

**RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:**

MP 414 Petaluma Associates, LP
c/o MidPen Housing Corporation
303 Vintage Park Drive, Suite 250
Foster City, CA 94404
Attn: Riley Weissenborn

(SPACE ABOVE FOR RECORDER'S USE ONLY)

Exempt from the fee per GC 27388.1(a)(2);
Executed or recorded by government agency.
APN 006-163-044

Transfer Tax Exempt - R&T 11911 No Consideration
for value less than \$100

CONSENT AGREEMENT

This Consent Agreement (“Agreement”) is made by and between the Sonoma County Water Agency, a body corporate and politic, organized and existing under and by virtue of the laws of the State of California (hereinafter referred to as “Sonoma Water”), and MP 414 Petaluma Associates, LP, a California limited partnership (hereinafter referred to as “MidPen”), and affects certain lands of MidPen situated in the City of Petaluma, County of Sonoma, State of California as described in that certain Grant Deed recorded May 13, 2021, as Document 2021-058531, Official Records of the County of Sonoma, and commonly known as Sonoma County Assessor’s Parcel Number 006-163-044.

WHEREAS, Sonoma Water is the owner of a right of way and easement for purposes of construction, maintenance, repair and operation of underground water transmission pipelines and appurtenant installations described in the Easement from Benjamin Bassi to the Sonoma County Flood Control and Water Conservation District recorded April 11, 1961 in Book 1817 of Official Records of the County of Sonoma, beginning at Page 611 (hereinafter referred to as “Sonoma Water’s Easement”). The location of the Easement (hereinafter referred to as the “Easement Area”) is more particularly described in Exhibit A and shown for reference in Exhibit A-1, which are attached hereto and by this reference made a part hereof; and

WHEREAS, MidPen desires to construct certain parking lot and landscaping improvements within the Easement Area, as shown on the improvement plans entitled “414 Petaluma Boulevard Apartments, Site Improvement Plans”, dated June 24, 2020, prepared by Adobe Associates, Inc., and “414 Petaluma Boulevard Apartments, Entitlement Set”, dated March 18, 2020, prepared by LPAS Architecture + Design (hereinafter referred to as the “Project Improvements”), as said improvement plans have been approved for construction by Sonoma Water (such approved plans referred to as the “Project Improvement Plans”).

NOW, THEREFORE, Sonoma Water hereby consents to the uses and activities required for MidPen, its successors and assigns, to construct and maintain the Project Improvements within Easement Area, subject to the following terms and conditions:

1. Consent to Use of Sonoma Water's Easement. Sonoma Water hereby consents to the uses and activities required for constructing and maintaining the Project Improvements within the Easement Area by MidPen, its successors and assigns, which would otherwise be prohibited under the terms and conditions of Sonoma Water's Easement, provided that said uses do not (i) materially interfere with Sonoma Water's use of the Easement Area in accordance with Sonoma Water's Easement, or (ii) materially interfere with, damage or restrict Sonoma Water's use of any present or future improvements belonging to Sonoma Water and located within the Easement Area (collectively, the "Sonoma Water Improvements"). Notwithstanding the foregoing, or anything to the contrary contained herein, to the extent that any rights granted to MidPen under this Agreement may conflict with the rights of Sonoma Water pursuant to Sonoma Water's Easement, the parties agree to meet and confer to resolve such conflict in a manner that allows MidPen to exercise of its rights under this Agreement in a manner that does not interfere with Sonoma Water's ability to exercise its rights and perform its governmental functions pursuant to Sonoma Water's Easement. Nothing in this Agreement restricts the right of Sonoma Water to install, construct, operate and maintain both its existing improvements and any future improvements within the Easement Area in a manner that does not materially interfere with the rights granted to Midpen herein.

2. Construction, Alteration, Modification or Relocation of Project Improvements within Easement Area. It shall be the sole obligation of MidPen and/or MidPen's contractor(s) to secure such permits and approvals as may be required to comply with laws and regulations pertaining to the construction, modification, alteration, reconfiguration or relocation of the Project Improvements or any portions or element(s) of the Project Improvements, and to comply with the requirements thereof. MidPen and/or MidPen's contractor(s) shall obtain a revocable license from Sonoma Water prior to any construction, alteration, modification or relocation of any portions or element(s) of the Project Improvements on or within the Easement Area. Sonoma Water reserves the right to require MidPen or MidPen's contractor(s) to submit to Sonoma Water for review, comment and approval any plans, details and specifications for the construction, modification, alteration, reconfiguration or relocation of the any element of the Project Improvements placed in the Easement Area, as a condition of issuing a revocable license for those purposes. Sonoma Water hereby reserves the right to withhold issuance of such revocable license until any and all comments, requested clarifications or corrections on or to the plans, details and specifications submitted in connection herewith have been addressed to the reasonable satisfaction of Sonoma Water. Subject to the foregoing, Sonoma Water agrees not to unreasonably withhold, condition or delay its granting of any revocable license under this Section 2. Sonoma Water hereby acknowledges and agrees that it has approved of the Project Improvement Plans and has granted to MidPen the revocable license described in this Section 2 for the initial construction of the Project Improvements. Sonoma Water agrees not to revoke such license prior to the completion of such Project Improvements in accordance with the Project Improvement Plans so long as the licensee is in compliance with the terms of the revocable license.

