

**SUPPLEMENTAL WATER PURCHASE AGREEMENT
SINGLE-FAMILY RESIDENCES
KEY SITE B; APN 103-200-065**

This **SUPPLEMENTAL WATER PURCHASE AGREEMENT** ("AGREEMENT") is made and entered into as of **September 26, 2022** by and between the **CITY OF SANTA MARIA**, a California Municipal Corporation and charter city ("CITY"), and **JOSEPH HALSELL, CANDACE HALSELL, JAMES HALSELL, AND KELLI HALSELL** (collectively referred to as "DEVELOPER"). CITY and DEVELOPER are referred to individually as a "PARTY" and collectively as the "PARTIES".

RECITALS

WHEREAS, CITY provides retail potable water service to customers within its service area in the Santa Maria Valley, in northern Santa Barbara County. CITY holds contracts to receive water from the State Water Project ("SWP") and rights to pump groundwater from the Santa Maria Valley Groundwater Basin ("BASIN"); and

WHEREAS, in 1997, the County of Santa Barbara ("COUNTY") adopted the Orcutt Community Plan ("OCP"), which establishes, among other things, certain policies regarding water supplies to be secured for new development projects in Orcutt; and

WHEREAS, the OCP was amended in 2001; in particular, the OCP requires the water demand associated with projects be offset by supplemental water supplies that do not result in further overdraft of the BASIN; and

WHEREAS, CITY and Golden State Water Company ("GOLDEN STATE") are parties to a certain groundwater adjudication lawsuit commonly referred to as the Santa Maria Groundwater Litigation (Santa Maria Valley Water Conservation District vs. City of Santa Maria, et al.; Superior Court of California, County of Santa Clara, case no. 1-97-CV-770214) ("BASIN LITIGATION"); and

WHEREAS, on August 3, 2005, the Court approved a Stipulated Settlement ("STIPULATION") that was signed by many of the litigants, related to the BASIN LITIGATION which, among other things, provides that "New Urban Uses" shall obtain water service from the local public water supplier and shall provide a source of supplemental water to offset the water demand associated with a development classified as a "New Urban Use"; and

WHEREAS, the STIPULATION was later incorporated into a Final Judgment in the BASIN LITIGATION; and

WHEREAS, DEVELOPER is in the process of developing a project generally known as a **SINGLE-FAMILY RESIDENCES; KEY SITE B; APN 103-200-065** (the "PROJECT"), a description of which is attached hereto as Exhibit "A". The PROJECT is a New Urban Use and may be located within the OCP. Therefore, DEVELOPER must obtain a water supply that will satisfy the New Urban Use provisions of the STIPULATION,

and the OCP water policy requirements if applicable, and desires to purchase such water from CITY; and

WHEREAS, GOLDEN STATE provides retail water service to the Orcutt community and certain areas covered under the New Urban Use provisions. DEVELOPER intends to obtain retail water service for the PROJECT from GOLDEN STATE. DEVELOPER also intends to enter into an agreement with GOLDEN STATE (“SERVICE AGREEMENT”) to obtain delivery of the Supplemental Water (defined below), as contemplated in this AGREEMENT; and

WHEREAS, on a long-term basis, CITY has water available for use in the Orcutt and New Urban Use areas that is surplus to that needed to serve Santa Maria’s current and long-term future anticipated demands. Accordingly, CITY is willing to provide Supplemental Water to GOLDEN STATE for the benefit of DEVELOPER and its PROJECT.

NOW THEREFORE, in consideration of the foregoing recitals and the promises and covenants contained herein, the PARTIES agree as follows:

- 1) **Purpose.** The purpose of this AGREEMENT is to enable DEVELOPER to satisfy OCP water policy requirements, if applicable, and the New Urban Use provisions of the STIPULATION by providing Supplemental Water (defined in Section 2) to GOLDEN STATE for the benefit of DEVELOPER and to serve the PROJECT, and in exchange, to provide payment to CITY to offset the costs of its use of SWP water for the benefit of its customers and the BASIN generally.
- 2) **Supplemental Water.** “Supplemental Water” shall mean a portion of the SWP entitlement held by CITY, return flows associated with CITY’s SWP entitlement, or as otherwise defined in the STIPULATION.
- 3) **Term and Effective Date.**
 - a) **Effective Date.** This AGREEMENT shall become effective upon payment of the DEPOSIT required by Section 4 (“EFFECTIVE DATE”), provided, however, that CITY’s obligation to provide water shall not become effective until receipt by CITY of the PURCHASE PRICE (defined by Section 5) and the EXPENSE PAYMENT (defined in Section 6) (the date upon which all payments contemplated in this AGREEMENT have been tendered to CITY is the “PAYMENT DATE”).
 - b) **Performance Period.** DEVELOPER shall have three (3) years from the EFFECTIVE DATE to provide CITY with the PURCHASE PRICE and EXPENSE PAYMENT as provided in Section 3 (“PERFORMANCE PERIOD”). If the PURCHASE PRICE and EXPENSE PAYMENT have not been tendered by the end of the PERFORMANCE PERIOD, then this AGREEMENT shall terminate and CITY shall retain the DEPOSIT.

a) At the request of DEVELOPER, and at the sole discretion of CITY, the PERFORMANCE PERIOD may be extended for a one (1) year period, in exchange for an adjustment to the PURCHASE PRICE of this AGREEMENT, calculated upon the then-current rate for Supplemental Water as determined by City Council of CITY. Additional one (1) year extensions thereafter may be granted under the same conditions. Each extension shall be documented in the form of written amendment entered into by both Parties.

c) **Term.** The term of this AGREEMENT shall commence on the EFFECTIVE DATE, and shall continue from the PAYMENT DATE for a period of One Hundred (100) Years, and thereafter shall remain in effect for so long as CITY remains a SWP contractor, or until CITY permanently assigns to the PROJECT a portion of any adjudicated right it obtains to the BASIN equal to the net water demand of the PROJECT ("TERM").

