

Agreement For Purchase and Sale of Recycled Water

This Agreement for Purchase and Sale of Recycled Water (“Agreement”) is dated April 19, 2021 (“Effective Date”) and is entered into by and between Ventura County Waterworks District No. 1 (“District”) and Rustic Valley Farms LLC, a California limited liability company (“Purchaser”). District and Purchaser may be referred to individually as “Party” or collectively as “Parties.”

RECITALS

A. District is a county waterworks district organized and existing under the County Waterworks District Law, Chapter 1, Part 1, Division 1 of the California Water Code, Section 55000 et seq.

B. District owns and operates a water treatment plant in the Moorpark area of unincorporated Ventura County known as the Moorpark Water Reclamation Facility (“Plant”).

C. Under California Water Code Section 1210, District has the exclusive right to all recycled water produced by the Plant and is authorized under Water Code Section 55335 to sell or beneficially use any recycled water recovered from the operation of the Plant.

D. Purchaser owns a farm that grows agricultural crops at the real property located in the Moorpark area (“Property”) depicted by the map and described by the seven assessor’s parcel numbers in Exhibit “1,” attached hereto and incorporated herein by reference. Purchaser wishes to purchase recycled water from District that is produced at the Plant for Purchaser’s use to irrigate the farm crops it grows at the Property.

E. Before District can deliver recycled water to the Property pursuant to this Agreement, District must obtain a permit authorizing it to do so from the Los Angeles Regional Water Quality Control Board and Purchaser must provide all applicable information needed for permitting. Also, Purchaser must design and construct a water pipeline and related infrastructure to deliver the recycled water from the existing recycled water system to the Property, and District must inspect and approve of Purchaser’s recycled water distribution system located at the Property, among the other conditions precedent stated below in Section 2.

AGREEMENT

NOW THEREFORE, in consideration of the mutual promises and covenants as set forth below, the legal sufficiency of which is hereby acknowledged, the Parties agree as

follows:

1. Term. This Agreement shall remain in effect for twenty (20) years from the Effective Date (“Term”) unless terminated sooner pursuant to either Section 2B or Section 8 below. This Agreement may be extended for two additional five-year renewal terms (each a “Renewal Term”) if the Parties mutually agree in writing prior to the expiration of the then-existing Term or Renewal Term. Each Renewal Term shall be on the same terms and conditions as set forth herein.

2. Conditions Precedent to District’s Provision of Recycled Water.

A. District’s obligation to provide recycled water to Purchaser pursuant to this Agreement is subject to all of the following conditions precedent:

(i) District’s acquisition of a permit from the Los Angeles Regional Water Quality Control Board, and all other necessary permits and governmental approvals with Purchaser paying all permit costs and reimbursing the District for labor directly related to obtaining permits, authorizing District’s delivery of recycled water to Purchaser in the volume and water quality for Purchaser’s intended use as described in this Agreement; and

(ii) Purchaser’s design and construction of all infrastructure, at its sole expense, including but not limited to a recycled water pipeline, control valves, instrumentation and water meter (collectively, “District Infrastructure”) as described in the plans under Ventura County Drawing No(s) 116140, 116141, 116141A, 116141C and 116141D on file at the office of the County Surveyor’s Office, Ventura California. Said plans are incorporated into and made a part of this Agreement. Purchaser hereby offers to dedicate the District Infrastructure starting at the meter and including all upstream improvements to the District for public use following Purchaser’s completion of the construction of the District Infrastructure and the District’s written acceptance thereof. Beforementioned District Infrastructure shall be dedicated to the District in perpetuity and the dedication shall survive termination of this Agreement; and

(iii) Pursuant to Section 4H below, Purchaser’s execution and delivery, and District’s recordation in the official records maintained by the Ventura County Recorder’s Office, of non-exclusive temporary and permanent easements allowing and authorizing District to operate, inspect and maintain the portion of the District Infrastructure that will be located on the Property. Beforementioned permanent easement shall be dedicated to the District in perpetuity and the dedication shall survive termination of this Agreement; and

(iv) District’s inspection and approval, pursuant to Section 3 below, of Purchaser’s Onsite System (as defined in Section 3A below), as well as Purchaser’s satisfaction of all other requirements, under Applicable Laws (as defined in

Section 3B below), regarding the operation of Purchaser's Onsite System and intended use of the recycled water.

B. District shall make reasonable efforts to satisfy the condition precedent stated in Section 2A(i) as expeditiously as possible but makes no representation or guarantee this condition will occur at all or within any specified time period. In the event District determines, in its sole judgment and discretion, that the satisfaction of the condition precedent stated in Section 2A(i) cannot feasibly be met, District may terminate this Agreement by providing written notice to the Purchaser, in which case District shall have no further obligation or liability to Purchaser hereunder.

