

**EXHIBIT F**

**Agreement Among City of Santa Maria, Southern California  
Water Company and City of Guadalupe  
Regarding the Twitchell Project and the TMA**

*Santa Maria Valley Water Conservation District v. City of Santa Maria*  
Santa Clara County Superior Court Case No. CV 770214

**SANTA MARIA VALLEY PUBLIC WATER PURVEYOR WATER MANAGEMENT**  
**AGREEMENT**

The CITY OF SANTA MARIA (“Santa Maria”), the CITY OF GUADALUPE (“Guadalupe”), and SOUTHERN CALIFORNIA WATER COMPANY (“SCWC”) enter into this SANTA MARIA VALLEY PUBLIC WATER PURVEYOR WATER MANAGEMENT AGREEMENT (“Agreement”) on this \_\_\_ day of \_\_\_\_\_. Santa Maria, Guadalupe and SCWC are referred to individually as a “Party” and collectively as the “Parties”.

**RECITALS**

A. Santa Maria is a Charter City, providing potable water service to customers within and adjacent to its municipal boundaries.

B. Guadalupe is a general law city, providing potable water service to customers.

C. SCWC is an investor-owned public utility within the meaning of Public Utilities Code section 2400 *et seq.* and operates pursuant to the California Public Utility Act, Public Utilities Code section 200 *et seq.* SCWC provides potable water service to customers within its certificated service area in Santa Barbara County, generally referred to as the “Santa Maria Customer Service Area,” which includes four unincorporated areas of Santa Barbara County, commonly known as “Orcutt,” “Tanglewood,” “Lake Marie,” and “Sisquoc,” and one unincorporated area in San Luis Obispo County, commonly referred to as the “Nipomo Mesa.”

D. On July 20, 2004, Santa Maria and SCWC entered into a Water Management Agreement (“2004 Agreement”), which formalized certain efforts to coordinate the provision of potable water service within their respective service areas. The 2004 Agreement is incorporated herein by reference and remains in full force and effect and is attached as Exhibit A.

E. The Parties have historically relied on local groundwater to provide potable water service to their respective customers and hold rights to pump groundwater (“Groundwater Rights”) from the Santa Maria Groundwater Basin (“Basin”).

F. The Parties also each hold contracts to receive water from the State Water Project (“SWP Entitlement,” collectively, and “Santa Maria SWP Entitlement,” “Guadalupe SWP Entitlement,” or “SCWC SWP Entitlement,” individually). Santa Maria’s contract is for 17,800

acre feet, SCWC's contract is for 550 acre feet and Guadalupe's contract is for 610 acre feet. Collectively, the SWP Entitlement totals 18,960 acre-feet per year.

G. The Parties are also litigants in the Santa Maria groundwater basin (*Santa Maria Valley Water Conservation District v. City of Santa Maria, et al.*, Superior Court, County of Santa Clara, Lead Case No. CV 770214 ("Basin Adjudication")).

H. The Parties, along with a large number of other litigants, intend to enter into a stipulation ("Stipulation") which will settle the Basin Adjudication among the stipulating parties.

I. This Agreement is that agreement described as Exhibit F in the Stipulation.

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

**Section 1. Definitions.** The terms used in this Agreement shall have the same definition as provided in the Stipulation, unless expressly provided otherwise in this Agreement.

**Section 2. Purpose.** The purpose of this Agreement is to provide the mechanism through which the Parties shall meet their obligations as intended in the Stipulation, through that certain agreement designated as Exhibit F.

**Section 3. Term.** This Agreement shall be effective concurrently with and on the same terms as the Stipulation, and shall remain in effect concurrent with the Stipulation.

**Section 4. Twitchell Yield.**

4.1 Division. The Parties agree that the 80% of the 32,000 acre-feet of Twitchell Yield shall be allocated as follows: Santa Maria 14,300 acre-feet; Guadalupe 1,300 acre-feet and SCWC 10,000 acre-feet. The Parties acknowledge that the remaining 20% of the Twitchell Yield (6,400 acre-feet) is allocated to the Overlying Owners within the District who are Stipulating Parties, subject to the terms of the Stipulation.

4.2 Transfer of Twitchell Yield. The Parties agree that any proposed transfer of Twitchell Yield to one of the Parties shall be made available to all Parties. Each Party shall be given 30 days advance notice to elect to participate in any proposed transfer. The amount of transferred Twitchell Yield shall be divided between the Parties participating in the transfer in proportion to those Parties' then existing Twitchell Yield. If only one Party participates in the transfer, that Party shall be entitled to the full amount of transferred Twitchell Yield.

**Section 5. Twitchell Management Authority.**

5.1 All decisionmaking of the TMA shall be conducted, to the extent reasonably practical, on a consensus basis. Provided, however, if consensus cannot be achieved, TMA decisions shall be made by majority vote. Unless otherwise specified, the weight of each Party's voting rights shall be equivalent to its then-existing Twitchell Yield.

5.2 The Parties will work with the other Twitchell Participants to develop rules and regulations governing the TMA.

5.3 Budget. Each Stipulating Party holding Twitchell Yield shall be obligated to fund the TMA in proportion to that Party's then existing Twitchell Yield.

5.3.1 The TMA shall establish its members' funding obligations through a duly adopted budget, which shall project the TMA funding needs in 3-5 year increments, as it deems necessary to meet its obligations to preserve Twitchell Yield. Any TMA budget shall be adopted at least 18 months in advance of its intended implementation to provide adequate time for SCWC to secure PUC approval to fulfill its financial obligations as a member of the TMA. The Parties will to work cooperatively to achieve consensus on the TMA operating budget. If Santa Maria and SCWC are unable to agree on the operating budget, SCWC shall grant Santa Maria a proxy for purposes of the TMA vote on the operating budget. If SCWC grants such a proxy and an operating budget is subsequently approved, SCWC retains the right to challenge any such operating budget through the Court's reserved jurisdiction provided in the Stipulation. SCWC's obligations with respect to any such operating budget is subject to final approval by the PUC.

5.3.2 Consistent with Section V(D)(3)(c) of the Stipulation, the TMA's annual budget for the first five years following PUC approval of the Stipulation shall be as provided in Exhibit B to this Agreement. As provided in Exhibit B, the TMA budget shall include anticipated costs necessary to fund:

5.3.2.1 The Management Area Engineer activities for the Valley Management Area, including the implementation of the Valley Management Area Monitoring Program and the associated preparation of the Annual Report; and

5.3.2.2 The preparation and implementation of the Twitchell Project Manual; and

5.3.2.3 The funding of Twitchell Project operations and capital funds that the TMA determines are necessary to preserve the Twitchell Yield. The requirements for the Twitchell operational fund shall take into account the amount collected by the District from its current operation and maintenance assessment. The Twitchell capital fund shall consist of any unused revenues from the Twitchell operating fund, plus other funds necessary to implement approved Capital Improvement Projects.

5.4 Capital Improvement Projects.

5.4.1 The Parties agree that if one Party proposes a TMA Capital Improvement Project, that Party shall make available to the other Parties the opportunity to participate in the funding of the TMA Capital Improvement Project in proportion to the Parties' share of Twitchell Yield.

5.4.1.1 If a Party chooses not to participate in the funding of the TMA Capital Improvement Project, and that Party's participation is required to implement the Project, the Parties may petition the Court to resolve the issue on an expedited basis.

5.4.1.2 If a Party chooses not to participate in the funding of the TMA Capital Improvement Project, and that Party's participation is not required to implement the Project, the Party or Parties choosing not to participate in the Project shall grant the Party proposing the Project a proxy for purposes of the TMA vote to approve the Project, so long as the proposed Project will not adversely affect a Party's share of Twitchell Yield or otherwise cause material injury to a Party.