4) **Right to Acquire Water.**

a) **Acquisition of Supplemental Water.** Subject to the terms and conditions of this AGREEMENT, CITY shall sell to DEVELOPER and DEVELOPER shall purchase from CITY, the right to take delivery of **FOUR AND NINE TENTHS (4.90) ACRE- FEET** of Supplemental Water each year for the TERM of the AGREEMENT, subject to the adjustment described below.

b) **Deposit.** Prior to the approval of this AGREEMENT by the City Manager of CITY, DEVELOPER shall provide payment to CITY of ten percent (10%) of the PURCHASE PRICE for the Supplemental Water associated with the request ("DEPOSIT"). The DEPOSIT shall be applied as a credit against the PURCHASE PRICE, as defined in Section 5. The PARTIES acknowledge the COUNTY or GOLDEN STATE will determine the quantity of Supplemental Water required for the PROJECT, and that the quantity may not be finally determined until the PROJECT receives Final Approval, defined below. The PARTIES acknowledge and agree the DEPOSIT will be based upon a good faith estimate of the quantity of Supplemental Water required for the PROJECT. However, the PARTIES agree the quantity of Supplemental Water for which the PURCHASE PRICE is made for the PROJECT will be that amount finally determined by the COUNTY or GOLDEN STATE as a part of the Final Approval process, whether more or less than the amount set forth above.

c) **Refundability of Deposit.** The DEPOSIT shall be refunded to DEVELOPER within thirty (30) days of DEVELOPER's request if DEVELOPER provides proof the Final Approval for the associated PROJECT was denied, whether by the COUNTY or as a result of legal challenge. The DEPOSIT becomes nonrefundable once the PROJECT receives Final Approval. For this AGREEMENT, "Final Approval" shall mean approval of any ministerial or discretionary permits necessary for the PROJECT along with the exhaustion of any statutes of limitations applicable to any legal challenge to the approval of the PROJECT (including any

applicable environmental review) or the final resolution of any legal challenge to the PROJECT that affirms the approval of the PROJECT in substantially the same form as described in Exhibit "A".

d) **Payment of Purchase Price.** DEVELOPER shall pay to CITY the full remaining balance (PURCHASE PRICE less the DEPOSIT) for the Supplemental Water by one of the following methods:

a) By cashier's check no later than the setting of a new water service or upsize of an existing water service by GOLDEN STATE, or no less than one (1) business day prior to recording of any subdivision or parcel map for the PROJECT, or prior to issuance of any land use permit; or

b) Concurrent with the recording of a subdivision or parcel map for the PROJECT, provided, however, that the full remaining balance has been placed into an escrow account reasonably acceptable to CITY with instructions that escrow release such funds to CITY upon completion of recording.

Notwithstanding the foregoing, the full remaining balance must be paid in any event within three (3) years of the EFFECTIVE DATE. The obligation of CITY to supply water shall not become effective and no Supplemental Water shall be available to DEVELOPER for the PROJECT until full payment has been received by CITY.

Failure to comply with the terms of this section will lead to termination of the AGREEMENT and forfeiture of the DEPOSIT along with any additional amounts paid to date related to this AGREEMENT.

5) **Purchase Price.** DEVELOPER shall pay CITY the sum of **SIXTY-FOUR THOUSAND, SIX HUNDRED EIGHTY-EIGHT THOUSAND DOLLARS AND ZERO CENTS (\$64,688.00) PER ACRE-FOOT** of Supplemental Water purchased (the "PURCHASE PRICE"). The PURCHASE PRICE shall constitute a one-time fee for the annual use of each acre-foot of Supplemental Water purchased for the TERM of this AGREEMENT. The PURCHASE PRICE constitutes a payment for the right to take delivery of the Supplemental Water and is due and payable as required in Section 4 regardless of whether DEVELOPER actually takes delivery of any Supplemental Water for the duration of the TERM.

6) **City Expenses.** Three percent (3%) of the PURCHASE PRICE is payment to CITY for its expenses related to the implementation of this AGREEMENT ("EXPENSE PAYMENT"). The EXPENSE PAYMENT is included in the PURCHASE PRICE.

7) **Payment Terms.** All payments shall be made in immediate available funds via a cashier's check. No Supplemental Water shall be delivered prior to the payment of the PURCHASE PRICE.