C. Purchaser promises and guarantees to replace or repair all defective workmanship and materials at the District Infrastructure for a period of one (1) year after date of acceptance of the District Infrastructure by the District as provided for herein. Purchaser shall replace or repair any such defective workmanship and materials in a manner satisfactory to the Engineer/Manager, after notice to do so from the Engineer/Manager, and within the time specified in the notice.

D. In accordance with the Ventura County Waterworks District's Rules and Regulations, the District has requested that the Purchaser upsize the recycled water main being dedicated to the Districts from the originally designed 8-inch diameter pipe to a 12-inch diameter pipe in order to accommodate potential future flows to other parcels in the area. The District will reimburse the Purchaser for the estimated cost to upsize the recycled water main in the amount of one-hundred and nineteen thousand dollars (\$119,000). The reimbursement shall be paid in one lump sum less the incurred District costs associated with the planning and construction of the District Infrastructure, within six months of the District accepting the District Infrastructure.

3. Purchaser's Onsite Recycled Water Distribution System.

A. Purchaser shall, at its sole expense, design and construct a system on the Property to distribute and dispense the recycled water obtained from District ("Onsite System"). Purchaser shall own the Onsite System and shall be solely responsible for its operation and maintenance.

B. The Onsite System, and Purchaser's operation of the same, shall conform to all applicable federal, state, local and District laws, rules and regulations that are now in existence or that may be subsequently promulgated or amended ("Applicable Laws"), including but not limited to the California Department of Public Health's Water Recycling Criteria contained in Title 22, Division 4, Chapter 3 of the California Code of Regulations.

C. Purchaser shall prepare plans and specifications and record or schematic drawings for the Onsite System in accordance with District requirements. Plans and specifications must be approved by District in writing prior to Purchaser's commencing construction of the Onsite System, and Purchaser shall provide District with record or schematic drawings of the Onsite System upon its completion. If Purchaser is converting an existing potable water system to the Onsite System, the Purchaser is required to abide by all applicable laws and regulations governing such a system.

D. Purchaser shall notify District of any proposed updates or modifications to the Onsite System which shall be designed and constructed by Purchaser in accordance with all Applicable Laws, and which shall be reviewed and approved by District in accordance with the procedures and requirements stated in Section 3C above, except to the extent such procedures and requirements are waived or modified in writing by District.

E. District will regularly monitor and inspect the District Infrastructure and Onsite System, including by reading the meter measuring the amount of recycled water delivered to the Property, and for these purposes shall have the right to enter upon the Property during normal business hours (8:00 a.m. to 5:00 p.m. during non-holiday weekdays) or any time in the event of an emergency, such as a break in the system causing a hazard to life or property. If necessary, Purchaser shall provide District with keys and/or combinations to provide such access.

4. District's Provision of Recycled Water.

A. Upon the completion and satisfaction of all conditions precedent stated in Section 2 above, and pursuant to Purchaser's requests, District shall commence delivery to Purchaser of an initial allocation of approximately 0.38 million gallons per day of recycled water produced at the Plant ("Initial Allocation") according to the rates specified in Section 6B below. District, in its sole discretion, may temporarily or permanently adjust the volume of the Initial Allocation allocated to Purchaser, including by temporarily ceasing all delivery of recycled water to Purchaser (an "Allocation Adjustment"), provided that Purchaser shall have a priority right to District's existing and new recycled water except as to District's existing purchasers. Purchaser shall put to beneficial use all recycled water that it purchases and receives, regardless of volume.

B. The recycled water delivered by District shall meet the definition of "disinfected tertiary recycled water" as stated in Title 22, Division 4, Chapter 3, Article 1, Section 60301.230 of the California Code of Regulations, as may be amended from time to time.

C. District will provide Purchaser with regular water quality data reports as required by Applicable Laws. The chloride level in the recycled water may be higher

than appropriate for certain uses, and the recycled water may therefore require blending with other water sources by Purchaser to make the water suitable for Purchaser's intended use. Although District may assist Purchaser in determining Purchaser's appropriate use and blending of the recycled water, District makes no representation or warranty regarding the appropriateness of the recycled water to meet Purchaser's intended use, and District shall not be responsible or liable to Purchaser for any damage or loss caused by the chloride or mineral composition of the recycled water.

D. District will exercise reasonable diligence to deliver a continuous supply of recycled water to Purchaser at reasonable pressure and avoid unnecessary shortages or interruptions in service. However, circumstances beyond the control of District may, separate and apart from any Allocation Adjustment implemented by District, result in a temporary or permanent decrease in the volume of recycled water available to Purchaser, or may result in delivery of recycled water with varying degrees of water pressure. In the event of a decrease in recycled water availability due to circumstances beyond the control of District, District shall promptly notify Purchaser and inform Purchaser in writing of the revised allocation available to Purchaser on a temporary or permanent basis under this Agreement.

