to any Person, entity or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term, covenant or condition to Persons, entities or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term, covenant or condition of this Agreement shall be valid and be enforced to the fullest extent permitted by law; provided, however, if any provision of this Agreement is determined to be invalid or unenforceable and the effect thereof is to deprive a Party hereto of an essential benefit of its bargain hereunder, then such Party so deprived shall have the option to terminate this entire Agreement from and after such determination.

**27. Waiver; Remedies Cumulative.** Failure by a Party to insist upon the strict performance of any of the provisions of this Agreement by the other Party, irrespective of the length of time for which such failure continues, shall not constitute a waiver of such Party's right to demand strict compliance by such other Party in the future. No waiver by a Party of a Default shall be effective or binding upon such Party unless made in writing by such Party and no such waiver shall be implied from any omission by a Party to take any action with respect to such Default. No express written waiver of any Default shall affect any other Default, or cover any other period of time, other than any Default and/or period of time specified in such express waiver. Except as provided in Section 18, all of the remedies permitted or available to a Party under this Agreement, or at law or in equity, shall be cumulative and not alternative, and invocation of any such right or remedy shall not constitute a waiver or election of remedies with respect to any other permitted or available right or remedy.

**28. Applicable Law and Venue.** This Agreement, and the rights and obligations of the Parties, shall be governed by and interpreted in accordance with the laws of the State of California. The Parties agree that any lawsuit or legal proceeding arising hereunder shall be heard in the Federal District Court in the Northern District (San Francisco branch) if in federal court or the Napa County Superior Court if in California Superior Court.

**29. Further Assurances.** Each Party covenants, on behalf of itself and its successors, heirs and assigns, to use good faith efforts to take all actions and do all things as may reasonably be necessary or appropriate to carry out this Agreement, the Project Approvals and Subsequent Approvals, and to execute, with acknowledgment or affidavit if required, any and all documents and writings that may be necessary or appropriate to achieve the purposes and objectives of this Agreement, the Project Approvals and Subsequent Approvals.

**30. Not a Public Dedication.** Except as provided herein and in the Project Approvals, nothing contained herein shall be deemed to be a gift or dedication of the Property to the general public, for the general public.

**31. Entire Agreement.** This Agreement and the Exhibits hereto contain all the representations and the entire agreement between the Parties with respect to the subject matter hereof. Except as otherwise specified in this Agreement, any prior correspondence, memoranda, agreements, warranties or representations are superseded in total by this Agreement.

**32. Form of Agreement; Entirety; Recordation; Exhibits.**

**UPDATE WHEN FINALIZING** This written Agreement, which consists of twenty-four (24) pages and five (5) exhibits (Exhibits A through E), contains all of the representations and the entire agreement between the Parties with respect to its subject matter. Except as otherwise specified herein, any prior correspondence, memoranda, agreements, warranties or representations by, among and between the Parties are superseded in total by this Agreement. The County shall cause this Agreement, any amendment hereto and any termination of any parts or provisions hereof, to be recorded, at County's expense, with the County Recorder within 10 days of the Adoption Date, the date of the approval of an amendment hereto, or the date of termination of any parts or provisions hereof, as applicable. Any amendment or termination of this Agreement to be recorded that affects less than all of the Property shall describe the portion thereof that is the subject of such amendment or termination. This Agreement is executed in three duplicate originals, each of which is deemed to be an original.

EXHIBIT DESIGNATION	DESCRIPTION
A	Legal Description of Property
B	Depiction of the Property
C	Rezone Project Description
D	Initial Study
E	Applicable Rules
F	Placeholder

**33. Construction of Agreement.** The provisions of this Agreement shall be construed as a whole according to their common meaning in order to achieve the objectives and purposes of the Parties, and not strictly for or against any Party. The captions and headings are included only for convenience of reference and shall be disregarded in the construction and interpretation of this Agreement. Wherever required by the context, the singular shall include the plural and vice versa, and the masculine gender shall include the feminine or neuter genders, or vice versa. The use in this Agreement of the words “including”, “such as” or words of similar import when following any general term, statement or matter shall not be construed to limit such statement, term or matter to the specific items or matters, whether or not language of non-limitation, such as “without limitation” or “but not limited to”, or words of similar import, are used with reference thereto, but rather shall be deemed to refer to all other items or matters that could reasonably fall within the broadest possible scope of such statement, term or matter. This Agreement has been reviewed and revised by legal counsel for Landowner and Local Agency, and no presumption or rule that ambiguities shall be construed against the drafting Party shall apply to the interpretation or enforcement of this Agreement.

**34. Signature Pages.** For convenience, the signatures of the Parties to this Agreement may be executed and acknowledged on separate pages in counterparts which, when attached to this Agreement, shall constitute this as one complete Agreement.

**35. Time Is of the Essence.** Time is of the essence of this Agreement and of each and every term and condition hereof.

**36. Enforcement.** Unless amended or canceled as provided in this Agreement, or modified or suspended pursuant to California Government Code Section 65869.5, this Agreement is enforceable by either Party despite any change in any applicable general or specific plan, zoning, subdivision, or building regulation or other applicable ordinance or regulation adopted by County that purports to apply to any or all of the Property.

**37. Non-Liability of County Officers and Employees.** No official, officer, director, employee, agent, or representative of either Party shall be personally liable to the other Party or its successors and assigns for any loss arising out of or connected with this Agreement.

**38. Authority to Execute.** The persons executing this Agreement warrant and represent that they have the authority to execute this Agreement on behalf of the entity for which they are executing this Agreement. They further warrant and represent that they have the authority to bind their respective Party to the performance of its obligations under this Agreement.

**39. Bankruptcy.** The obligations of this Agreement shall not be dischargeable in bankruptcy.

**[REMAINDER OF THIS PAGE LEFT BLANK INTENTIONALLY]**

**[SIGNATURE PAGE FOLLOWS]**

David C. Carroll and Elizabeth P. Carroll, Trustees  
of The Carroll Living Trust dated May 25, 2013

\_\_\_\_\_  
By: David C. Carroll  
Its: Trustee

\_\_\_\_\_  
By: Elizabeth P. Carroll  
Its: Trustee

“LANDOWNER”

NAPA COUNTY, a political subdivision of the  
State of California

\_\_\_\_\_  
BRAD WAGENKNECHT, Chair of the  
Board of Supervisors

“COUNTY”

<p>APPROVED AS TO FORM Office of County Counsel</p> <p>By: _____ Deputy County Counsel</p> <p>Date: _____</p>	<p>ATTEST: JOSE LUIS VALDEZ Clerk of the Board of Supervisors</p> <p>By: _____</p>	<p>APPROVED BY THE NAPA COUNTY BOARD OF SUPERVISORS</p> <p>Date: _____ Processed By: _____ Deputy Clerk of the Board</p>
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**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

CIVIL CODE § 1189

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )  
County of \_\_\_\_\_ )

On \_\_\_\_\_ before me, \_\_\_\_\_, Notary Public,  
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.

Signature: \_\_\_\_\_



**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

CIVIL CODE § 1189

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )  
County of \_\_\_\_\_ )

On \_\_\_\_\_ before me, \_\_\_\_\_, Notary Public,  
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.

Signature: \_\_\_\_\_