8) **Delivery of Water.**

- a) **Assignment to Golden State.** Prior to the delivery of any Supplemental Water for the PROJECT, DEVELOPER shall assign all of its rights to receipt of water under this AGREEMENT to GOLDEN STATE, who shall thereafter be responsible for taking delivery of the Supplemental Water and providing water service to the PROJECT. Notwithstanding said assignment, DEVELOPER shall remain liable for all obligations of DEVELOPER, which are set forth herein.
- b) **Point of Delivery.** DEVELOPER hereby acknowledges CITY shall have no responsibility for physical delivery of the Supplemental Water and that all such water shall be delivered pursuant to the SERVICE AGREEMENT with GOLDEN STATE. The SERVICE AGREEMENT shall provide that GOLDEN STATE is solely responsible for the physical delivery of Supplemental Water from the BASIN into the delivery system serving the PROJECT. The amount of Supplemental Water taken by GOLDEN STATE on DEVELOPER's behalf shall be measured on an annual basis commencing with the EFFECTIVE DATE. Any Supplemental Water that is not taken by GOLDEN STATE on DEVELOPER's behalf during any given year shall be forfeited back to CITY, and shall not roll over to the next year.

9) **Terms of the Service Agreement.** The terms of the SERVICE AGREEMENT between DEVELOPER and GOLDEN STATE shall include, at a minimum, the following provisions:

- a) GOLDEN STATE and/or DEVELOPER shall be solely responsible for the acquisition, construction, operation, and maintenance of wells and facilities necessary for the delivery of Supplemental Water pursuant to this AGREEMENT, and all associated costs and expenses, including any applicable permits and approvals;
- b) GOLDEN STATE shall keep in good operation a water meter at each well to measure the volume of Supplemental Water delivered to the PROJECT and shall provide a report to CITY of the meter readings on an annual basis beginning twelve (12) months from the EFFECTIVE DATE;
- c) GOLDEN STATE shall grant to CITY the right, upon reasonable notice, to inspect such meters, wells and facilities to verify and assure meter accuracy and compliance with this AGREEMENT;
- d) GOLDEN STATE shall provide CITY with all information necessary to file any groundwater extraction notices required by law or as directed by any governing agency; and
- e) GOLDEN STATE shall be solely responsible for ensuring that all Supplemental Water delivered to DEVELOPER has been properly treated in accordance with all applicable federal, state, and local laws and regulations.

- 10) **Water Delivery Obligations.** For the purposes of this AGREEMENT, CITY shall have fulfilled its obligation to deliver water purchased by DEVELOPER so long as the amount of Supplemental Water purchased is available in the BASIN for pumping by GOLDEN STATE. This shall include the responsibility of CITY, at its own expense, to import additional water supplies as required to ensure that no further overdraft in the BASIN occurs, as a result of the net water demand associated with the PROJECT. DEVELOPER acknowledges and agrees it shall bear all risk of loss with respect to extraction of the Supplemental Water subject to this AGREEMENT, unless such loss is caused by the gross negligence or willful misconduct of CITY.
- 11) **Delivery Fees and Charges.** Except for the PURCHASE PRICE, there shall be no fee, surcharge, or other assessment payable by DEVELOPER to CITY for the delivery of the Supplemental Water.
- a) **Severe Water Shortage.** In the event the Supplemental Water delivered by CITY becomes subject to Severe Water Shortage Conditions as defined in the STIPULATION, then the amount of Supplemental Water which CITY is obligated to deliver to DEVELOPER during the Severe Water Shortage Conditions shall be adjusted as provided in the STIPULATION. CITY shall have no liability to DEVELOPER for any reduction in Supplemental Water deliveries as a result of this Section 11.
- b) **Water Quality.** CITY makes no representation or warranty regarding the quality of the groundwater stored in the BASIN and DEVELOPER acknowledges it has made its own determination as to groundwater quality. DEVELOPER acknowledges GOLDEN STATE shall be solely responsible for ensuring that all Supplemental Water delivered to DEVELOPER has been properly treated in accordance with all applicable federal, state, and local laws and regulations.
- 12) **Obligations of CITY.** The implementation of this AGREEMENT shall be subject to satisfaction by CITY of the regulatory requirements set forth herein. CITY shall, if necessary, undertake the following:
- a) Obtain all permits, consents, entitlements, and approvals necessary to enable CITY to sell, and DEVELOPER to purchase, the Supplemental Water that is the subject of this AGREEMENT;
- b) Provide assurances, if requested, that the Supplemental Water subject to this AGREEMENT may be relied upon by the PROJECT;
- c) If not determined by CITY to be exempt, confirm full and complete compliance of this AGREEMENT with the requirements of the California Environmental Quality Act ("CEQA"), including the completion of an initial study, and: (1) either (a) there shall have been adopted a negative declaration or a mitigated negative declaration, or (b) a final environmental impact report shall have been completed and approved; and (2) the time shall have expired within which a judicial

proceeding may be instituted challenging the validity or completeness of any such determination of exemption, or adoption of a negative declaration or of a mitigated negative declaration, or approval of a final environmental impact report; and

- d) File all groundwater extraction notices with respect to the use of Supplemental Water as required by law or as directed by any governing agency.

