

# CITY OF AMERICAN CANYON

## Public Works Department

December 17, 2008

*Gateway to the Napa Valley*



Hilary Gitelman  
Napa County Planning Department  
1195 Third Street, Room 210  
Napa, CA 94559

SUBJECT: November 6, 2008, Request for Water Service "Will Serve" Letter  
Napa County APN 057-200-010, 012 and 013  
477 Devlin Road and 211, 215 and 221 Gateway Road West

Dear Ms. Gitelman:

The City of American Canyon ("City") has received a request from Mr. Charles Slutzkin on behalf of the Napa Valley Gateway Business Park (Applicant) for a "Will Serve" letter for the use as described below related to a Tentative Map for the real property located at 477 Devlin Road and 211, 215 and 221 Gateway Road West at Napa County Assessor's Parcel Numbers 057-200-010, 012 and 013 ("the Property"). The request is subject to both City and State legal requirements as detailed below.

At the May 6, 2000, City Council meeting, the City of American Canyon adopted Ordinance No. 2000-04, which revised the City's "Will Serve" policy for development outside the City's Urban Limit Line but inside its Water Service Area. Under City Ordinance No. 2000-04, the City is required to impose certain conditions and exactions prior to receiving water service for the above parcel. On October 23, 2007, the City Council of the City of American Canyon adopted a Zero Water Footprint Policy, further defining its water policy. The City's understanding of the development of this property is based on the representations of the Applicant in a communication on November 6, 2008, from Mr. Slutzkin which states that the development and use of the Property is for office, warehouse and industrial space.

The Applicant is proposing to convert existing buildings into condominiums. The attached table outlines the anticipated water usage at the development.

The use and water use are as follows:

Office/warehouse/industrial:	58,800 square feet
Total lot acreage:	5.70 acres

Maximum Daily Water Demand in gallons per day:

Irrigation:	0 gpd
Domestic:	11,115 gpd
Industrial:	0 gpd
Combined peak daily water usage:	11,115 gpd

Annual Average Daily Water Demand in gallons per day:

Irrigation:	0 gpd
Domestic:	3,705 gpd
Industrial:	0 gpd
Combined peak daily water usage:	3,705 gpd



City records as of the date of this letter indicate 148,782 gpd are being used by existing projects or have been allocated to permitted development projects within Napa Valley Gateway. A will serve letter was issued for the site in January 1980. The spreadsheet used to track Napa Valley Gateways water demand includes an average day demand of 1,754 gpd for APN 057-200-010, 012 and 13. The spreadsheet will be revised to increase the allocation for the site by 1,951gpd (3,705 gpd -1,754 gpd). Therefore the new total water demand for Napa Valley Gateway is 150,733 gpd (148,782 gpd plus 1,951 gpd). The water demand of 150,733 gpd is less than the cap of 191,100 gpd agreed upon between the City of American Canyon and Mr. Charles Slutzkin of Napa Valley Gateway Development on December 13, 2002.

#### City Review

The City review of the proposed development is required as described previously, as well as established by City procedures which are meant to ensure that Will Serve Letters are only issued based on assumed water and sewer demands for specified allowed densities of development, taking into account the overall demand for water and the overall demand for effluent discharge within the City's system.

The City will provide the level of water service requested by the Applicant, subject to the following conditions and/or the continued existence of the following described conditions:

1. Applicant shall be subject to the City's rules and regulations in force at the time application for service for the authorized and described development is made, including all fees and charges, unless otherwise agreed in writing.
2. If development different from that presently proposed and authorized is pursued the applicant shall construct all facilities required to serve the development property which shall be determined by the City based on the authorized and described development. Applicant shall bear 100% of the costs of the facilities required to serve the development property, subject to review and approval of the City's Public Works Department. Applicant shall also be responsible for paying its proportionate fair-share allocation of any additional regional facilities required to serve the development property, including, but not limited to, participation in a mutual beneficial assessment district to be initiated by others.
3. If development different from that presently proposed and authorized is pursued the applicant shall submit to the City cost estimates for the construction of all on- and off-site public water facilities required for the authorized and described development. If the City finds the costs reasonable, the Applicant shall pay to the City an amount equal to Applicant's proportionate fair share of 5% of the agreed-upon construction costs to cover plan check and inspection services by the City. This fee is fixed and non-refundable. This Will Serve Letter is conditional upon the City's agreeing in writing to the estimated costs.
4. The Applicant shall waive all present and future protest(s) to a 40% surcharge on water rates for outside-the-City users or such other surcharge on water rates for outside-the-City uses as may be formulated by the City.
5. Because the City faces a cutback of up to 96% in its allocation from the State Water Project during extremely dry years, as documented by the City's Urban Water Management Plan, it is seeking additional water supply in the form of transfers of rights.



The cost of this water supply is not known, nor is it included in the current City rates. The City is considering a drought surcharge on all customers, existing and new, in order to finance a drought reserve. The Applicant agrees to waive any protest to such a drought surcharge during its formulation and implementation and review under the California Environmental Quality Act, Public Resources Code section 21000 *et seq.* ("CEQA").

6. As a result of *Vineyard Area Citizens for Responsible Growth v. Rancho Cordova* (2007) 40 Cal.4<sup>th</sup> 412, the lead agency as defined under CEQA, here the County, in its environmental review of a development project, including what is currently proposed by the Applicant, must at a minimum accomplish an environmental review under CEQA that: (a) presents sufficient facts to evaluate the pros and cons of supplying the water that the project will need; (b) presents an analysis that assumes that all phases of the project will be built and will need water, and includes an analysis to the extent reasonably possible of the consequences of the impacts of providing water to the entire project; and (c) where it is impossible to determine that anticipated future water sources will be available, some discussion of possible replacement sources or alternatives to use of anticipated water and of the environmental consequences of those impacts must be presented. *Vineyard, supra*, 40 Cal.4<sup>th</sup> 430-434.

This Will Serve Letter supersedes all prior purported Will Serve Letters and service commitments to the development of the Property with any use. This Will Serve Letter will remain valid for a period of two years from its date and is only valid for the authorized development. The City reserves the right to further condition extension of water service if development different from that presently proposed and authorized is pursued or if events out the City's control impact the City's ability to furnish water.

Except to the extent set forth, this letter does not create a liability or responsibility to the Applicant or to any third party on behalf of the City. The City does not make a determination as to land use entitlements required for the proposed project, and the issuance of this Will Serve Letter shall not be construed to be an expression of the City of a position regarding the use or intensity of use of the development property or that the County has complied with applicable law in assessing the proposed project under CEQA.

This Will Serve Letter only becomes effective upon acceptance of the conditions set forth in this letter by execution of the acceptance provision set forth below and the transmittal of the executed acceptance to the City Public Works Department.

Very truly yours,



Charles J. Beck, P.E.  
Public Works Director

cc: Richard Ramirez, City Manager  
William D. Ross, City Attorney  
Charles Slutzkin, Napa Valley Gateway

ACCEPTANCE

I, Charles Heston, accept the conditions set forth in this communication.

AUTHORIZED AGENT FOR  
NVGR, LLP  
(Title)

Date: 12/18/08

\_\_\_\_\_  
(Title)

Date: \_\_\_\_\_