

# CITY OF AMERICAN CANYON

## Public Works Department

*Gateway to the Napa Valley*



December 17, 2008

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

SUBJECT: Request of August 22, 2008, for Water Service "Will Serve" Letter  
Napa County APN 057-110-028  
241 Tower Road

Dear Ms. Gitelman:

The City of American Canyon ("City") has received a request from Mr. John McCann (Applicant) on behalf of Tower road Winery Coop (Owner) for a "Will Serve" letter for improvements and use as described below related to the proposed improvement of real property located at 241 Tower Road at Napa County Assessor's Parcel Number 057-110-028 ("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 dated August 22, 2008, from Mr. John McCann which states that the proposed development and use of the Property is warehouse space.

The Applicant is proposing to construct a 13,307 square foot metal building for wine storage. The attached table outlines the anticipated water usage at the proposed development.

The use and water use are as follows:

Existing Warehouse:	340,021 square feet
Proposed Warehouse	13,307 square feet
Total lot acreage:	9.66 acres

**Existing Maximum Daily Water Demand in gallons per day:**

Irrigation:	412 gpd
Domestic:	490 gpd
Industrial	0 gpd
Combined peak daily water usage:	902 gpd

**Existing Annual Average Daily Water Demand in gallons per day:**

Irrigation:	398 gpd
Domestic:	308 gpd
Industrial:	0 gpd
Combined peak daily water usage:	706 gpd

**Proposed Maximum Daily Water Demand in gallons per day:**

Irrigation:	412 gpd
Domestic:	490 gpd
Industrial:	0 gpd
Combined peak daily water usage:	902 gpd

**Proposed Annual Average Daily Water Demand in gallons per day:**

Irrigation:	398 gpd
Domestic:	308 gpd
Industrial:	0 gpd
Combined peak daily water usage:	706 gpd

**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. 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. 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. The City of American Canyon has submitted an application to the Local Agency Formation Commission ("LAFCO") to expand the City's Sphere of Influence to be consistent with its approved and adopted General Plan. The Applicant, Owner and its agents agree to actively support in writing the City in its SOI application before LAFCO.
7. LAFCO is currently considering how the City may extend water service outside its City Limits and SOI in association with the provisions of Government Code section 56133. The City represents that the provision of water service set forth in this communication is subject to LAFCO review as may be provided consistent with the provisions of Government Code 56133.
8. 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.
9. On October 23, 2007, the City Council of the City of American Canyon adopted a Zero Water Footprint Policy. As a result of this policy those applicants requesting an increased demand for water will be required to pay a surcharge on their monthly water rate. Because this project is not requesting an increase demand for water there will be no such surcharge applied to the monthly rate. If however in the future there is an increase demand for water the surcharge will be applied.

**Letter to Hilary Gitelman**

**December 17, 2008**

**Page 4**

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,

A handwritten signature in black ink, appearing to read "Charles J. Beck", written in a cursive style.

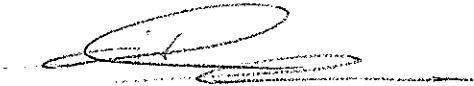
Charles J. Beck, P.E.

Public Works Director

cc: Richard J. Ramirez, City Manager  
William D. Ross, City Attorney  
Dennis Rutherford, Tower Road Winery

## ACCEPTANCE

I, JOHN MCCANN, accept the conditions set forth in this communication.



PROJ. MGR Date: 2/10/2009  
(Title)

\_\_\_\_\_  
(Title) Date: \_\_\_\_\_