5.4.1.3 If fewer than all Parties participate in the funding of a TMA Capital Improvement Project, the Parties who participate in the funding of the Project shall be entitled to the benefits received from the Project in proportion to their financial contribution.

5.4.2 If an emergency situation exists such that a TMA Capital Improvement Project is necessary to abate the emergency, the Parties may petition the Court for an order approving the Project on an expedited basis.

**Section 6. New Urban Uses - SCWC.** The 2004 Agreement is expressed modified only as follows:

6.1 All new customers of SCWC, or existing customers proposing to increase their water use through a change in land use requiring a discretionary land use permit or other form of land use entitlement, as specified in Section X(D)(2) of the Stipulation ("SCWC Project

Proponents”) shall provide Supplemental Water to offset the demand associated with that prospective use, through the protocol provided in the 2004 Agreement. The entities that have entered into the Reservation/Purchase Agreements identified on Exhibit C to this Agreement and Exhibit B to the 2004 Agreement are deemed to have satisfied the requirements of this Section and are exempt from the requirements of Section 6.2, below.

6.2 In addition to the fee paid to secure Supplemental Water pursuant to the 2004 Agreement, an additional 20% shall be charged to the SCWC Project Proponent by Santa Maria and shall be placed into either the Twitchell operational fund or the Twitchell capital fund. That incremental charge deposited in the applicable fund, shall be deemed a SCWC contribution to offset any SCWC TMA funding requirements.

**Section 7. New Urban Uses – Guadalupe.**

7.1 Guadalupe and Santa Maria agree that it is within their mutual interests to cooperate and coordinate their efforts to provide retail water service within their respective service areas.

7.2 Guadalupe and Santa Maria mutually acknowledge the benefits of importing SWP supplies to augment their use of local groundwater.

7.3 It is to the mutual advantage of Guadalupe and Santa Maria to have several alternatives for making use of their SWP Entitlements, Return Flows and Twitchell Yield to create flexibility, reliability, and cost effectiveness in their water supply systems. Santa Maria and Guadalupe shall each have the right to use the other’s unused Twitchell Yield in any given year if needed.

7.4 Guadalupe and Santa Maria agree to work cooperatively to provide a reliable and cost effective mechanism through which Santa Maria and Guadalupe can maximize the use of their respective SWP supplies and Return Flows within the Basin. Santa Maria agrees not to oppose any effort by Guadalupe that is based on reliable data to increase the fixed percentage of Guadalupe’s SWP Return Flow.

7.5 Santa Maria agrees to work cooperatively with Guadalupe to provide Guadalupe with additional SWP supplies. Guadalupe shall compensate Santa Maria through a specified dollar amount or through an exchange of water resources, as Guadalupe and Santa Maria deem appropriate. As further consideration, Santa Maria shall have a right of first refusal to purchase any SWP Return Flows that Guadalupe elects to sell from its existing SWP Entitle-

ment, and any future SWP Entitlement, that are not for use within or adjacent to Guadalupe's service area.

**Section 8. Representations or Warranties of Guadalupe.** Guadalupe makes the following representations, warranties and covenants to SCWC and Santa Maria:

8.1 Power and Authority to Execute and Perform this Agreement. Guadalupe has the power and authority to enter into this Agreement and to perform its obligations and all necessary approvals and authorizations have been obtained.

8.2 Enforceability. This Agreement constitutes a legal, valid and binding obligation of Guadalupe, and is enforceable against Guadalupe in accordance with its terms.

**Section 9. Representations or Warranties of Santa Maria.** Santa Maria makes the following representations, warranties and covenants to SCWC and Guadalupe:

9.1 Power and Authority to Execute and Perform this Agreement. Santa Maria has the power and authority to enter into this Agreement and to perform its obligations and all necessary approvals and authorizations have been obtained.

9.2 Enforceability. This Agreement constitutes a legal, valid and binding obligation of Santa Maria, and is enforceable against Santa Maria in accordance with its terms.

**Section 10. Representations or Warranties of SCWC.** SCWC makes the following representations, warranties and covenants to Santa Maria and Guadalupe:

10.1 Power and Authority to Execute and Perform this Agreement. SCWC is a corporation duly formed and in good standing in the State of California. Subject to California Public Utility Commission approval, expressly including the ability to recover the costs of implementing this agreement through its authorized regulated utility rates, SCWC has the corporate power and authority to enter into this Agreement and to perform its obligations and all necessary corporate approvals and authorizations have been obtained.

10.2 Enforceability. Subject to California Public Utility Commission approval as provided in section 10.1, this Agreement constitutes a legal, valid and binding obligation of SCWC, enforceable against SCWC in accordance with its terms.

**Section 11. Remedies Not Exclusive.** 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 any Party from also using any other remedies provided by this Agreement or by law.

**Section 12. Subject to Applicable Law.** The Parties acknowledge and agree that 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.

**Section 13. Integration.** This Agreement shall be integrated with, and interpreted in companion with the 2004 Agreement, the Stipulation, and the final judgment entered in the Basin Adjudication that is based upon the Stipulation. These set of agreements contain the entire understanding between SCWC, Santa Maria and Guadalupe with respect to the subject matter, and supersede all prior agreements, oral or written, and all prior or contemporaneous discussions or negotiations between SCWC, Santa Maria and Guadalupe. This Agreement cannot be amended except in writing signed by all Parties.

**Section 14. No Waiver.** Any failure or delay on the part any 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.

**Section 15. 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, or sent by a reputable overnight courier service providing delivery confirmation. Each such notice or communication shall be deemed to be duly given when 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 reputable overnight 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.

**Section 16. 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.

**Section 17. Separability.** 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.

**Section 18. Binding Effect Assignment.** This Agreement shall only be binding on and inure to the benefit of the Parties, and their respective successors and permitted assigns. No Party shall assign this Agreement except with the prior written approval of the other Parties. Any unauthorized attempt to assign this Agreement shall be null and void. Notwithstanding the foregoing, SCWC shall have the right to assign this Agreement to any affiliate.

**Section 19. Attorneys Fees.** In the event that 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 all 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.

**Section 20. 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, any 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 any Party shall be extended for as long as it is so prevented from complying with any condition or covenant in the Agreement.

**Section 21. Dispute Resolution, Governing Law and Venue.** This Agreement is a contract governed in accordance with the laws of the State of California. The Parties agree that if any dispute arises with respect to any provision of this Agreement, the Parties shall meet and confer in an attempt to resolve any such disputes. If, after 90 days, the meet and confer process is unsuccessful, the dispute shall be presented for Court review and determination pursuant to the Court's reserved jurisdiction and judicial review provisions provided in the Stipulation.

**Section 22. Counterparts.** This Agreement may be signed in any number of counterparts, including counterparts by facsimile signature, each of which shall be deemed an original,

but all of which shall together constitute one and the same instrument. The original signature pages shall be filed with the Court as Exhibit F to the Stipulation.

IN WITNESS WHEREOF, the parties have executed this agreement as of the date first written above.

