

COOPERATIVE AGREEMENT FOR CONSTRUCTION OF IMPROVEMENTS ON BATTLES ROAD

CITY OF SANTA MARIA, a municipal corporation,
referred to herein as "CITY",

and

Santa Barbara County Flood Control & Water
Conservation District, a political subdivision of the
State of California, referred to herein as
"DISTRICT".

WHEREAS, the CITY and DISTRICT have historically cooperated in the establishment of certain drainage and Flood Control Improvements in the CITY; and

WHEREAS, the DISTRICT has authority to establish and maintain flood control improvements in the CITY; and

WHEREAS, CITY owns and maintains public roads and associated improvements within the CITY's rights of way; and

WHEREAS, the CITY owns and maintains the existing drainage improvements adjacent to Battles Road from approximately A Street to South Depot Street; and

WHEREAS, CITY has conditionally approved a development application (DEVELOPMENT) north of Battles Road between South Blosser Road and South Depot Street, and

WHEREAS, the CITY has requested that the DISTRICT cooperate in the establishment of a new drainage facility along Battles Road (PROJECT); and

WHEREAS, the DISTRICT has indicated a willingness to cooperate in the establishment of PROJECT in a letter titled Regional Drainage Facilities, Battles Road, Specific Plan Area 5B, dated November 12, 2020 attached herein as Exhibit A; and

WHEREAS, CITY desires the PROJECT to be designed in a manner consisting of an underground conduit and overland improvements; and

WHEREAS, CITY has committed that costs incurred by DISTRICT of said PROJECT including all elements of design review, construction and inspection would be completely funded by the DEVELOPMENT permittee and/or CITY; and

WHEREAS, once constructed and approved, the DISTRICT will own, operate, and maintain the mainline subsurface elements of the PROJECT at DISTRICT's cost and CITY will maintain the surface elements and the connections to the main line at CITY's cost.

NOW THEREFORE, it is mutually agreed as follows:

SECTION I

CITY SHALL BE OBLIGATED TO:

1. Pay or cause to be paid all costs required to complete PROJECT including CEQA review, obtaining required permits, design, any required rights of way, construction, and inspection; including all DISTRICT staff costs accrued in connection with the PROJECT, and to provide funding in advance of the work in phases based on an estimate provided by DISTRICT to CITY. Cost estimates for each phase of the PROJECT shall be reviewed and approved by the CITY. CITY shall establish a not-to-exceed amount for each phase of the PROJECT based on the approved cost estimate prior to the commencement of each phase by DISTRICT with the exception of the construction phase. For the construction phase, in the event that the DISTRICT does not authorize the DEVELOPMENT Permittee to construct the PROJECT, the CITY shall reimburse the DISTRICT the total amount of the final construction contract, including all contract change orders and other approved amendments.
- 1.
2. Complete all required Environmental Review processes and acquire all permits required for PROJECT.
3. Review and approve the design of PROJECT.
4. Maintain all surface elements of PROJECT including all inlets, connector pipes, and all other improvements outside of the main line of the underground conduit.
5. Ensure DEVELOPMENT is designed in a manner that protects DEVELOPMENT from flooding in the event the PROJECT fails to deliver its design capacity of floodwaters.
6. Offer to dedicate such easements to DISTRICT for maintenance of the DISTRICT-maintained elements of PROJECT.
7. Be responsible for compliance with State's National Pollutant Discharge Elimination System (NPDES) permits, both current and as may be amended.

SECTION II

DISTRICT SHALL BE OBLIGATED TO:

1. As a part of Phase 1 of the PROJECT, DISTRICT has reviewed and approved technical studies including a hydrological analysis and conceptual design prepared by a Stantec, dated August 22, 2022.
2. As a part of Phase 2 of the PROJECT, DISTRICT shall review and approve final design of the PROJECT, consisting of plans, specifications, and an engineer's estimate. Supporting technical information necessary to perform final design including but not limited to topographic survey, geotechnical, and structural will be included in the scope of work associated with final design. DISTRICT's approval of the final design of the PROJECT does not constitute any warranty or guarantee by DISTRICT concerning the design or performance of the PROJECT, and Permittee is responsible for the construction as provided herein. This approval is intended to avail DISTRICT of the immunities set forth in Government Code Section 830.6.
3. As a part of Phase 3 of PROJECT, DISTRICT shall advertise and construct subsurface elements of the PROJECT upon receipt of funds from CITY sufficient to pay for all costs associated with the construction of the subsurface elements of the PROJECT including inspection and any other DISTRICT staff costs. Alternatively, the DISTRICT may, at its sole discretion, authorize the DEVELOPMENT Permittee to construct the PROJECT. If