3. Maintenance of Project Improvements. MidPen shall maintain the Project Improvements within the Easement Area at MidPen's sole cost and expense. Any reconstruction or maintenance activities performed by MidPen and related to MidPen's use of the Easement

Area shall not materially interfere with the Sonoma Water's continued use of Easement Area or the Sonoma Water Improvements. MidPen shall not materially alter or reconstruct the Project Improvements without first obtaining (i) Sonoma Water's written approval of the plans for such alteration or reconstruction, and (ii) a revocable license as specified in Section 2 above (which license Sonoma Water shall agree not to revoke until such alteration or reconstruction has been completed in accordance with the approved plans therefor so long as the licensee is in compliance with the terms of the revocable license).

4. Non-Liability of Sonoma Water; Indemnity. Sonoma Water and its officers, agents, and employees shall not be liable to MidPen or any third party for any injury, loss, or damage arising out of or in connection with MidPen's use of the Easement Area consented to herein. MidPen agrees to defend, indemnify, hold harmless, and release Sonoma Water, and its officers, agents, and employees, from and against any and all actions, claims, damages, liabilities, or expenses that may be asserted by any person or entity, including MidPen, relating to the Project Improvements or to the use of the Easement Area granted herein or to any license granted under Section 2, whether or not there is concurrent negligence on the part of Sonoma Water, but excluding, to the extent required by law, liability due to the sole active negligence or sole willful misconduct of Sonoma Water. MidPen agrees to compensate Sonoma Water for any damage to the Sonoma Water Improvements or any other Sonoma Water property as a result of the construction, operation, or maintenance of said Project Improvements. If either future laws and/or regulations, or Sonoma Water's operational, maintenance, safety, security needs or necessities require greater separation or clearance between any element of the Project Improvements and any Sonoma Water Improvements (including future improvements), MidPen shall, to the extent possible, relocate the Project Improvements or any portions or elements thereof that are required in connection therewith, and shall be responsible for any and all costs associated with said relocation.

5. Enforcement. If through inspection or otherwise Sonoma Water determines that MidPen is in violation of the provisions of this Agreement or that a violation is threatened, Sonoma Water shall give written notice to MidPen of such violation and demand corrective action sufficient to cure the violation. If MidPen fails to cure the violation within thirty (30) days after receipt of notice thereof from Sonoma Water, or under circumstances where the violation cannot reasonably be cured within a thirty (30) day period, fails to begin curing such violation within the thirty (30) day period, or fails to continue diligently to cure such violation until finally cured, Sonoma Water may bring an action to enforce the provisions of this Agreement, enjoin the violation, recover damages and reasonable enforcement costs for the violation, and require restoration of the Easement Area to the condition that existed prior to the violation. If Sonoma Water reasonably determines that circumstances require immediate action to prevent or mitigate a violation or threatened violation of the provisions of this Agreement that would result in damage to Sonoma Water or third parties, Sonoma Water may pursue its remedies under this paragraph without prior notice to MidPen and without waiting for the period for cure to expire.

6. Enforcement Discretion. Enforcement of the provisions of this Agreement shall be at the discretion of the parties, and any forbearance by a party to exercise its rights under this Agreement in the event of any breach of any provision of this Agreement by the other party shall not be deemed or construed to be a waiver by the party of such provision or of any subsequent

breach of the same or any other provision of this Agreement or of any of the party's rights under this Agreement. No delay or omission by a party in the exercise of any right or remedy upon any breach by the other party shall impair such right or remedy or be construed as a waiver.

7. Consideration. As consideration for the rights granted to MidPen, its successors and assigns under this Agreement, MidPen shall reimburse Sonoma Water for the staff costs and other expenses that are reasonably incurred by Sonoma Water in connection with its review, comment and approval of the Project Improvement Plans and its preparation, processing, approval, execution and recording of this Agreement.