CITY OF SANTA MARIA:

SCWC:

City of Santa Maria  
a California municipal corporation

Southern California Water Company,  
a California corporation

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: Denise L. Kruger

Title: \_\_\_\_\_

Title: Senior Vice President of Operations

Address: \_\_\_\_\_

Address: 3035 Prospect Park, Suite 60  
Rancho Cordova, CA 95670

Fax: \_\_\_\_\_

Fax: (916) 853-3674

Phone: \_\_\_\_\_

Phone: (916) 853-3606

CITY OF GUADALUPE

City of Guadalupe,  
a California municipal corporation

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

Fax: \_\_\_\_\_

Phone: \_\_\_\_\_

APPROVED AS TO FORM:

By: \_\_\_\_\_

Guadalupe City Attorney

**EXHIBIT A**  
**to**  
**STIPULATION EXHIBIT F**

## WATER MANAGEMENT AGREEMENT

This Water Management Agreement (“Agreement”) is made and entered into this ~~20th~~ day of July 2004, by and between the CITY OF SANTA MARIA (“City”), a California municipal corporation, and SOUTHERN CALIFORNIA WATER COMPANY, a California corporation (“SCWC”). The City and SCWC are referred to individually as a “Party” and collectively as the “Parties”.

### RECITALS

A. The City is a Charter City. The City provides potable water service to customers within the greater Santa Maria area of Santa Barbara County.

B. SCWC is an investor-owned public utility within the meaning of Public Utilities Code Section 2400, *et seq.* and operates pursuant to the California Public Utility Act, Public Utilities Code Section 200, *et seq.* SCWC provides potable water service to customers within its certificated service area in Santa Barbara County, generally referred to as the “Santa Maria Customer Service Area”, which includes four unincorporated areas of Northern Santa Barbara County, commonly known as “Orcutt,” “Tanglewood,” “Lake Marie,” and “Sisquoc,” and one unincorporated area in San Luis Obispo County, commonly referred to as the “Nipomo Mesa.”

C. The City and SCWC have historically cooperated and coordinated their efforts to provide retail water service within their respective service areas.

D. Both the City and SCWC have historically relied on local groundwater to provide potable water service to their respective customers and both hold rights to pump groundwater (“Groundwater Rights”) from the Santa Maria Groundwater Basin (“Basin”).

E. The City and SCWC also each hold contracts to receive water from the State Water Project (“SWP Entitlement,” collectively, and “City SWP Entitlement” or “SCWC SWP Entitlement,” individually). Collectively, their contract entitlements total 18,350 acre-feet per year.

F. Both the City and SCWC are legally entitled to retain and recapture that portion of their respective SWP Entitlement that recharges the Basin after the consumptive use of the SWP Entitlement (“Return Flows”).

G. The City and SCWC mutually acknowledge the benefits of importing SWP supplies to augment their use of local groundwater.

H. It is to the mutual advantage of the City and SCWC to have several alternatives for making use of their SWP Entitlements, Return Flows and Groundwater Rights, to create flexibility, reliability and cost-effective redundancy in their water supply systems.

I. The County of Santa Barbara ("County") regulates the land use activities within Orcutt. In 1997, the 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 ("Project" or "Projects"). The OCP was amended in 2001. In particular, the OCP requires that the water demand associated with Projects be offset by "supplemental" water supplies that do not result in further overdraft of the Basin ("OCP Water Policies").

J. As of the date of this Agreement, SCWC has fully reserved the SCWC SWP Entitlement for the benefit of Projects (See Section 3 below). In addition, without significant investment in and construction of additional capital facilities and/or the access to City facilities as provided in this Agreement, SCWC is unable to take delivery of the full extent of its SCWC SWP Entitlement.

K. Without the construction of additional capital facilities that extend the SCWC SWP turnout from Tanglewood to Orcutt, SCWC is unable to take delivery of any additional alternative sources of water that may comply with the OCP Water Policies, except as provided in this Agreement.

L. The City has elected to make available to certain Project proponents within Orcutt supplemental water supplies that will satisfy the OCP Water Policies applicable to Projects. (See City Resolution 2003-150, attached as Exhibit "A" ("Resolution 2003-150").)

M. SCWC and the City are also parties to litigation regarding water rights in the Santa Maria groundwater basin (*Santa Maria Valley Water Conservation District v. City of Santa Maria, et al.*, Superior Court, County of Santa Clara, Lead Case No. CV 770214 ("Basin Adjudication"))

N. The Parties intend that this Agreement provide a reliable and cost effective mechanism through which the City and SCWC can maximize the use of their respective SWP supplies within the Basin, while making the most efficient use of existing facilities to take delivery of the Parties' respective SWP supplies.

O. The Parties also intend that this Agreement establish a mechanism through which potential new SCWC customers in Orcutt may access supplemental water through the City, consistent with the OCP Water Policies.

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

**Section 1. Purpose.** The purposes of this Agreement are to: (a) provide a reliable and cost effective mechanism through which the City and SCWC can maximize the use of their respective SWP supplies within the Basin, (b) make the most efficient use of existing facilities to take delivery of the Parties' respective SWP supplies, (c) secure a reliable means of accessing Supplemental Water (defined below), and (d) fairly allocate the costs of obtaining and using Supplemental Water within the Basin. Nothing in this Agreement shall be interpreted to impose on either Party any obligation that might arise out of the final judgment entered in the Basin Adjudication, other than as expressly provided in this Agreement.

**Section 2. Term.**

2.1 This Agreement shall be effective on the date first written above ("Effective Date") and shall continue to February 25, 2038, and thereafter shall remain in effect for so long as both the City and SCWC remain SWP contractors ("Term").

2.2 While the Parties contend PUC approval of this Agreement is not required, should the PUC rule that PUC approval is required and that approval of the Agreement as written is denied, the Parties shall make every reasonable effort to modify the Agreement in a manner that the PUC will approve and that also preserves its original, essential terms.

**Section 3. Right to Acquire Water.**

3.1 The Parties acknowledge that given the limits of existing facilities, SCWC is unable to take full delivery of the SCWC SWP Entitlement through its existing SWP facilities because the water demand in the area with direct access to the SCWC SWP Entitlement (Tanglewood) is significantly less than the full SCWC SWP Entitlement. Further, SCWC has fully committed to those Projects listed in Exhibit "B" ("Committed Projects") SCWC's SWP Entitlement and the use of SCWC's existing facilities to make use of the SCWC SWP Entitlement reserved to the benefit of the Committed Projects. To take delivery of the entirety of the SCWC SWP Entitlement, SCWC must either construct additional capital facilities to extend the

SWP turnout from Tanglewood to Orcutt, and/or obtain the rights to rely on the interconnection between the SCWC and City systems, as provided in this Agreement.

3.2 SCWC agrees that, given its geographic proximity to and existing interconnection with SCWC, the City provides the best, most cost effective, and logical source of Supplemental Water for the benefit of Projects in Orcutt to which SCWC would provide retail potable water service.

3.3 For the purpose of this Agreement, "Supplemental Water" shall mean a portion of the yield of the SWP Entitlement held by the City, or a portion of the historic groundwater rights to the Basin held by the City in accordance with the final judgment entered in the Basin Adjudication.

3.4 In working with Project proponents, SCWC agrees that prior to accepting any water that is intended to satisfy the OCP Water Policies, other than the SCWC SWP Entitlement, Supplemental Water and that obtained under Section 7.1, SCWC shall:

3.4.1 Refer to the City any Project proponent that requests water service from SCWC that is also subject to the OCP Water Policies; and

3.4.2 Allow sufficient time for the City and the Project proponent to attempt to make arrangements consistent with the OCP Water Policies, this Agreement and other applicable considerations.

3.5 The City shall make available Supplemental Water to Projects in Orcutt pursuant to Resolution 2003-150 or a substantially similar policy. The City shall not unreasonably withhold Supplemental Water from Projects in Orcutt.

