

**AMENDMENT NO. 1 TO CITY AGREEMENT NO.7247
AGREEMENT FOR SALE OF RECYCLED WATER WITHIN CITY OF NAPA WATER SERVICE AREA**

City Budget Code: _____

This Amendment No. 1 ("**Amendment**") to City Agreement No. 7247, entitled "Agreement between City of Napa and Napa Sanitation District for Sale of Recycled Water" ("**Agreement**"), by and between the City of Napa, a California charter city ("**City**"), and the Napa Sanitation District, a public district formed and governed by California Health and Safety Code section 4700 et seq. ("NSD") is effective on the Effective Date identified on the signature page.

RECITALS

A. On or about August 4, 1998, the City and NSD entered into the Agreement, which describes the terms by which the City authorizes NSD to sell recycled water within a portion of the City's water service area, as identified as the "Original ReUse Area" depicted on Exhibit "A," attached hereto and incorporated herein by reference.

B. NSD has constructed recycled water pipelines to serve areas outside the City's water service area to the east of the City limits, and those pipelines have capacity to serve additional properties that are outside the Original ReUse Area but within the City's water service area, generally located along Coombsville Road, in the areas as identified as the "Additional ReUse Area" ("Tulocay Cemetery" and "Silverado Middle School") depicted on Exhibit "D," attached hereto and incorporated herein by reference.

C. NSD has requested approval from the City, in accordance with the terms of this Amendment, to allow the sale of recycled water within the Additional ReUse Area.

NOW, THEREFORE, the City and NSD, for the mutual consideration described herein, agree as follows:

1. INCORPORATION BY REFERENCE. This Amendment incorporates the Agreement by reference, except and only to the extent that any terms or conditions of the Agreement are specifically modified by this Amendment. All terms and conditions in the Agreement that are not specifically modified by this Amendment remain in full force and effect.

2. AMEND AGREEMENT SECTION 1. Agreement Section 1 is hereby deleted in its entirety and replaced with the following:

"1. "City is the sole purveyor of water within its water service area; provided however, City agrees that NSD may provide and deliver recycled water within a portion of the City's water service area designated herein as the ReUse Area, in accordance with the terms of this Agreement."

3. AMEND AGREEMENT SECTION 2. Agreement Section 2 is hereby deleted in its entirety and replaced with the following:

"2. Service area for Recycled Water Delivery Designated:

a. Upon execution of this Agreement, and during its term, City shall permit NSD to solicit customers for its recycled water and to deliver recycled water to customers within the portion of the City's water service area defined and referred to herein as the "ReUse Area." The ReUse Area shall include the "Original ReUse Area" (as shown on Exhibit "A") and the "Additional ReUse Area" (as shown on Exhibit "D"). The ReUse Area includes:

- (1) The portion of the Original ReUse Area shown on Exhibit "A" as the area east of the Napa River, south of Imola Avenue, west of Highway 221, and north of the City of American Canyon water service area, and;
- (2) The portion of the Original ReUse Area shown on Exhibit "A" as the properties known as "Stanley Ranch", "South Napa Market Place", "Napa State Hospital," and the former NSD property north of and adjacent to Imola Avenue east of the Napa River, and;
- (3) The Additional ReUse Area shown on Exhibit "D" as the properties on Coombsville Road designated as "Tulocay Cemetery" and "Silverado Middle School".

b. Delivery of recycled water within any portions of the City's water service area that are outside the ReUse Area shall require the prior written approval of the City.

c. City shall not agree to or approve of the delivery of recycled water within the ReUse Area other than by NSD during the term of this Agreement."

4. ENTIRE AGREEMENT. The Agreement, as modified by this Amendment, constitutes the entire integrated understanding between the parties concerning the delivery of recycled water service within the ReUse Area. This Amendment supersedes all prior negotiations, agreements and understandings regarding the delivery of recycled water service within the ReUse Area, whether written or oral. The documents incorporated by reference into this Amendment are complementary; what is called for in one is binding as if called for in all, except and only to the extent otherwise specified. If any provision in an exhibit to this Amendment conflicts with or is inconsistent with a provision in the body of this Amendment, the provisions in the body of this Amendment will control over any such conflicting or inconsistent provisions.

5. SIGNATURES. The individuals executing this Amendment represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Amendment on behalf of the respective legal entities of NSD and City. This Amendment shall inure to the benefit of and be binding upon the parties hereto and their respective successors and authorized assigns.

ATTACHMENT 2

IN WITNESS WHEREOF, the Parties have executed this Amendment to be effective on the Effective Date set forth below.

