



## SAN ANTONIO BASIN GROUNDWATER SUSTAINABILITY AGENCY

### FEE AND DEPOSIT AGREEMENT FOR WELL VERIFICATION REQUEST

**THIS FEE AND DEPOSIT AGREEMENT** (“Agreement”) is made and effective on \_\_\_\_\_ (“Effective Date”) by and between the San Antonio Basin Groundwater Sustainability Agency (“Agency”), and \_\_\_\_\_ (“Requestor”). Agency and Requestor are each referred to as a “Party” and collectively referred to as the “Parties” in this Agreement.

#### RECITALS:

A. Requestor is submitting an Application (“Application”) to the Santa Barbara County (“County”) Environmental Health Services (“EHS”) for a water well permit within the Agency’s jurisdiction.

B. Executive Order N-7-22, signed by the Governor on March 28, 2022, requires that, before County EHS grant said Application, the Agency provide written verification to County EHS that “groundwater extraction by the proposed well would not be inconsistent with any sustainable groundwater management program established in any applicable Groundwater Sustainability Plan ... and would not decrease the likelihood of achieving a sustainability goal for the basin covered by such a plan” (“Well Verification”). The Requestor’s request for written verification from the Agency will be referred to herein as a “Well Verification Request.”

C. The Agency Board of Directors approved Resolution No. 22-001 establishing a well verification policy in compliance with Executive Order N-7-22 and County Urgency Ordinance No. 5158 (“Well Verification Policy”).

D. Pursuant to Agency Resolution No. 22-002, review by the Agency of the Well Verification Request is to be funded by fees paid by the Requestor, and before review begins Requestor must make a deposit as determined by the Agency.

E. This Agreement is intended to specify the terms of Requestor’s deposit and reimbursement for the Agency review of the Well Verification Request.

#### AGREEMENT

**NOW, THEREFORE**, in consideration of the foregoing and the mutual covenants set forth herein, and for other consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

##### 1. Construction.

This Agreement shall be liberally constructed to accomplish its intent. In the event of any irresolvable conflict or inconsistency in the terms of the Agreement, the Agency, in its sole discretion, shall resolve the conflict or inconsistency and implement the final decision.

## 2. The Deposit; Additional Advances.

- a) Establishing and Supplementing Deposit. Within three (3) business days following execution of this Agreement, Requestor shall provide to the Agency an initial deposit of nine hundred and eighty-seven dollars and fifty cents (\$987.50) (“Initial Deposit”) to reimburse the Agency for Eligible Expenses, as defined in Section 2(b). The Agency shall monitor its expenses and the balance in the deposit account and whenever it believes, in good faith, that there will be insufficient funds to pay the Agency’s expenses to process the Well Verification Request for the next thirty (30) days, the Agency may make one or more written requests for additional funds (each an “Additional Advance”), which shall state the existing balance and the additional amount requested. The Agency shall base its request for an Additional Advance on consultant(s) and staff(s) hourly rate described in the rate schedule, attached hereto as Exhibit A (“Rate Schedule”). The Agency may request the funds it reasonably believes necessary to cover a period not exceeding thirty (30) days. The Initial Deposit and Additional Advance funds are hereinafter collectively referred to as the “Deposit.” Requestor shall make the Additional Advance within five (5) business days of the Agency’s written request therefor. If Requestor fails to timely make the Additional Advance, Requestor agrees that the Agency may cease any or all additional work on the Request until the Agency receives the Additional Advance from Requestor.
- b) Eligible Expenses. In accordance with the Rate Schedule, the Deposit shall be used to reimburse the Agency for costs incurred by the Agency in connection with the following (all of which shall be deemed “Eligible Expenses”): (i) the fees and expenses incurred by both the consultant(s) employed by the Agency in connection with administering the Request and the Agency’s Executive Director; and (ii) all other actions, if any, reasonably taken by the Agency in connection with administering the Request.
- c) Administration of Deposit. The Deposit may be placed in the Agency’s account with other funds for purposes of investment and safekeeping. The Deposit shall not accrue interest. The Agency shall administer the Deposit and use the Deposit to reimburse the Agency for Eligible Expenses. The Agency shall maintain satisfactory accounting records as to the expenditure of the Deposit at all times.
- d) Unexpended Funds. Upon the approval or denial of a Well Verification Request by the Agency, the Agency shall return any then-unexpended portion of the Deposit to Requestor, without interest, less an amount equal to any unpaid Eligible Expenses previously incurred by the Agency (“Unexpended Funds”).
- e) Statements of Account. The Agency shall provide Requestor a summary of expenditures made from the Deposit, and the unexpended balance thereof, whenever requesting any Additional Advance and within ten (10) business days of receipt by the Agency of a request therefore submitted by Requestor.