3.6 If any portion of SCWC's SWP Entitlement becomes uncommitted (i.e., a Committed Project is not approved for development or if the County adjusts upward the reliability factor it applies to SCWC SWP Entitlement), SCWC shall use the uncommitted SCWC SWP Entitlement as specified in this Section 3.6 and the Parties shall undertake the following:

3.6.1 SCWC shall provide written notice to the City of the availability of the SCWC SWP Entitlement ("Notice of Availability"), specifying the quantity of SCWC SWP Entitlement that has become available. Within 45 days of the Notice of Availability, the City shall pay to SCWC \$22,000 per acre foot, adjusted annually based on the consumer price index (Los Angeles-Riverside-Orange County), for the SCWC SWP Entitlement specified in the Notice of Availability. Upon provision of payment to SCWC, the City, at its sole discretion, may make

available to Project(s) in Orcutt, as otherwise provided in this Agreement, this SCWC SWP Entitlement as though it is Supplemental Water. SCWC shall continue to use the SCWC SWP Entitlement as though it is fully committed for the benefit of Projects in Orcutt.

3.7 SCWC shall be relieved of its obligation to refer the Project proponent to the City as provided in subsection 3.4, during any period which:

3.7.1 The City determines that the City has no additional Supplemental Water available for use in Orcutt, or the County determines that the City has no additional Supplemental Water available for use in Orcutt. If the Parties disagree with the County's determination, the Parties agree to use their reasonable best efforts to convince the County that the City does have available Supplemental Water.

3.8 After January 1, 2014, SCWC shall be relieved of its obligation to refer the Project Proponent to the City as provided in subsection 3.4, if one or more of the following conditions applies:

3.8.1 A source of water becomes available to SCWC for use in the Basin at a cost less than the cost of the City's Supplemental Water, on a per acre foot basis;

3.8.2 The Parties agree to meet and confer in good faith to attempt to resolve any issues that arise pursuant to this Section 3.8 prior to SCWC seeking an alternative source of water.

3.9 The Parties acknowledge and agree that this Agreement is not a mechanism through which SCWC may use the City's water distribution system to access alternative sources of water, either directly or indirectly, except as expressly provided in this Agreement.

**Section 4. Interconnection.** The Parties have previously established an interconnection between their respective water distribution facilities, consisting of a two-way meter, meter vault and appurtenances located inside the meter vault ("Interconnection"). The Interconnection is located at Miller Street and Santa Maria Way. The maintenance, repair and improvements to the Interconnection shall be managed as follows:

4.1 The Parties shall share equally the costs of all maintenance and repairs on the Interconnection. SCWC shall be responsible for physically implementing the ongoing maintenance and repair of the Interconnection, subject to the City's prior review of the maintenance and repair plans.



4.2 The Parties shall share the costs of any needed improvements to the Interconnection one-fourth (1/4) by the City and three-fourths (3/4) by SCWC. Unless otherwise arranged between the Parties, SCWC shall be responsible for physically implementing any improvements to the Interconnection. The City shall provide prior input and approval of any improvements to the Interconnection.

4.3 Both the City and SCWC shall have reasonable access to the meter at the Interconnection.

**Section 5. Delivery of Water Through the Interconnection.** Either Party may take delivery of water through the Interconnection subject to the following conditions (for the purpose of this Agreement, the Party taking delivery shall be referred to as the "Receiving Party" and the Party supplying the water shall be referred to as the "Supplying Party"):

5.1 As a Receiving Party, SCWC shall have a first priority right to use the Interconnection to take delivery each Year (defined below) of only that amount of SCWC SWP Entitlement that SCWC cannot take delivery of through SCWC's own facilities. In addition, each Year, SCWC's receipt of water through the Interconnection pursuant to this Section shall be limited to that quantity of SCWC's SWP Entitlement SCWC has made available for the City's receipt during that Year, at the City's SWP turnout within the City. The City may impose reasonable limitations on the rate of water SCWC takes through the Interconnection subject to this subsection 5.1.

5.2 Subject to SCWC's use of the Interconnection as provided in Section 5.1, either Party may use the Interconnection to take delivery of water by providing the Supplying Party at least 48 hours advance notice of the quantity and rate at which water will be taken.

5.3 Other than as provided in subsection 5.1, the Supplying Party may impose reasonable limitations on the rate and quantity of water to be taken through the Interconnection. Each Party is under an affirmative obligation to accommodate reasonable requests for use of the Interconnection, subject to SCWC's priority right provided in Section 5.1. Unless otherwise agreed between the Parties, the use of the Interconnection other than as provided in Section 5.1 shall be interim and temporary in nature.

5.4 Payment for receipt of water through the Interconnection shall be made in accordance with Section 6.

**Section 6. Payments for Delivered Water.** The Receiving Party shall pay to the Supplying Party for receipt of water through the Interconnection, as follows:

6.1 Section 5.1 deliveries. For use of the Interconnection as provided in Section 5.1, SCWC shall pay to the Central Coast Water Authority ("CCWA") all costs associated with making available to the City, at the City's SWP turnout within the City, that quantity of the SCWC SWP Entitlement equivalent to that amount of water SCWC intends to receive through the Interconnection. Payment shall be made in accordance with applicable CCWA policies.

6.2 Section 5.2 deliveries. For delivery of water obtained through the Interconnection pursuant to Section 5.2, the Receiving Party shall pay the Supplying Party a per acre-foot charge equivalent to the Supplying Party's cost of producing the water for that Year. The Supplying Party shall determine cost of producing water and shall provide the Receiving Party with an itemized statement summarizing those costs. The Parties agree to meet and confer in good faith regarding any dispute in determining the cost of producing water.

6.3 Neither Party shall be obligated to pay any charge, other than as provided in this Section.

6.4 For the purpose of this Agreement, a "Year" shall refer to a water year commencing on October 1 and ending in the subsequent year on September 30. The Payments required in Section 6.2 shall be made annually, on or before November 1 of each Year, based on actual metered receipt of water through the Interconnection.

**Section 7. Additional Supplemental Water.** In exchange for the commitments in Section 3 and as an element of consideration for those commitments, the City hereby provides to SCWC, upon the Effective Date, the right to take delivery of 20 acre-feet of Supplemental Water annually for the Term of this Agreement, at no cost to SCWC. The City provides these 20 acre-feet of Supplemental Water under the same terms and conditions provided in Resolution 2003-150. If the County determines that Supplemental Water provided pursuant to Resolution 2003-150 does not satisfy the OCP Water Policies, the City shall provide SCWC at no cost, 20 acre-feet per year of water through the Interconnection, in addition and subject to the same priority as that amount of water SCWC can obtain under Section 5.1. SCWC shall have the right to use 20 acre-feet of water provided in this Section 7 for the benefit of any residential Project.

**Section 8. Service Area Integrity.** Nothing in this Agreement is intended nor shall it be interpreted to waive either Party's rights to provide water service to current or future areas within or adjacent to their existing service areas. Should the City seek to acquire (by any means) any portion of, or all of the SCWC certificated service area in SCWC's Santa Maria Customer Service Area, the City shall pay as fair compensation, the greater of 10 times the SCWC rate base or the court-approved fair compensation.

**Section 9. Representations or Warranties of City.** The City makes the following representations, warranties and covenants to SCWC:

9.1 Power and Authority to Execute and Perform this Agreement. The City has the power and authority to enter into this Agreement and to perform its obligations and all necessary approvals and authorizations have been obtained.

9.2 Enforceability. This Agreement constitutes a legal, valid and binding obligation of the City, and is enforceable against the City in accordance with its terms.

**Section 10. Representations or Warranties of SCWC.** SCWC makes the following representations, warranties and covenants to City:

10.1 Power and Authority to Execute and Perform this Agreement. SCWC is a corporation duly formed and in good standing in the State of California. Subject to the conditions of Section 2.2, SCWC has the corporate power and authority to enter into this Agreement and to perform its obligations and all necessary corporate approvals and authorizations have been obtained. The City agrees that nothing in this representation, warranty or covenant shall be interpreted or applied to negate the City's indemnity obligations provided in Section 12.