13) **Obligations of Developer.** DEVELOPER shall be solely responsible to:

- a) Obtain all regulatory approvals necessary in connection with the PROJECT;
- b) Reimburse CITY for CITY's actual expenses incurred in complying with the regulatory requirements described in Section 12 within thirty (30) days of an itemized invoice setting forth each expense in detail. Reimbursable expenses shall include reasonable professional and consulting fees and costs incurred directly in connection with obtaining any regulatory approval for the PROJECT, but shall not include litigation costs or expenses (which are allocated in Section 14) or any allocation or charge for time spent by CITY employees; and
- c) Confirm full and complete compliance of the PROJECT with the requirements of CEQA, including, if it is determined that this transaction is subject to CEQA and not exempt from CEQA, the completion of an initial study, and: (1) either (a) there shall have been adopted a negative declaration or a mitigated negative declaration, or (b) a final environmental impact report shall have been completed and approved; and (2) the time shall have expired within which a judicial proceeding may be instituted challenging the validity or completeness of any such determination of exemption, or adoption of a negative declaration or of a mitigated negative declaration, or approval of a final environmental impact report.

14) **Legal Defense.**

- a) In the event of a legal action challenging CITY's approval of this AGREEMENT, and/or the ability of CITY to sell or deliver Supplemental Water pursuant to this AGREEMENT arising prior to Final Approval, then CITY and DEVELOPER shall meet and confer on the appropriate response, the likelihood of success, and the cost of defending such challenge. Unless both PARTIES agree on a common strategy and cost sharing arrangement within thirty (30) days' notice of a challenge, this AGREEMENT shall terminate;
- b) In the event of a legal action challenging CITY's approval of this AGREEMENT, and/or the ability of CITY to sell or deliver Supplemental Water pursuant to this AGREEMENT arising on or after Final Approval, then CITY shall defend the challenge. CITY shall have sole control and responsibility over the defense of such challenge, provided, however, that it shall keep DEVELOPER informed of the status of the defense on a regular basis. CITY shall further be responsible for all costs and expenses related to the challenge. If the challenge is not resolved within

ninety (90) days of the filing of a claim, then CITY shall return the PURCHASE PRICE to DEVELOPER, less the DEPOSIT, which shall be retained by CITY. If the cost of the defense (including legal fees, discovery and expert costs, and court costs) exceeds the amount of the DEPOSIT, then CITY may request a meeting with DEVELOPER to discuss the adoption of a joint strategy and cost-sharing arrangement to continue the defense. If CITY and DEVELOPER are not able to agree on a mutually acceptable arrangement within thirty (30) days of the request, then CITY may terminate this AGREEMENT. If the defense of the AGREEMENT is successful, this AGREEMENT shall remain in effect, and if the PURCHASE PRICE is due pursuant to Section 4, then DEVELOPER shall pay CITY the PURCHASE PRICE (minus the DEPOSIT) upon five (5) days written request from CITY (unless the PURCHASE PRICE have already been paid to CITY and have not been refunded as provided above). If the defense is unsuccessful, then this AGREEMENT shall terminate and CITY shall refund the balance of the PURCHASE PRICE (including the unused balance of the DEPOSIT, and DEVELOPER shall have no further obligations hereunder. For purposes of this AGREEMENT, a successful defense is one that affirms CITY approval of this AGREEMENT, and/or the ability of CITY to sell or deliver Supplemental Water pursuant to this AGREEMENT, either through settlement, dismissal, or final court judgment. Notwithstanding the foregoing, in the event that CITY obtains an opinion from counsel that the challenge has a substantial probability of success, then CITY may elect to terminate this AGREEMENT, in which case CITY shall return the entire PURCHASE PRICE to DEVELOPER (including the unused portion of the DEPOSIT if the DEPOSIT has not already become non-refundable in accordance with Section 4, provided, however, that CITY shall give DEVELOPER at least thirty (30) days' notice of such election, during which time CITY and DEVELOPER may discuss negotiation of a mutually acceptable AGREEMENT whereby DEVELOPER will undertake continuation of the defense.

- c) Notwithstanding any right of termination granted to CITY pursuant to this Section 14, upon payment of the PURCHASE PRICE and EXPENSE PAYMENT in full and final recording of the subdivision map for the PROJECT, CITY shall not have the right to terminate this AGREEMENT pursuant to this Section 14 unless there is a successful legal challenge. For the purposes of this section, a "successful legal challenge" shall mean a final court judgment, which prevents CITY from selling or delivering Supplemental Water pursuant to this AGREEMENT.
- d) CITY shall not be responsible for the legal defense of any challenge to the PROJECT or physical delivery of the water by GOLDEN STATE, and as between CITY and DEVELOPER, DEVELOPER shall bear the risk and expense of any such challenge, provided, however, that if such a challenge is successful in terminating the PROJECT, then DEVELOPER shall have the right to terminate this AGREEMENT and CITY shall return the PURCHASE PRICE to DEVELOPER; however, CITY may retain both the DEPOSIT if it has become non-refundable in accordance with Section 4, and the EXPENSE PAYMENT to compensate CITY for

its professional fees and administrative expenses in negotiating and approving this AGREEMENT.