8. Access and Use. Except as otherwise expressly provided in this Agreement, Sonoma Water retains its right of access to and use of the Easement Area pursuant to Sonoma Water's Easement.

9. Successors. This Agreement shall be binding on and shall inure to the benefit of the parties hereto and their respective successors, heirs, assigns and transferees.

10. Amendment. If circumstances arise under which an amendment or modification of this Agreement would be appropriate, MidPen and Sonoma Water shall be free to jointly amend this Agreement. Any such amendment shall be recorded in the Office of the Sonoma County Recorder.

11. Notices. Any notice, demand, request, approval, or other communication that either party desires or is required to be given under this Agreement shall be in writing and may be given by personal delivery or by mail. Notices, demands, requests, approvals, or other communications sent by mail should be addressed as follows:

Sonoma Water: Sonoma Water
404 Aviation Boulevard
Santa Rosa, CA 95403

MidPen: MP 414 Petaluma Associates, LP
c/o MidPen Housing Corporation
303 Vintage Park Drive, Suite 250
Foster City, CA 94404
Attn: Riley Weissenborn

With a copy to:

Bank of America, N.A.
225 Franklin Street
Mail Code: MA1-225-02-02
Boston, MA 02110

And when so addressed, shall be deemed given upon deposit in the United States Mail, registered or certified, return receipt requested, postage prepaid. In all other instances, notices, demands,

requests, approvals, or other communications shall be deemed given at the time of actual delivery. Changes may be made in the names and addresses of the persons to whom notices, demands, requests, approvals, or other communications are to be given by giving notice pursuant to this section.

[remainder of page left intentionally blank; signature page follows]

IN WITNESS WHEREOF, Sonoma Water and MidPen have executed this Agreement as set forth below.

Sonoma County Water Agency:

Executed by the Sonoma County Water Agency this _____ day of _____, 2022, pursuant to authority granted by Agenda Item No. ____ dated _____:

By: _____ Date: _____
Grant Davis, General Manager

Approved as to Form:

By: _____ Date: _____
Adam Brand
Deputy County Counsel

MidPen:

MP 414 Petaluma Associates, LP,
a California limited partnership

By: MP 414 Petaluma LLC,
a California limited liability company,
its general partner

By: Mid-Peninsula Pickering, Inc.,
a California nonprofit public benefit corporation,
its sole member/manager

By: _____ Date: _____
Jan M. Lindenthal
Assistant Secretary

State of California)
) ss.
County of _____)

On _____, before me, _____, a 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

(Seal)

State of California)
) ss.
County of _____)

On _____, before me, _____, a 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

(Seal)

Exhibit A

Easement Area 2

Real Property situated in the City of Petaluma, County of Sonoma, State of California described as follows:

That portion of the strip of land, 20 feet wide, described by that certain Easement (Deed) from Benjamin Bassi to the Sonoma County Flood Control and Water Conservation District (SCWA) recorded April 11, 1961 in book 1817 of Official Records, page 611-613, Sonoma County Records and as shown on that certain map titled "Record of Survey" filed July 3, 1985 in book 372 of Maps, page 19, Sonoma County Records, and said strip being more particularly described as follows:

Beginning at a found $\frac{3}{4}$ inch iron pipe tagged LS 4523 marking the southeast corner of the Lands of MP 414 Petaluma Associates, LP as described in that Grant Deed recorded May 13, 2021 under Document Number 2021-058531, Official Records of Sonoma County, and as shown on that certain map titled "Record of Survey" filed July 3, 1985 in book 372 of Maps, page 19, Sonoma County Records; thence from said **Point of Beginning** and along the southerly line of said lands, S 76°03'27" W, 21.25 feet to the intersection of the westerly boundary of said easement for SCWA with the southerly line of said lands of MP 414 Petaluma Associates, LP; thence northerly along said westerly boundary, being the arc of a non-tangent curve to the right the center of which bears S 84°28'35" E from said intersection, having a radius of 749.30 feet, and through an included angle of 02°18'02" an arc length of 30.09 feet; thence continuing along said westerly boundary, N 07°49'27" E, 33.42 to the beginning of a curve to the left with a radius of 445.80 feet; thence along the arc of said curve, through an included angle of 04°39'02" an arc length of 36.18 feet to the northerly line of said lands of MP 414 Petaluma Associates, LP; thence easterly and along said northerly line, N 75°26'27" E, 20.95 feet, to the northeast corner of said lands; thence southerly and along the easterly line of said lands, along the arc of a non-tangent curve to the right the center of which bears N 87°36'41" W from said northeast corner, having a radius of 465.80 feet, and through an included angle of 05°26'08" an arc length of 44.19 feet; thence continuing along said easterly line S 07°49'27" W, 33.42 feet to the beginning of a curve to the right with a radius of 729.30 feet; thence along the arc of said curve, through an included angle of 01°44'40" an arc length of 22.20 feet to the **Point of Beginning**.