10.2 Enforceability. This Agreement constitutes a legal, valid and binding obligation of SCWC, enforceable against SCWC in accordance with its terms.

**Section 11. Termination.** This Agreement shall terminate as described in Section 2. If this Agreement is terminated prior to the expiration of the Term, its termination shall not impact: (a) any other agreements regarding Supplemental Water between the City and Project proponents, and SCWC and Project proponents, (b) the provision of water to SCWC pursuant to Section 7 and (c) the payments and associated commitments, if any, regarding the SCWC SWP Entitlement between the City and SCWC made pursuant to Section 3.6.

**Section 12. Indemnity.**

12.1 The City shall hold harmless, defend and indemnify SCWC, its directors, employees, agents, successors and assigns (all of which are herein referred to as the "SCWC 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 the SCWC Indemnified Parties as a result of or arising out of the restrictions placed on SCWC's access to Supplemental Water as provided in Section 3, and/or the implementation of this Agreement as of the Effective Date as provided in Section 2. This indemnification shall survive termination of the Agreement.

12.2 Promptly following notice of any claim for which SCWC is indemnified, SCWC shall notify the City of such claim in writing. The City shall thereafter defend against such claim, in consultation with SCWC, in a manner the Parties mutually deem appropriate, including settlement on such terms as SCWC and the City both approve. The City and SCWC shall mutually select counsel. SCWC may also elect to have separate representation at its sole discretion and cost. If the City fails to promptly defend such claim, SCWC may defend the claim in any manner it deems appropriate and with counsel of its choice, including without limitation, settlement of the claim on terms SCWC deems appropriate, and to pursue such remedies as may be available to SCWC against the City.

**Section 13. Remedies Not Exclusive.** 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.

**Section 14. No Transfer of Water Rights or Contracts.** The rights granted pursuant to this Agreement constitute the right to take delivery of water only and shall not be interpreted as a sale, transfer, or assignment of either Party's water rights or contract entitlements.

**Section 15. Subject to Applicable Law.** The Parties acknowledge and agree that 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.

**Section 16. Entire Agreement.** This Agreement contain the entire understanding between SCWC and the City with respect to the subject matter, and supersedes all prior agreements, oral or written, and all prior or contemporaneous discussions or negotiations between SCWC and the City. This Agreement cannot be amended except in writing signed by both Parties.

**Section 17. 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.

**Section 18. 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, or sent by a reputable overnight courier service providing delivery confirmation. Each such notice or communication shall be deemed to be duly given when 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 reputable overnight 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.

**Section 19. 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.

**Section 20. Separability.** 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.

**Section 21. Binding Effect Assignment.** This Agreement shall be binding on and inure to the benefit of the Parties, and their respective successors and permitted assigns. Neither Party shall assign this Agreement except with the prior written approval of the other Party. Any

unauthorized attempt to assign this Agreement shall be null and void. Notwithstanding the foregoing, SCWC shall have the right to assign this Agreement to any affiliate.

**Section 22. Attorneys Fees.** In the event that 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.

**Section 23. 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.

**Section 24. 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.

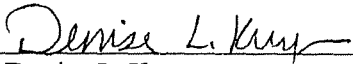
CITY:

SCWC:

City of Santa Maria  
a California municipal corporation

Southern California Water Company,  
a California corporation

By:   
Name: L. J. Lavagnino  
Title: Mayor

By:   
Name: Denise L. Kruger  
Title: Senior Vice President of Operations

Address: 110 E. Cook Street  
Santa Maria, CA 93454

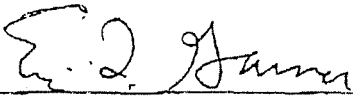
Fax: (805) 349-0657  
Phone: (805) 925-0951, ext. 200

Address: 3035 Prospect Park, Suite 60  
Rancho Cordova, CA 95670


Fax: (916) 853-3674  
Phone: (916) 853-3606

APPROVED AS TO FORM:

Best Best & Krieger LLP

By:   
Eric Garner, Partner

ATTEST:

  
Patricia A. Perez  
Chief Deputy City Clerk

## EXHIBIT A

### RESOLUTION NO. 2003 - 150

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
SANTA MARIA, CALIFORNIA APPROVING THE SALE OF UP  
TO 400 ACRE-FEET ANNUALLY OF SUPPLEMENTAL STATE  
WATER PROJECT YIELD AND AUTHORIZING THE CITY  
MANAGER TO EXECUTE AGREEMENTS FOR THE SALE OF  
UP TO 400 ACRE-FEET ANNUALLY OF SUPPLEMENTAL  
STATE WATER PROJECT YIELD**

WHEREAS, the City of Santa Maria ("City") holds contracts to receive water from the State Water Project ("Project"), and can import up to 17,820 acre feet of water per year from the Project; and

WHEREAS, the City also holds rights to pump groundwater from the Santa Maria Valley Groundwater Basin ("Basin"); and

WHEREAS, the County of Santa Barbara ("County") regulates the land use activities within the Orcutt area. In 1997, the 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. The OCP requires that the water demand associated with projects be offset by "supplemental" water supplies that do not result in further overdraft of the Basin; and



WHEREAS, the City has water available for use in the Orcutt area pursuant to the OCP, that is surplus to that needed to serve the City's current and long-term future anticipated demands; and

WHEREAS, "Supplemental Water" shall mean a portion of the yield of the SWP entitlement held by the City, or a portion of the historic groundwater rights to the Basin held by the City in accordance with the final judgment entered in *Santa Maria Valley Water Conservation District v. City of Santa Maria, et al.*, Superior Court, County of Santa Clara, Lead Case No. CV 770214; and

WHEREAS, the sale of up to 400 acre-feet of Project water will not change the existing setting and will not affect the net amount of water that will be extracted from the Basin; and

WHEREAS, the City is willing to enter into agreements to provide up to 400 acre-feet annually of supplemental water to individual property owners for the benefit of the individual property owners and their associated Projects.

**NOW, THEREFORE, IT IS HEREBY RESOLVED** by the City Council of the City of Santa Maria as follows:

1. The City Council approves the sale of up to 400 acre-feet annually of Supplemental water.

2. The City Manager is authorized and directed to execute agreements substantially in the form provided for the sale of up to 400 acre-feet of Supplemental water per year for municipal use for the purpose of satisfying the Orcutt Community Plan's policies regarding water supplies.

3. City staff is hereby authorized to make minor changes to the final agreement and directed to file any and all notices that may be required by law.