- 15) **Service Area Integrity.** Nothing in this AGREEMENT is intended nor shall it be interpreted to waive the right of CITY to provide water service to current or future areas within or adjacent to its existing service area.
- 16) **Representations and Warranties.** PARTIES make the following representations, warranties, and covenants:
 - a) **Power and Authority to Execute and Perform this Agreement.** The PARTY executing this AGREEMENT has the power and authority to do so, and to perform its obligations hereunder.
 - b) **Enforceability.** This AGREEMENT constitutes a legal, valid, and binding obligation of the PARTIES, and is enforceable in accordance with its terms.
- 17) **Termination.** This AGREEMENT shall terminate at the end of the TERM. Furthermore, this AGREEMENT may be terminated upon exercise of any express right of termination contained in this AGREEMENT. If this AGREEMENT is terminated prior to the expiration of the PAYMENT DATE in accordance with the terms of Section 3, or this AGREEMENT is terminated as a result of a final court judgment invalidating either this AGREEMENT or the PROJECT in accordance with the terms of Section 14, then the obligations of the PARTIES hereunder shall terminate and the PARTIES shall have the rights and obligations set forth in those respective sections.
- 18) **Indemnity.**
 - a) To the greatest extent permissible under the law, DEVELOPER, its successors and assigns, shall hold harmless, defend and indemnify CITY, its officials, employees, agents, successors and assigns (all of which are herein referred to as "CITY INDEMNIFIED PARTIES") from and against all liabilities, obligations, claims, damages, losses, actions, judgments, suits, costs and expenses, including but not limited to reasonable attorneys' fees (collectively, "DAMAGES"), which may be imposed on, incurred by, or asserted against CITY INDEMNIFIED PARTIES as a result of (i) a breach of DEVELOPER's obligations; and (ii) the conduct of DEVELOPER's operations associated with the extraction of Supplemental Water and its subsequent delivery to the PROJECT. Notwithstanding the foregoing, in no event shall DEVELOPER be liable to indemnify CITY INDEMNIFIED PARTIES for (i) any DAMAGES resulting from the gross negligence, intentional act, or willful misconduct of CITY; or (ii) any third-party claim challenging CITY's approval of this AGREEMENT and/or the ability of CITY to sell or deliver Supplemental Water pursuant to this AGREEMENT which has been provided for in Section 14. This indemnification shall survive termination of the AGREEMENT.

- b) Promptly following notice of any “Third Party Claim” for which CITY is indemnified, CITY shall notify DEVELOPER of such claim in writing. DEVELOPER shall thereafter defend against such Third Party Claim, in consultation with CITY, in such manner as the Parties deem appropriate, including settlement on such terms as DEVELOPER and CITY deem appropriate. DEVELOPER shall select counsel of its choice. CITY may also elect to have separate representation at its sole discretion and cost. If DEVELOPER fails to promptly defend such Third-Party Claim, CITY may defend the Third-Party Claim in any manner it deems appropriate and with counsel of its choice, including without limitation, settlement of the Third-Party Claim on terms CITY deems appropriate, and to pursue such remedies as may be available to CITY against DEVELOPER.
- 19) **Remedies Not Exclusive.** The remedies provided in this AGREEMENT for enforcement of its terms are intended and shall be construed as cumulative rather than exclusive and shall not be deemed to deprive either PARTY from also using any other remedies provided by this AGREEMENT or by law.
- 20) **No Transfer of Water Rights.** The rights granted to DEVELOPER hereunder constitute the right to take delivery of Supplemental Water only and shall not be interpreted as a sale, transfer, or assignment of any of CITY’s water rights.
- 21) **Subject to Applicable Law.** The PARTIES acknowledge and agree this AGREEMENT and the rights and obligations of the PARTIES shall be subject to the laws governing municipal corporations as they now exist and as they may be amended or codified by the Legislature of the State of California.
- 22) **Entire Agreement.** This AGREEMENT contains the entire understanding between DEVELOPER and CITY with respect to its subject matter, and supersedes all prior agreements, oral or written, and all prior or contemporaneous discussions or negotiations between DEVELOPER and CITY. This AGREEMENT cannot be amended except in writing signed by both PARTIES.
- 23) **No Waiver.** Any failure or delay on the part either PARTY to exercise any right under this AGREEMENT shall not constitute a waiver of the right, and shall not preclude such PARTY from exercising or enforcing the right, or any other provision of this AGREEMENT, on any subsequent occasion.
- 24) **Notices.** All notices or other communications required or desired to be given pursuant to this AGREEMENT shall be in writing and shall be hand-delivered, or mailed by certified mail, return receipt requested, sent by a reputable overnight courier service providing delivery confirmation, or emailed to the DEVELOPER with a read receipt. Each such notice or communication shall be deemed to be duly given when a read receipt is received, or is hand-delivered, or three (3) days after being mailed in any depository maintained by the United States Postal Service, with prepaid postage, certified, return receipt requested or one (1) day after being deposited for next day delivery with Federal Express or other courier. Each such notice or communication

shall be addressed to the PARTIES at their respective addresses set forth next to their signatures below, or such other address as a PARTY notifies the other in writing.