## 3. Independent Judgment of the Agency; Agency Not Liable

The Agency shall use its independent judgment in determining whether the Well Verification should be issued under the Well Verification Policy. Execution of this Agreement and payment of the Deposit by the Requestor in no way limits the Agency’s discretion to issue or deny a Well

Verification. As further set forth by separate Well Verification Request Agreement, neither the Agency nor any of its member agencies shall be liable in any manner whatsoever in relation to County EHS' action on an Application or the Agency's issuance or denial of a Well Verification.

Requestor expressly understands and agrees that any consultant retained on behalf of the Agency is under contract solely on behalf of the Agency, and the Agency is free to exercise its independent judgment in making payments to the consultants or revising or accepting the consultant's work product, without any liability whatsoever by the Agency to Requestor therefor.

**4. Notices.**

Any notices, requests, demands, documents, approvals, or disapprovals given or sent under this Agreement from one Party to another (collectively, the "Notices") shall be given to the Party entitled thereto at its address set forth below, or at such other address as such Party may provide to the other Party in writing from time to time, namely:

If to Requestor:

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If to the Agency:

San Antonio Basin Groundwater Sustainability Agency  
c/o Stephanie Bertoux, Executive Director  
P.O. Box 196  
Solvang, CA 93464

Each such Notice shall be deemed delivered to the Party to whom it is addressed: (i) if given by email, upon the sender's receipt of an appropriate answerback or other written acknowledgement; (ii) if given by registered or certified mail, return receipt requested, deposited with the United States mail postage prepaid, seventy-two (72) hours after such notice is deposited with the United States mail; or (iv) if given by any other means, upon delivery at the address specified in this Section.

**5. Choice of Law; Venue.**

This Agreement, and any dispute arising from the relationship between the Parties, shall be governed by, construed in accordance with, and interpreted under the laws of the State of California. Any dispute that arises under or relates to this Agreement (whether contract, tort, or both) shall be resolved in a California State Court in the County of Santa Barbara, or if jurisdiction over the action cannot be obtained in a State Court, in a Federal Court in the Central District of California.

**6. Entire Agreement.**

This Agreement represents the full, final, and complete Agreement between the Parties hereto regarding the subject matter of this Agreement. No change or amendment to this Agreement shall be valid unless in writing and signed by both Parties.

**7. Severability.**

If a court of competent jurisdiction holds any provision of this Agreement to be illegal, unenforceable, or invalid for any reason, the validity and enforceability of the remaining provisions of this Agreement shall not be affected.

**8. Attorneys' Fees.**

In any litigation or other proceeding by which one Party seeks to enforce its rights under this Agreement (whether in contract, tort, or both) or seeks a declaration of any rights or obligations under this Agreement, the prevailing Party shall be entitled to an award of reasonable attorneys' fees, together with any costs and expenses, to resolve the dispute and to enforce the final judgment.

**9. Ambiguities.**

Any rule of construction to the effect that ambiguities are to be resolved against the drafting Party shall not be applied in interpreting this Agreement.

**10. Counterparts.**

This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which together will constitute one instrument.

**11. Authority.**

The persons executing this Agreement on behalf of the Parties warrant that: (i) such Party is duly organized and existing; (ii) they are duly authorized to execute and deliver this Agreement on behalf of said Party; (iii) by so executing this Agreement, such Party is formally bound to the provisions of this Agreement; and (iv) the entering into of this Agreement does not violate any provision of any other agreement to which said Party is bound.

IN WITNESS THEREOF, the Parties have caused this Agreement to be executed on the date first written above.

**SAN ANTONIO BASIN GROUNDWATER  
SUSTAINABILITY AGENCY**

**REQUESTOR**

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Print Name**

\_\_\_\_\_  
**Print Name**

\_\_\_\_\_  
**Title**

\_\_\_\_\_  
**Title**

**EXHIBIT A**

**Rate Schedule**

<b>Responsible Party</b>	<b>Rate</b>
<b>Agency Executive Director</b>	<b>\$125.00/hr</b>
<b>Consultant</b>	<b>\$200.00/hr</b>