**PASSED AND ADOPTED** at a regular meeting of the City Council of the City of Santa Maria held August 5, 2003.

/S/ L. J. LAVAGNINO

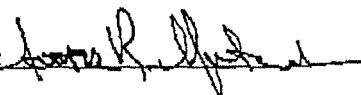
Mayor

ATTEST:

/s/PATRICIA A. PEREZ

City Clerk

APPROVED AS TO FORM:

BY:   
CITY ATTORNEY

CONTENTS:

BY:   
DEPARTMENT HEAD

BY:   
CITY MANAGER

STATE OF CALIFORNIA            )  
COUNTY OF SANTA BARBARA    ) ss.  
CITY OF SANTA MARIA            )

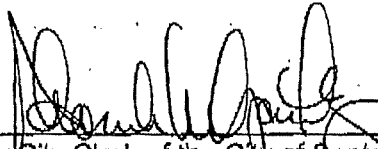
I, **RHONDA M. GARIETZ**, Deputy City Clerk of the City of Santa Maria and ex officio Clerk of the City Council DO HEREBY CERTIFY that the foregoing is a full, true and correct copy of **Resolution No. 2003-150** which was duly and regularly introduced and adopted by said City Council at a regular meeting held **August 5, 2003**, by the following vote:

**AYES:**       **Councilmembers Mariscal, Orach, Patino, Trujillo and Mayor Lavagnino.**

**NOES:**       **None.**

**ABSENT:** **None.**

**ABSTAIN:** **None.**

  
\_\_\_\_\_  
Deputy City Clerk of the City of Santa Maria  
and ex officio Clerk of the City Council

## EXHIBIT B

### SCWC SWP ENTITLEMENT: PROJECT LIST

PROJECT	TYPE	QUANTITY
Oak Knolls South	Residential	3.36 af
Mesa Verde	Residential	33 af
Orthodox Church	Commercial	1.6 af
Fundamental Baptist Church	Commercial	0.6 af
Orcutt Marketplace	Commercial	37 af
Rice Ranch	Residential	350 af
Eskridge Lot Split	Residential	0.5 af
Diamante Estates	Residential	9 af
Hummel Village/Senior Housing	Commercial/Residential	3.5 af
<b>TOTAL</b>		<b>438.6*af</b>

\* Because the County of Santa Barbara considers State Water Project water less than 100% reliable, the County applies a reliability factor to the SCWC SWP Entitlement. For the purposes of the projects on this Exhibit B, the County has adopted a 79% reliability factor for the SCWC SWP Entitlement. Based on this reliability factor, the County considers the entirety of the SCWC SWP Entitlement fully committed.

**EXHIBIT B**  
**to**  
**STIPULATION EXHIBIT F**

**DRAFT: Subject to Ratification by the TMA**

**Exhibit B**

**SANTA MARIA VALLEY PUBLIC WATER PURVEYOR WATER  
MANAGEMENT AGREEMENT**

**Twitchell Management Authority  
Annual Budget  
Applicable for 2006-2011**

<b>Item</b>	<b>Amount</b>
Administration	\$50,000
Management Area Engineer	\$100,000
Twitchell Operation (including Twitchell Project Manual)	\$300,000
Monitoring	\$100,000
Program/Annual Report	
Reserves	\$100,000

**EXHIBIT C**  
**to**  
**STIPULATION EXHIBIT F**

## SUPPLEMENTAL WATER PURCHASE AGREEMENTS

City of Santa Maria and OakGlen General Partnership dated July 31, 2003 – Project known as OakGlen – 22 afy.

City of Santa Maria and Ronald Chappell and Raymond Gonzales dated July 31, 2003 – Project known as 1374 Solomon – 1 afy.

City of Santa Maria and SB Clark LLC dated July 31, 2003 – Project known as Clark Ranch Estates – 200 afy.

City of Santa Maria and Wellmack dated August 18, 2003 – Project known as Jensen's Crossing/Cobblestone Creek – 59 afy.

City of Santa Maria and Harpstone Partnership LP dated August 18, 2003 – Project known as Harp Springs – 26.5 afy.

City of Santa Maria and Stonegate Development LP dated August 18, 2003 – Project StoneGate – 11 afy.

City of Santa Maria and Old Mill Orcutt Venture, LLC dated August 18, 2003 – Project known as Old Mill – 26 afy.

City of Santa Maria and Andy Fetyko dated January 15, 2004 – Project known as Keysite 10 – 10 afy.

City of Santa Maria and Steve LeBard and Debbie LeBard dated February 11, 2004 – Project known as LeBard Project – 2 afy.

City of Santa Maria and Knollwood Properties LP dated March 23, 2004 – Project known as Knollwood Meadows Phase II – 10 afy.

City of Santa Maria and Walter Mendoza dated May 19, 2003 – 1 afy.

City of Santa Maria and Darren Hulstine dated November 17, 2004 – Property located at 1430 Solomon Road – 1 afy.

City of Santa Maria and Cameron Realty Partners dated July 28, 2004 – Project known as Keysite 10 – 10 afy.

City of Santa Maria and David Daniels undated – Project known as 520 W. Rice Ranch Road – ½ afy.

City of Santa Maria and Chris Henderson dated November 30, 2004 – Project known as 295 Siles Lane -- +/- ½ afy.

City of Santa Maria and Simonsen & Associates dated March 1, 2005 – Project known as



Hummel Village II – 3.01 afy.

City of Santa Maria and East Clark Avenue Partnership undated but returned signed on May 9, 2005 – Project known as 250 E. Clark Avenue – 4 afy.

City of Santa Maria and Thor Gjerdrum dated May 12, 2005 – Project known as Rice Oak -- .75 afy

**EXHIBIT G**

**Court's Order Concerning Electronic Service of Pleadings  
and Electronic Posting of Discovery Documents  
dated June 27, 2000**

*Santa Maria Valley Water Conservation District v. City of Santa Maria*  
Santa Clara County Superior Court Case No. CV 770214



1 the attorneys) and transcripts of Court proceedings (when they are brief) and  
2 access to such transcripts by the parties.

3 B. The Website address is <http://www.sccomplex.org>. A dedicated link to the Santa Maria  
4 Groundwater Litigation is contained on the home page of this site.

5 C. The Court's Website will be maintained, and the tasks required of the Website will be  
6 conducted by, the Court's outside Website Vendor:

7 Andy Jamieson  
8 Global Transactions, Inc.  
9 519 17<sup>th</sup> St., Oakland, CA 94612  
10 Telephone: 510-548-9050  
11 Email: [ajam@glotans.com](mailto:ajam@glotans.com)

12 D. This Order supercedes and entirely replaces parts VII ("Document Repository") and  
13 VIII ("Filing and Service of Papers") of the Court's Case Management Order No. 4. All  
14 other parts of Case Management Order No. 4 remain unaffected.

15 E. The term "Document Repository" as used in Case Management Order No. 4 shall mean  
16 the Court's Website.

## 17 II. SERVICE LISTS

18 A. The firm of Hatch & Parent shall compile an initial service list consisting of the service  
19 addresses of all parties to the case.

20 B. On or before July 7, 2000, all parties shall submit to Hatch & Parent the address at  
21 which they wish to receive service. Service addresses may be submitted electronically  
22 to: [GLane@HatchParent.com](mailto:GLane@HatchParent.com), or by facsimile to Gina Lane, Hatch & Parent, 805-965-  
23 4333.

24 Parties must elect one of the following three service options. All parties who are able  
25 must opt for email service.

1. Parties receiving service electronically shall provide a current electronic mail  
address, and a backup facsimile number.

1 2. Parties without email who elect fax service shall provide a current facsimile  
2 number.

3 3. Other parties receiving service by U.S. Mail shall provide a current U.S. Mail  
4 address.

5 The court will notify email recipients that a document has been posted; parties must  
6 serve other parties by fax and mail.

7 C. On or before July 10, 2000, Hatch & Parent shall transmit the initial electronic,  
8 facsimile and U.S. Mail service lists to the Website Vendor, based on the addresses  
9 submitted by the parties.

10 D. All parties are obligated to check their email addresses on the website and notify the  
11 vendor immediately of any errors.

12 E. New parties, upon making their first appearance in this case, will be required to elect  
13 their preferred method of service (i.e. electronic, facsimile, or U.S. Mail).

14 F. Parties making any additions, corrections or changes to the electronic, facsimile, or U.S.  
15 Mail service lists after June 26, 2000, shall submit their changes directly to the Website  
16 Vendor. The Website Vendor shall post and keep current the electronic, facsimile, and  
17 U.S. Mail service lists on the Website.