CITY:
CITY OF NAPA, a California charter city

NSD:
**Napa Sanitation District, a public district
formed and governed by California Health and
Safety Code Sections 4700, *et seq.***

By: _____
Jacques R. LaRochelle, Public Works Director

By: _____

Printed Name and Title

ATTEST:

ATTEST:

Dorothy Roberts, City Clerk

District Secretary

Date: _____
("Effective Date")

COUNTERSIGNED:

Desiree Brun, City Auditor

APPROVED AS TO FORM:

APPROVED AS TO FORM:

Michael W. Barrett, City Attorney

District Legal Counsel

EXHIBIT A

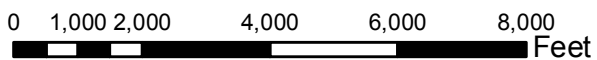
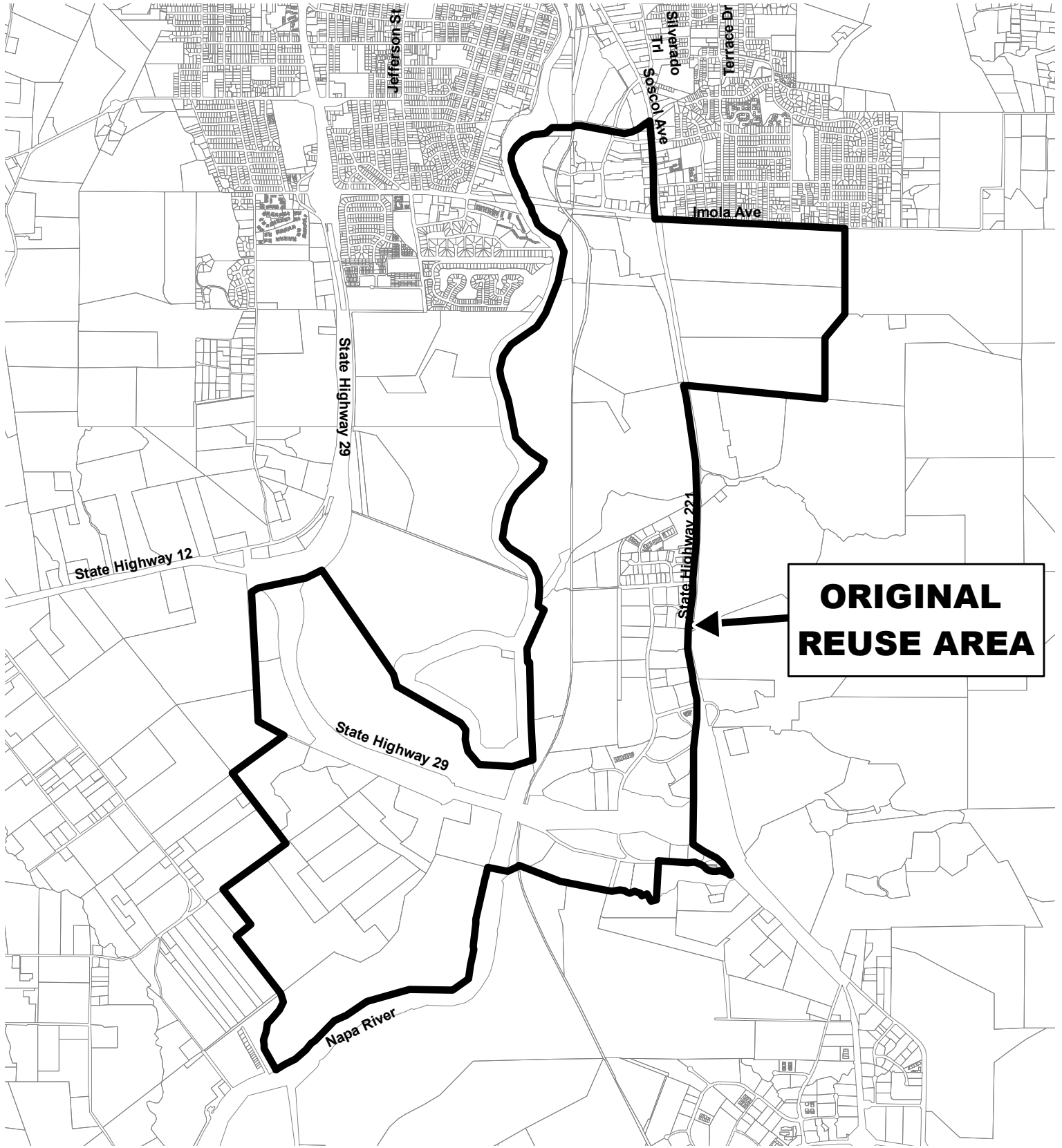


EXHIBIT D