- 25) **Headings; Section References.** Captions and headings appearing in this AGREEMENT are inserted solely as reference aids for the ease and convenience; they shall not be deemed to define or limit the scope or substance of the provisions they introduce, nor shall they be used in construing the intent or effect of such provisions.
- 26) **Severability.** If any provision of this AGREEMENT is finally determined by a court to be invalid or unenforceable as written, the provision shall, if possible, be enforced to the extent reasonable under the circumstances and otherwise shall be deemed deleted from this AGREEMENT. The other provisions of this AGREEMENT shall remain in full force and effect so long as the material purposes of the AGREEMENT and understandings of the PARTIES are not impaired.
- 27) **Binding Effect Assignment.** This AGREEMENT shall be binding on and inure to the benefit of the PARTIES, and their respective successors and permitted assigns. DEVELOPER shall have the right to assign its rights under this AGREEMENT (except for those rights required to be assigned to GOLDEN STATE pursuant to Section 8) with the written consent of CITY, provided, however, that CITY shall not unreasonably withhold such consent and further provided that the assignee agrees to be bound by all of the obligations of DEVELOPER set forth herein. Notwithstanding the foregoing, no assignment permitted hereunder or pursuant to Section 8 shall permit the delivery of Supplemental Water to any property or development other than the PROJECT without the written consent of CITY, in its sole and absolute discretion.
- 28) **Project Conformity.** In the event CITY determines, in its sole and absolute discretion, the PROJECT at any time has changed in scope so as to not be in substantial conformity with the PROJECT as described in Exhibit "A", CITY may immediately terminate this AGREEMENT by providing written notice pursuant to Section 24 and DEVELOPER shall forfeit its rights to acquire Supplemental Water and any payments made by DEVELOPER to CITY.
- 29) **Attorneys' Fees.** In the event any action or proceeding is brought to enforce one or more of the terms of this AGREEMENT, to restrain an alleged violation of this AGREEMENT, or to determine the validity of this AGREEMENT or any part, the prevailing PARTY in any such action or proceeding shall be entitled to recover from the other its reasonable costs and attorneys' fees, in addition to any other remedies available to it in law or equity. If both PARTIES are successful in one or more causes of action during any such proceeding, the costs and fees shall be apportioned as determined by the court.
- 30) **Force Majeure.** If by reason of acts of God, earthquakes, floods, storms, explosion, fires, labor troubles, strikes, insurrection, riots, acts of the public enemy, or federal, state, or local law, order, rule, or regulation, either PARTY is prevented from complying

with any condition of this AGREEMENT, then while so prevented the condition shall be suspended and the PARTY shall be relieved of the obligation of complying with such covenant and shall not be liable for damages for failure to comply with it. Any obligation of either PARTY shall be extended for as long as it is so prevented from complying with any condition or covenant in the AGREEMENT.

- 31) **Governing Law and Venue.** This AGREEMENT is a contract governed in accordance with the laws of the State of California. THE PARTIES hereby agree that venue for any action brought to enforce the terms of this AGREEMENT shall be in a court of competent jurisdiction in the County of Santa Barbara, California, and consent to the jurisdiction thereof.

IN WITNESS WHEREOF, the PARTIES have executed this AGREEMENT as of the date first written above.

CONTINUED ON NEXT PAGE

"DEVELOPER"
JOSEPH HALSELL

"CITY"
CITY OF SANTA MARIA, a political
subdivision of the State of California

By: _____
OWNER


By: 
JASON STILWELL
CITY MANAGER

"DEVELOPER"
CANDACE HALSELL

ATTEST:



By: _____
OWNER

By:  10/11/2022
RHONDA M. WHITE, CMC
CHIEF DEPUTY CITY CLERK

"DEVELOPER"
JAMES HALSELL

Address: **110 East Cook Street**
Room 1
Santa Maria, CA 93454

Fax: **(805) 349-0657**
Phone: **(805) 925-0951 ext. 2200**

By: _____
OWNER


"DEVELOPER"
KELLI HALSELL

APPROVED AS TO FORM



Risk Manager

By: _____
OWNER



City Attorney

Address: **3130 Skyway Drive**
Suite 601
Santa Maria, CA 93455
Fax: **(805) 310-8740**
Phone: **(805) 928-1129**

APPROVED AS TO CONTENT



Director of Utilities

CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of _____) ss.

On _____ before me, _____, 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 of Notary Public

Place Notary Seal Here

ADDITIONAL OPTIONAL INFORMATION

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

DESCRIPTION OF ATTACHED DOCUMENT

(Title or description of attached document)

Number of Pages _____

Document Date _____

CAPACITY(IES) CLAIMED BY SIGNER(S)

- Individual
- Corporate Officer _____
(Title)
- Partner(s)
- Trustee(s)
- Attorney-in-Fact
- Other _____

RIGHT THUMB PRINT
OF SIGNER

RIGHT THUMB PRINT
OF SIGNER

EXHIBIT "A"
DESCRIPTION OF PROJECT

Project, located on a parcel in Orcutt, California, commonly known and referred to as Key Site B, more specifically, APN 103-200-065, consists of five (5) single-family dwellings of three thousand (3,000) square feet each, totaling approximately fifteen thousand (15,000) square feet of combined residential living space, as more thoroughly described and shown on the subsequent pages.



City of Santa Maria
UTILITIES DEPARTMENT
**APPLICATION TO PURCHASE SUPPLEMENTAL WATER
FOR NEW URBAN USE**



Directions: Legibly complete all fields (print), sign, and submit with required attachments* to City of Santa Maria Utilities Department, 2065 East Main Street, Santa Maria, CA 93454.