18 G. Once a party posts a document, the court, through its website, will make email service.  
19 The parties are under a continuing obligation to make fax and mail service of the notice  
20 of posting in the normal manner.

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1 III. PLEADING DOCUMENTS

2 A. POSTING OF PLEADING DOCUMENTS

- 3 1. Commencing on July 11, 2000, all parties, including parties who elect service  
4 options two (2) and three (3), will be required to serve all Pleading Documents<sup>1</sup>  
5 by posting them on the Website. Parties without Internet access will have to  
6 seek it out at the public library or at copy stores.
- 7 2. Instructions for posting will be provided on the Website itself. Documents  
8 posted shall be catalogued according to the instructions provided. The posting  
9 party shall provide: its name, the complete title of the document, and the date of  
10 posting. All Pleading Documents will be posted to the Website in xml text  
11 format (with a copy in PDF format being optional). All Adobe Acrobat  
12 resources can be obtained from [www.abode.com](http://www.abode.com).
- 13 3. Once a Pleading Document has been posted to the Website, no change shall be  
14 made to that document by any party. No Pleading Document posted to the  
15 Website shall be removed from the Website except upon further Order of the  
16 Court.
- 17 4. Exhibits attached to Pleading Documents shall be submitted as image file  
18 attachments in .GIF or .JPG form.
- 19 5. For all Pleading Documents in this case served prior to July 11, 2000, the  
20 serving party shall post a copy of that document to the Website no later than  
21 August 10, 2000.

22 ///

23 \_\_\_\_\_

24 1 "Pleading Document" means: pleadings or any other documents produced in the course of this  
25 action and required to be filed with the Court, including, but not limited to: (1) all  
complaints, cross-complaints and answers, including amendments thereto; (2) all demurrers,  
opposition to demurrers and replies; (3) all writ petitions and orders thereon; (4) all  
motions, oppositions to motions and replies; (5) all proposed orders; (6) all expert  
designations; and (7) all trial briefs.

1 6. Nothing in this Order modifies the manner of obtaining personal jurisdiction  
2 (through service of process) over a party who has not appeared in these  
3 consolidated actions. Service of process shall proceed in the regular manner  
4 provided under California law.

5 B. ELECTRONIC SERVICE AND CONFIRMATION OF RECEIPT

- 6 1. The Website will be configured to transmit automatically an electronic "Notice  
7 of Availability" to all parties on the electronic service list notifying them that a  
8 Pleading Document has been served on them and is available for their review on  
9 the Website.
- 10 2. Any party posting a Pleading Document on the Website who does not receive  
11 electronic notice indicating that service of their document has been made shall,  
12 within 12 hours of its posting, notify the Website Vendor of this problem.
- 13 3. All Parties electronically served shall confirm receipt of electronic service by  
14 replying to the electronic mail "Notice of Availability" message received by no  
15 later than 5:00 p.m. on the next business day following posting of the document  
16 served, not including weekends and holidays. (For instance, an electronic  
17 "Notice of Availability" transmitted at 4:59 p.m. on a Thursday must be  
18 confirmed by 5:00 p.m. on Friday. Electronic Notice of Availability transmitted  
19 at 5:01 p.m. on a Thursday must be confirmed by 5:00 p.m. on the following  
20 Monday.) To confirm receipt, simply select "Reply" and then "Send."
- 21 4. Parties who fail to confirm receipt of electronic service within the time period  
22 specified above will automatically receive a "Notice of Availability" by  
23 facsimile from the Court's Website Vendor. A party's repeated failure to timely  
24 confirm receipt of electronic service will be reported to the Court, and the court  
25

1 will require the party to personally appear to explain his failure to comply with  
2 the court's electronic service requirements.

3 C. FACSIMILE AND U.S. MAIL SERVICE

4 1. Commencing on July 11, 2000, in addition to posting all Pleading Documents on  
5 the Website, all parties shall serve, by facsimile and U.S. Mail as applicable, a  
6 "Notice of Availability" on all parties electing to receive service by facsimile or  
7 U.S. Mail shall be sufficient to constitute service of the Pleading Document  
8 itself.

9 2. The "Notice of Availability" shall contain; (1) the serving party's name and  
10 contact information; (2) the title of the document posted on the Website; and (3)  
11 the date of posting; and shall indicate that the document served is available for  
12 viewing on the Website.

13 D. PROOF OF SERVICE

14 3. All Pleading Documents posted to the Website shall contain a Proof of  
15 Service. The Proof of Service shall be sufficient if it indicates: (1) the  
16 title of the Pleading Document posted; (2) the date and time of posting;  
17 (3) that a "Notice of Availability" has been faxed to all parties on the  
18 Website's current facsimile service list; and (4) that a "Notice of  
19 Availability" has been mailed to all parties on the Website's current U.S.  
20 Mail service list.

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1 IV. DISCOVERY DOCUMENTS

2 A. POSTING OF DISCOVERY DOCUMENTS

3 1. Commencing on July 11, 2000, Discovery Documents<sup>2</sup> that are written requests  
4 for discovery or written responses to those requests shall be posted to the  
5 Website and served in the same manner as Pleading Documents. For all  
6 Discovery Documents that are written requests for discovery or written  
7 responses to those requests that are produced prior to July 11, 2000, the  
8 producing party shall post a copy of that document to the Website no later than  
9 August 10, 2000.

10 2. Commencing on July 11, 2000, Discovery Documents that are deposition  
11 transcripts (including exhibits), whether party or non-party, shall be posted to the  
12 Website and served by the noticing party in the same manner as Pleading  
13 Documents. Deposition transcripts shall be posted promptly after receipt of the  
14 transcript. For all Discovery Documents that are deposition transcripts  
15 (including exhibits) that are produced prior to July 11, 2000, the noticing party  
16 shall post a copy of that document to the Website no later than August 10, 2000.

17 3. Commencing on July 11, 2000, documents produced in response to a demand for  
18 inspection and copying of documents shall be produced by the  
19 producing/responding party as follows:

- 20 a. All parties are required to produce documents electronically.  
21 b. To ensure quality control and uniformity of imaging and indexing, all  
22 parties are required to utilize the Document Services Vendor approved  
23

24  
25 <sup>2</sup>"Discovery Documents" means: non-pleading, discovery documents, including, but limited to: (1) all written discovery requests; (2) all written responses to discovery requests; (3) documents produced in response to requests or demands for production of documents; (4) all deposition transcripts; (5) all privilege logs; and (6) all trial exhibits.

1 by the Court: APS, 3485 Sacramento Drive, Suite H, San Luis Obispo,  
2 California 93401, (805) 545-9100. All parties shall contact APS directly  
3 to establish their individual accounts with the Document Services  
4 Vendor.

5 c. Documents produced by a party shall be provided to the Document  
6 Services Vendor not later than 15 days after the date of service of the  
7 written response (unless another time is set by agreement of the parties  
8 or by Order of Court).

9 d. Upon production of document(s) to the Document Services Vendor, the  
10 producing/responding party shall post on the Website a "Notice of  
11 Submission of Discovery Documents to the Document Services Vendor"  
12 indicating: (1) the name of the producing/responding party; (2) the name  
13 of the propounding party; (3) the title of the document requesting the  
14 production; and (4) the date of the production.

15 e. The Document Services Vendor will apply a standard indexing protocol  
16 (including electronic "Bates" stamping and bibliographic fields).

17 f. The Document Services Vendor will transmit electronic images of the  
18 documents produced directly to the Website Vendor. The Website  
19 Vendor will then post those documents to the Website on behalf of the  
20 producing/responding party, and will notify the producing/responding  
21 party of this fact.