Encompassing 1,993 square feet, more or less of Assessor's Parcel Number 006-163-044

Basis of Bearings N 76°03'27" E: being the bearing between the found lead and tag tagged LS 4523 and found $\frac{3}{4}$ " iron pipe tagged LS 4523 marking the southerly line of MP 414 Petaluma Associates, LP as described in that Grant Deed recorded May 13, 2021 under Document Number 2007-116764 of Official Records of Sonoma County and as shown on that certain map titled "Record of Survey" filed in book 372 of Maps, page 19, Sonoma County Records.

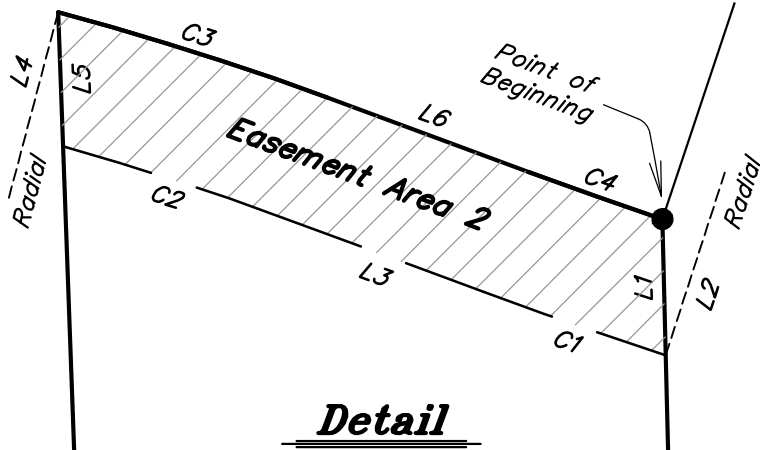
Prepared by: _____
Aaron R. Smith, PLS 7901

Date: _____

Exhibit A-1

Scale: 1" = 50'

- Found 3/4" Iron Pipe, LS 4523
- ▲ Found Lead and Nag, LS 4523



Detail

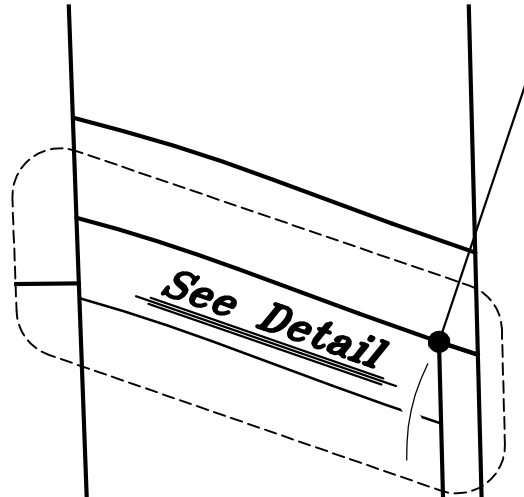
1"=30'

Line Table

Line #	Direction	Length
L1	S 76°03'27" W	21.25'
L2	S 84°28'35" E	749.30'
L3	N 7°49'27" E	33.42'
L4	N 87°36'41" W	465.80'
L5	N 75°26'27" E	20.95'
L6	S 7°49'27" W	33.42'

Curve Table

Curve #	Radius	Delta	Length
C1	R=749.30'	2°18'02"	30.09'
C2	R=445.80'	4°39'02"	36.18'
C3	R=465.80'	5°26'08"	44.19'
C4	R=729.30'	1°44'40"	22.20'



Lands of MP 414
Associates, LP
DN 2021-058531
APN 006-163-044

Record of Survey
372 Maps 19

Basis of Bearings
N 76°03'27" E 296.95'

Petaluma Blvd. North

Easement Area 2



adobe associates, inc.
civil engineering | land surveying | wastewater
1220 N. Dutton, Ave., Santa Rosa, Ca. 95401
P (707) 541-2300; F (707) 541-2301



January 24, 2022

Date

Preliminary

Aaron R. Smith, PLS 7901

Job No. 19174-(DPL)

APN 006-163-044

January 24, 2024