REQUESTER INFORMATION

Legal name	Coastline Group, LLC
Email address	jrh@halsellbuilders.com
Contact phone number	805-928-8948


PROJECT INFORMATION

Residential or non-residential use?	Residential	
Brief description of project	5 Single family dwellings	
Physical address	Key Site B	
Assessor's parcel number	103-200-065	
Quantity in acre-feet of supplemental water required for project	4.9	
Can & Will Serve Letter* from Golden State Water Company attached ?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Approximate size of project in square feet	3000 sf each, 15000 total	
Project site plans* attached ?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

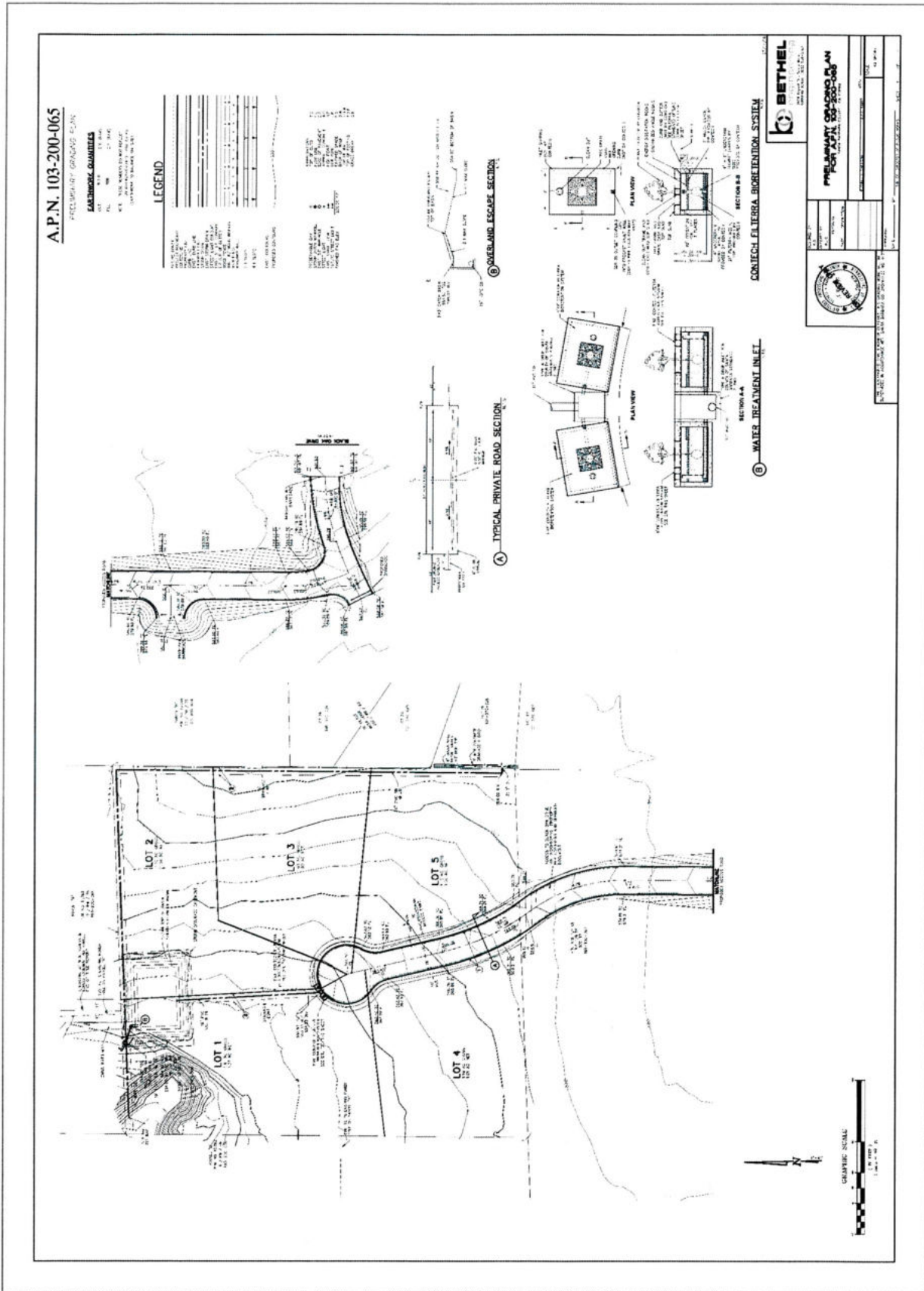
CONTRACT INFORMATION

Legal name and titles of party(ies) who will enter into agreement	Joseph & Candace Halsell, James & Kelli Halsell	
Relationship to requester	Property owners	
Name and mailing address to send agreement and related correspondence	3130 Skyway Dr., Ste 601, Santa Maria, CA 93455	
Contact phone number	(805) 310-8740	
Fax number	(805) 928-1129	
Email address	JRH@HalsellBuilders.com	
If a company:		
Specify type (Corporation, S-Corporation, etc.) and State where company formed		
Document** authorizing above party(ies) to enter into contracts attached ?	<input type="checkbox"/> Yes	<input type="checkbox"/> No

**Developers or companies entering into an agreement are required to submit an authorizing document (i.e., corporate resolution or letter signed by the Board). Property owners and individuals are not required to submit this attachment.