the DEVELOPMENT Permittee constructs the PROJECT, the DEVELOPMENT Permittee shall be solely responsible for construction costs and management of construction of the PROJECT. The DISTRICT shall retain all authority and control of the technical aspects of construction inspection and work acceptance, and the CITY's reimbursement obligations to the DISTRICT shall be limited to all non-construction DISTRICT costs associated with the PROJECT, including design and inspection. Upon completion of PROJECT design by DISTRICT, the DEVELOPMENT Permittee may commence PROJECT construction with not less than a 90 day notification to DISTRICT.

- 4. With each phase of the PROJECT, DISTRICT shall provide to the CITY an itemized account of all applicable PROJECT costs estimated to be incurred by the DISTRICT. CITY shall pay the amount of such invoices within forty-five (45) days of receipt.
- 5. To accept dedication of, operate, and maintain, the subsurface elements of the PROJECT limited to the mainline conduit, upon terms mutually agreeable to the DISTRICT and CITY

SECTION III

IT IS FURTHER MUTUALLY AGREED THAT:

- 2. Nothing in the provisions of this Agreement is intended to create duties or obligations to or rights in third parties not party to this Agreement.
- 3. Communications concerning the PROJECT and this Agreement will be directed to the following individuals:

<p><u>DISTRICT</u></p> <p>Walter Rubalcava, Deputy Public Works Director 130 East Victoria Street Suite 200 Santa Barbara, CA 93101 PH 805-568-3436 wrubalc@countvofsb.org</p>	<p><u>CITY</u></p> <p>Brett Fulgoni, Public Works Director 110 S. Pine Street, Suite 221 Santa Maria, CA 93458 PH 805-925-0951 x2225 bfulgoni@cityofsantamaria.org</p>
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SECTION IV

INDEMNITY AND DISCLAIMER

Neither the DISTRICT nor any officer or employee thereof shall be responsible for any damage or liability occurring by reason of anything done or omitted to be done by the CITY under or in connection with any work, authority or jurisdiction delegated to city under this Agreement. It is also agreed that pursuant to California Government Code Section 895.4, CITY shall fully indemnify and hold DISTRICT harmless from any liability imposed for injury (as defined by Government Code Section 810.8) occurring by reason of anything done or omitted to be done by City under or in connection with any work, authority or jurisdiction delegated to CITY under this Agreement.

Neither CITY nor any officer or employee thereof shall be responsible for any damage or liability occurring by reason of anything done or omitted to be done by DISTRICT under or in connection with any work, authority or jurisdiction delegated to DISTRICT under this Agreement. It is also agreed that pursuant to California Government Code Section 895.4, DISTRICT shall fully indemnify and hold CITY harmless from any liability imposed for injury (as defined by Government Code Section 810.8) Occurring by reason of anything done or omitted to be done by DISTRICT under or in connection with any work, authority or jurisdiction delegated to

DISTRICT under this Agreement.

SECTION V

AMENDMENT

This Agreement may be amended or adjusted by the parties, from time to time, only in writing approved by both parties.

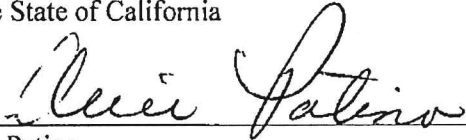
SECTION VI

APPLICABLE LAW

This Agreement shall be subject to the laws, rules, and regulations in effect within the County of Santa Barbara, California, and any interpretation of the law that may be necessary shall be pursuant to the laws applicable within that jurisdiction. If any provision of this Agreement is determined to be invalid, illegal, or unenforceable for any reason, that provision shall be deleted from this Agreement and such deletion shall in no way affect, impair, or invalidate any other provision of this Agreement, unless it was material to the consideration for the performance required. If a provision is deleted which is not material to such consideration, the remaining provisions shall be given the force and effect originally intended.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the day and year first above written.

