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: Oak Creek Terrace

AGREEMENT FOR CAPACITY FEE DEFERRAL

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 Oak Creek Terrace, L.P., a California Limited Partnership (hereinafter "Owner").

RECITALS

A. Owner will be developing a 41-unit housing complex known as Oak Creek Terrace, located within the District's service area, in the City of Napa, California.

B. Oak Creek Terrace will be developed on Assessor's Parcel No. 042-312-012, 2662 First Street in the City of Napa, County of Napa, State of California.

C. District normally requires the payment of capacity fees prior to the issuance of a building permit for each dwelling unit.

D. The Owner has requested that the District defer the payment of capacity fees on the subject development because the Owner will be constructing forty (40) affordable housing units within the development, which meets the basic condition of ten percent (10%) inclusionary affordable homes on-site condition required by the City of Napa and District policy.

E. District has determined that the construction of forty (40) affordable housing units meets the basic affordable housing inclusionary requirement required by the City of Napa and deferral of the payment of capacity fees is allowed per District policy.

AGREEMENT

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

1. District will, in consideration of Owner's agreement to pay the capacity fees pursuant to section 2 below at a later date, allow Owner to defer payment of the capacity fees beyond the issuance of building permit when they are ordinarily due.

2. Owner shall pay the capacity fees for Oak Creek Terrace at or prior to the date of occupancy, but in no event shall payment be made later than 18 months from the date of execution of this Agreement.

3. If payments are not received by District at date of occupancy, or within 18 months from the date of execution of this Agreement, whichever occurred first, Owner shall pay penalties on the unpaid balance at the rate of 1% per month.

4. Owner shall secure from the Owner's lender a letter stating that the capacity charges have been noted as payable and that the funds have been set aside for payment of the charges. The Owner shall submit the letter to the District prior to recordation of this Agreement.

5. This Agreement shall be recorded as a lien against the property, until such time as the capacity fees have been paid.

6. Upon execution of this Agreement by Owner, the requirement for payment of capacity fees prior to the issuance of building permits for Oak Creek Terrace shall be deferred.

7. This Agreement constitutes the entire understanding between the parties with respect to the subject matter hereof and no obligations other than those set forth in this Agreement shall be recognized by or binding upon the parties.

OWNER: Oak Creek Terrace, L.P.
c/o Napa Valley Community Housing
Attn: Executive Director
Five Financial Plaza, Suite 200
Napa CA 94558

DISTRICT: Napa Sanitation District
1515 Soscol Ferry Road
Napa, CA 94558

8. INTERPRETATION The parties agree that they have carefully reviewed this Agreement, have consulted independent counsel if they saw fit or have independently elected not to do so. The doctrine that any ambiguities in a contract are to be resolved against the drafting party, shall not be employed in the interpretation of this Agreement or any

amendments or exhibits hereto. This Agreement shall be interpreted and construed according to the domestic laws of the State of California, without regard to the choice of law doctrine.

9. SEVERABILITY If any part, term, or provision of this Agreement is held by any court to be unlawful and void, the validity of the remaining portions shall not be affected and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term or provision held to be invalid.

10. MODIFICATION This Agreement may be modified or amended only with the prior written consent of the parties, or their successors in interest. Such modifications and amendments shall be executed with the same formality as this Agreement, shall be recorded, and shall be interpreted as provided in this Agreement.

11. EFFECTIVE DATE This Agreement shall become effective on the date of execution, which shall be deemed to be the date first written above.

12. QUITCLAIM DEED Upon performance of Owner's obligations under this Agreement, District agrees, if requested by Owner, to execute, acknowledge and deliver a quitclaim deed to Owner within thirty (30) days after performance and to execute, acknowledge and deliver any other documents required by any title company to remove the cloud of this Agreement from the title to the Subject Property(s).

* * * * * * * * * * * * * *

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

OWNER:

OAK CREEK TERRACE, L.P.
By: Napa Valley Community Housing,
a California nonprofit
public benefit corporation,
its general partner

By: Kathleen Dreessen
Kathleen Dreessen
Executive Director

NAPA SANITATION DISTRICT:

Napa Sanitation District, a California Special District

By: _____
Jill Techel
Chair, Board of Directors

ATTEST:

By: _____
Cheryl Schuh
Secretary, Board of Directors

APPROVED AS TO FORM:

By: _____

John Bakker
District Legal Counsel

California All-Purpose Acknowledgment

State of California
County of Napa } **S.S.**

On 9/8/14 before me, Karina O'Briain,
Name of Notary Public: Title

personally appeared Kathleen Dreessen
Name of Signer (1)

Name of Signer (2)

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.

Ki O'Bi

Signature of Notary Public

KARINA B. O'BRIAIN
COMM. #2029014
Notary Public · California
Napa County
My Comm. Expires June 14, 2017

Seal

OPTIONAL INFORMATION

Although the information in this section is not required by law, it could prevent fraudulent removal and reattachment of this acknowledgment to an unauthorized document and may prove useful to persons relying on the attached document.

Description of Attached Document

The preceding Certificate of Acknowledgment is attached to a document titled/for the purpose of Agreement For Capacity Fee Deferral.,

containing 5 pages, and dated _____.

The signer(s) capacity or authority is/are as:

- ☐ Individual(s)
- ☐ Attorney-in-fact
- ☐ Corporate Officer(s) _____
  Title(s)
- ☐ Guardian/Conservator
- ☐ Partner - Limited/General
- ☐ Trustee(s)
- ☐ Other: _____

representing: _____
Name(s) of Person(s) Entity(ies) Signer is Representing

Additional Information

Method of Signer Identification

Proved to me on the basis of satisfactory evidence:
☐ form(s) of identification ☐ credible witness(es)

Notarial event is detailed in notary journal on:
Page # _____ Entry # _____

Notary contact: _____

Other

☐ Additional Signer ☐ Signer(s) Thumbprints(s)

☐ _____

© 2009-2012 Notary Learning Center - All Rights Reserved