Requester Signature

6/17/2022
Date Signed



A.P.N. 103-200-065
 PRELIMINARY GRADING PLAN

LEGEND

	1/2\"/>
	3/4\"/>
	1\"/>
	1 1/2\"/>
	2\"/>
	3\"/>
	4\"/>
	6\"/>
	8\"/>
	12\"/>
	18\"/>
	24\"/>
	30\"/>
	36\"/>
	42\"/>
	48\"/>
	60\"/>
	72\"/>
	84\"/>
	96\"/>
	108\"/>
	120\"/>
	132\"/>
	144\"/>
	156\"/>
	168\"/>
	180\"/>
	192\"/>
	204\"/>
	216\"/>
	228\"/>
	240\"/>
	252\"/>
	264\"/>
	276\"/>
	288\"/>
	300\"/>
	312\"/>
	324\"/>
	336\"/>
	348\"/>
	360\"/>

BETHEL
 ENGINEERS & ARCHITECTS

PRELIMINARY GRADING PLAN
 FOR A.P.N. 103-200-065

PROJECT NO.: 17-043
 SHEET NO.: 17-043-017

(Professional Seal)



September 14, 2022

Updated from July 7, 2022

Coastline Group, LLC
3130 Skyway Dr., Ste. 601
Santa Maria, CA 93455

**RE: PRELIMINARY INTENT TO SERVE
Key Site B, Tentative Tract Map 14,810 - APN 103-200-065
Five Single-Family Residences**

This letter is to inform you that Golden State Water Company (GSWC) will be able to provide domestic and fire protection water service to the proposed Five Single Family Residences at Key Site B, Tentative Tract Map 14,810, APN 103-200-065 in GSWC's Orcutt System ("Project"), subject to the requirements listed below. As a general matter, GSWC's ability to extend water service to new customers is done pursuant California Public Utilities Commission's approved rules and regulations applicable to GSWC.

A. Water Supplies

Applicants requesting a new service connection, a new water meter or an increase in the size of their existing service connection and/or exiting water meter resulting in increased demand within the Santa Maria Customer Service Area, as defined on the Service Area Maps, must provide a source of supplemental water to offset the increased water demand, pursuant to the Court adopted Stipulation in *Santa Maria Valley Water Conservation District v City of Santa Maria, et al.* (and related actions), Lead Case No. CV 770214, Superior Court of the State California, County of Santa Clara, in January 2008, and Commission Decision No. 13-05-011. Where and when available, applicants may remit payment to a third party public agency a water resource demand offset fee in lieu of providing a source of supplemental water, provided such fee fully offsets the cost of, and results in the dedication to GSWC, a source of supplemental water sufficient to meet the water demands of the service requested. **The supplemental water requirement for this project is 4.9 AFY.**

It is the Applicant's responsibility to secure supplemental water to supply the Project, and to assign that supplemental water to GSWC for delivery. This letter DOES NOT provide the Applicant with a commitment from GSWC to provide a supplemental water supply to the Project.

GSWC does not currently have available any additional supplemental water supply sources that satisfy the County's supplemental water requirement. The applicant can purchase supplemental water through the City of Santa Maria. Once the Applicant has entered into an agreement with the City of Santa Maria for the purchase of supplemental water to satisfy the County's supplemental water requirement, GSWC will assume the responsibility to take delivery of the supplemental water obtained from the City. GSWC will prepare and provide the necessary documents, once the Applicant provides to GSWC a copy of its agreement with

CAN AND WILL SERVE LETTER
Page 2 of 2

the City of Santa Maria.

To ensure the ongoing integrity of the GSWC local groundwater supply, as a condition of service, GSWC will require the dedication to GSWC of any local groundwater rights associated with the Project property. GSWC will provide the necessary documentation to effect this dedication concurrent with the execution of an agreement regarding the construction of special facilities associated with the Project.

B. Special Facilities

Special facilities may be required to provide water service and fire protection to the Project. Special facilities are specific system upgrades that are required to provide water service based on the Project's impact to the GSWC's existing system. Special facilities might include new booster station, storage, well, or other tangible infrastructure necessary to ensure adequate water service and fire flow protection. An analysis of the Project impact on the existing system and the need and identification of special facilities will be determined when an application and preliminary development drawings are submitted to:

Golden State Water Company
New Business Department
160 Via Verde Dr., Suite 100
San Dimas, CA 91773

All costs associated with improvements to or new main extensions, water supply, water storage and any additional water appurtenances will be paid by the applicant and contributed to GSWC without refund unless otherwise noted in written agreements. Upon completion of proper arrangements for construction of special facilities and providing suitable water supplies, GSWC will provide water service to the Project, under the same terms and conditions as its existing customers. At that time, GSWC will issue a formal CWSL for the Project.

This Can and Will Serve commitment expires one year from the date of this letter. If construction of the Project has not started within one year, a time extension may be requested. Such time extension will be subject to any requirements in place at the time of the request.

Sincerely,

Ken Brown, PE

Digitally signed by Ken Brown, PE
DN: cn=Ken Brown, PE
Email=ken.brown@gswater.com
Date: 2022.09.16 10:12:38-0700

Kenneth Brown, P.E.
Operations Engineer
Coastal District

cc: Mark Zimmer, GSWC
Mike Babb, GSWC