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



Alice Patino
Mayor

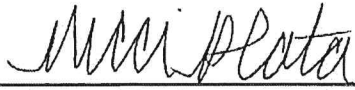
ATTEST:



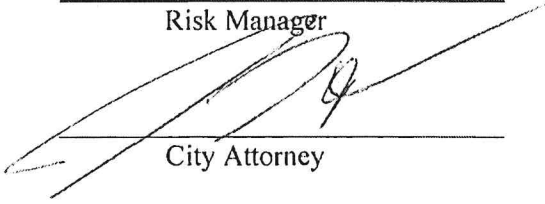
Rhonda M. White, CMC
Chief Deputy City Clerk



APPROVED AS TO FORM:

A handwritten signature in cursive script, appearing to read "Mimi Plata", written above a horizontal line.

Risk Manager

A handwritten signature in cursive script, appearing to read "D. Q.", written above a horizontal line.

City Attorney

SANTA BARBARA COUNTY FLOOD CONTROL
& WATER CONSERVATION DISTRICT

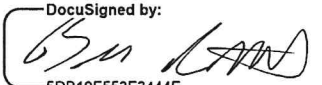
By: _____
Das Williams, Chair, Board of Directors

Date: _____

ATTEST:
MONA MIYASATO
COUNTY EXECUTIVE OFFICER
EX OFFICIO CLERK OF THE BOARD
OF DIRECTORS OF THE SANTA BARBARA
COUNTY FLOOD CONTROL & WATER
CONSERVATION DISTRICT

APPROVED AS TO FORM:
RACHEL VAN MULLEM
COUNTY COUNSEL

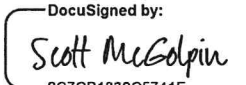
BY: _____
Deputy

BY: 
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Deputy

APPROVE AS TO ACCOUNTING FORM:
BETSY M. SCHAFFER, CPA
AUDITOR-CONTROLLER

RECOMMENDED FOR APPROVAL:
SCOTT D. MCGOLPIN
PUBLIC WORKS DIRECTOR

BY: 
A99ED5BD71D04FB...
Deputy

BY: 
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Deputy

APPROVE AS TO FORM:
GREG MILLIGAN, ARM
RISK MANAGER

BY: 
53A8AAB798BA4D7...
Risk Manager

exhibit A



Santa Barbara County Public Works Department
Flood Control ♪ Water Agency ♪ Project Clean Water

November 12, 2020

Mr. Kevin McCune, Public Works Director
City of Santa Maria
110 S. Pine Street
Santa Maria, CA 93454

RE: Regional Drainage Facilities, Battles Road, Specific Plan Area 5B

Dear Mr. McCune:

Pursuant to our discussions regarding regional drainage along the Battles Road corridor between Depot Street and Blosser Road, the City inquired about the District's interest in ownership of flood control facilities in this area as a part of the development of the adjacent property known as Area 5B.

The City expressed interest in replacing the existing earthen channel, currently owned by the City, with a buried conduit in conjunction with a surface 'swale' that the City could use as a bike/pedestrian facility that is perhaps landscaped or improved. Under such an arrangement, the District would be responsible only for the operations and maintenance of the underground facility, while the City would be responsible for the operation and maintenance of the surface swale and associate improvements.

To achieve this end, the District has stated that there would need to be an updated hydrology analysis to determine existing flows to the site, and then would coordinate the design of the conduit and surface swale with the City. The three steps would be:

1. Hydrological analysis with a conceptual design;
2. Final design of the conduit / swale system; and
3. Construction (including inspection) of the conduit / swale system.

These steps would funded by the City/developer and as discussed, these actions would be under the direction and under contract issued by the District. The District has a proposal from Stantec, a District approved engineering firm, to do step 1 from above. A funding agreement would be needed to assure costs to the District are recovered in all three steps. Upon completion the District would retain Operations and Maintenance of the underground portion of the system. All surface improvements would be owned and operated by the City, including any drainage inlets and connector pipes.

Mr. Kevin McCune, Public Works Director
Re: Regional Drainage Facilities, Battles Road, Specific Plan Area 5B
November 12, 2020
Page: 2

If this is agreeable to the City, please advise next steps to proceed.

Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tom Fayram', with a stylized flourish at the end.

Thomas D. Fayram, P.E.
Deputy Public Works Director

cc: DREV Files