22 g. Documents previously produced shall be submitted to the Document  
23 Services Vendor on or before July 17, 2000.

24 B. COSTS

25 1. Each party producing Discovery Documents shall be responsible for the  
scanning/imaging and indexing costs charged by the Document Services Vendor

1 for those services, and any and all costs associated with transmitting these  
2 documents to the Website Vendor, as described below.

- 3 2. A party utilizing the Document Services Vendor for any other services (e.g.,  
4 obtaining electronic images of produced documents on CD Rom) shall be  
5 responsible for all costs associated with those other services.
- 6 3. For non-party document productions, the requesting party shall be responsible  
7 for posting the documents and for the costs charged by the Document Services  
8 Vendor to scan/image and index the documents.

9 **C. PROTECTIVE ORDERS**

- 10 1. The Court's standard procedures shall apply to any party seeking to protect or  
11 limit disclosure of information in a Discovery Document. In lieu of posting of  
12 electronic images for documents subject to Court-ordered protection or  
13 limitations on disclosure, the Website shall contain a listing of the document and  
14 identifying information (including at least the title and description of the  
15 document), information on the nature of the protection or limitation ordered by  
16 the Court, and information on how to obtain the document.

17 **V. FILING OF DOCUMENTS WITH THE COURT AND EFFECTIVE DATE OF  
18 SERVICE**

- 19 A. Notwithstanding the procedures for posting Pleading Documents on the Website  
20 provide by this Order, no party is relieved of its responsibility to file any and all  
21 documents required by law with this Court.
- 22 B. All Pleading Documents and any other documents required to be filed with the Court  
23 may be filed with the Court by facsimile.
- 24 C. For purposes of a party's obligation to produce and/or serve upon another party a  
25 document, that party shall be deemed to have produced/served the document on the date  
on which the document was posted to the Website or submitted to the Document

1 Services Vendor (as applicable). Documents posted to the Website or submitted to the  
2 Document Services Vendor after the close of a business day (5:00 p.m.) shall be  
3 deemed to have been produced/served on the next business day.

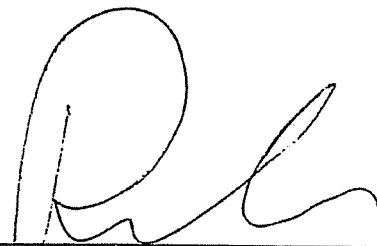
4 D. For purposes of a party's obligation to respond to any document served on him, service  
5 by electronic posting, facsimile and U.S. Mail in accordance with this Order shall be  
6 deemed to be service by facsimile transmission in accordance with Code of Civil  
7 Procedure section 1013(e), and the time obligations and duties of the parties shall be  
8 governed as if such service had been made by facsimile transmission.

9 E. All parties are under a continuing obligation to post all Pleading Documents and  
10 Discovery Documents to the Website, in the manner described in this Order.

11 VI. STAY

12 A. The stay on responsive pleadings imposed by the court at the May 12, 2000 hearing is  
13 lifted. Responsive pleadings are due July 17, 2000 and shall be posted in accordance  
14 with section III.A.2. of this order.

15  
16 Dated this 27<sup>th</sup> day of June, 2000

17  
18   
19 \_\_\_\_\_  
20 CONRAD L. RUSHING  
21 Judge of the Superior Court  
22  
23  
24  
25

**EXHIBIT H**

**Form of Memorandum of Agreement to be Recorded**

*Santa Maria Valley Water Conservation District v. City of Santa Maria*  
Santa Clara County Superior Court Case No. CV 770214

**Attached are two draft forms of Exhibit H. One form is intended to be used for recordation of notice of the Stipulation for properties located within Santa Barbara County, and the other form for properties located within San Luis Obispo County.**

**RECORDING REQUESTED BY:**

**XYZ CORPORATION**

**WHEN RECORDED MAIL TO:**

**CITY OF SANTA MARIA  
A California municipal corporation  
110 E. Cook Street  
Santa Maria, CA 903454**

**THIS SPACE RESERVED FOR RECORDER ONL  
(Gov. Code 27361.6)**

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**NOTICE OF AGREEMENT BY STIPULATION**

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**THIS NOTICE** (“Notice”) is authorized and required to be recorded in Santa Barbara County by order of the Superior Court of the County of Santa Clara and Government Code Section 27201.

Effective \_\_\_\_\_, 2005 the Clerk of the Court for Santa Clara County has entered a written stipulation in the matter of *Santa Maria Valley Water Conservation District v. City of Santa Maria*, Santa Clara County Superior Court, Lead Case No. CV 770214 (hereinafter “Stipulation”) affecting the use of water rights in the Santa Maria Groundwater Basin as more particularly described in the Stipulation. A copy of the Stipulation is on file with and may be viewed at the Santa Clara County Superior Court, City of Santa Maria, City of Guadalupe, and County of Santa Barbara. The below stated Stipulating Party and its real property located in Santa Barbara County bound by the terms of the Stipulation is identified in Exhibit “A” attached hereto and incorporated herein.

XYZ CORPORATION  
A California corporation

By:  
Name:  
Title:

# EXHIBIT "A"

## STIPULATING PARTY AND PROPERTY DESCRIPTION (Santa Barbara County)

<u>Stipulating Party</u>	<u>Property Description</u>
XYZ Corporation	(APN 101-040-014)  NW ¼ of SW ¼, Section 1, R 29E, T 30S, MDB&M  (APN 101-040-019)  As described in that certain recorded instrument No. 123, Recorded June 29, 2001, Book 123, Page 111, Santa Barbara County Recorder.





**RECORDING REQUESTED BY:**

**XYZ CORPORATION**

**WHEN RECORDED MAIL TO:**

**NIPOMO COMMUNITY SERVICES  
DISTRICT  
A California CSD  
148 South Wilson Street  
Nipomo, CA 93444**

**THIS SPACE RESERVED FOR RECORDER ONLY  
(Gov. Code 27361.6)**

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**NOTICE OF AGREEMENT BY STIPULATION**

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**THIS NOTICE** (“Notice”) is authorized and required to be recorded in San Luis Obispo County by order of the Superior Court of the County of Santa Clara and Government Code Section 27201.

Effective \_\_\_\_\_, 2005 the Clerk of the Court for Santa Clara County has entered a written stipulation in the matter of *Santa Maria Valley Water Conservation District v. City of Santa Maria*, Santa Clara County Superior Court, Lead Case No. CV 770214 (hereinafter “Stipulation”) affecting the use of water rights in the Santa Maria Groundwater Basin as more particularly described in the Stipulation. A copy of the Stipulation is on file with and may be viewed at the Santa Clara County Superior Court, Nipomo Community Services District, Oceano Community Services District, City of Arroyo Grande, City of Grover Beach, City of Pismo Beach, and County of San Luis Obispo. The below stated Stipulating Party and its real property located in San Luis Obispo County bound by the terms of the Stipulation are identified in Exhibit “A” attached hereto and incorporated herein.

XYZ CORPORATION  
A California corporation

By:  
Name:  
Title:

# EXHIBIT "A"

## STIPULATING PARTY AND PROPERTY DESCRIPTION (San Luis Obispo County)

<u>Stipulating Party</u>	<u>Assessors Parcel Number</u>
XYZ Corporation	(APN 101-040-014)  NW ¼ of SW ¼, Section 1, R 29E, T 30S, MDB&M  (APN 101-040-019)  As described in that certain recorded instrument No. 123, Recorded June 29, 2001, Book 123, Page 111, San Luis Obispo County Recorder.