E. The volume of water available for Purchaser to draw from District Infrastructure will not necessarily be constant and may vary throughout each 24-hour period, calendar week, and calendar year depending on weather conditions, seasonal changes in water use, and recycled water production.

F. Purchaser acknowledges and accepts the above-stated potential availability limitations, service disruptions, water pressure issues and chloride/mineral composition issues regarding the recycled water to be delivered under this Agreement. Consequently, Purchaser acknowledges that a standby and/or supplemental water supply may be necessary to make the water suitable for Purchaser's intended use and to prevent losses and damages that may result from these issues. Purchaser acknowledges and agrees that it shall have no right to assert any claim against District, or to seek any compensation from District, for damages or losses arising out of or related to the above-stated potential availability limitations, service disruptions, water pressure issues and chloride/mineral composition issues.

G. All of the District Infrastructure, including but not limited to recycled water pipelines, meters, reservoirs, pumping stations, fire hydrants, manholes, valves, connections, treatment facilities and other appurtenances and property, and the operation and inspection thereof, including the portion of District Infrastructure located on the Property, shall be under the sole ownership, jurisdiction, control, and responsibility of District, except as provided in Section 2.C above. Only authorized employees and agents of District shall have the right to inspect, operate, adjust, change, alter, move or relocate any portion of the District Infrastructure.

H. Upon District's written request, Purchaser shall execute and deliver to District, and shall authorize District's recordation in the official records maintained by the Ventura County Recorder's Office, non-exclusive temporary and permanent easements in a form acceptable to District allowing and authorizing District to operate, inspect and maintain the portion of District Infrastructure that will be located on the Property. Said easement shall not be subject to any outstanding encumbrance or legal instrument that could require the relocation or removal of District Infrastructure placed in the easement area, unless such encumbrance or legal instrument is acknowledged and accepted in writing by District.

5. Purchaser's Use of Recycled Water.

A. Purchaser shall draw from District Infrastructure and put to beneficial use the entire volume of recycled water that District allocates and delivers to Purchase pursuant to Section 4 above.

B. The recycled water purchased from District pursuant to this Agreement shall be used for any lawful onsite use in accordance with California State Water Resource Control Board Regulations Related to Recycled Water.

C. Purchaser shall control the rate and extent of its recycled water use to prevent its waste and excessive run-off from all irrigated areas.

D. Purchaser shall comply with all Applicable Laws regarding use and disposal of the recycled water.

6. Recycled Water Rate; Purchaser's Payment.

A. All recycled water delivered to the Property by District pursuant to this Agreement must pass through District's meter. Purchaser shall be charged for, and obligated to pay for, all recycled water passing through the meter serving the Property.

B. The initial rate for the recycled water shall be in accordance to established District rates applicable to all District recycled water purchasers. The District may increase the per-acre recycled water rate in an amount equal to the actual cost to operate and maintain the recycled water system.

C. District shall bill Purchaser for the amount of recycled water delivered to the Property along with any penalty and late charges that may be assessed when applicable, and Purchaser shall timely pay District for said water and any penalty and late charges that may be assessed when applicable, pursuant to the Ventura County Waterworks District's Rules and Regulations, as may be amended from time to time, a current copy of which can be obtained from the District and is accessible on the District's website.

7. Indemnification. Purchaser shall defend, indemnify and hold harmless District and its officers, officials, employees, agents and volunteers (collectively, “Indemnatee”), from and against any and all third-party claims, allegations, suits, actions, legal or administrative proceedings, judgments, fines, penalties, debts, demands, damages, including those involving injury or death to any person or persons, and damage to any property including loss of use resulting therefrom, incidental and consequential damages, liabilities, interest, costs, attorneys’ fees and expenses of whatsoever kind or nature whether arising before, during or after commencement or completion of this Agreement, whether against Purchaser or District, which are in any manner, directly, indirectly, in whole or in part, arising from breach of any provision of the Agreement including but not limited to any violation of Applicable Laws regarding the use of the recycled water or operation of the Onsite System, or any act, omission, fault or negligence, whether active or passive, of Purchaser, Purchaser’s contractors, subcontractors or anyone directly or indirectly employed by them or anyone for whose acts they may be liable in connection with or incidental to the Agreement, even though the same may have resulted from the joint, concurring or contributory negligence, or from the passive negligence, of Indemnatee or any other person or persons, except to the extent caused by the willful misconduct or active negligence of Indemnatee. In instances where Indemnatee’s active negligence accounts for a percentage of the liability involved, the obligation of Purchaser shall be for the entire percentage of liability not attributable to that active negligence.

8. Breach; Penalties.

A. The failure by either Party to observe or perform any of its obligations under this Agreement, including but not limited to the failure to comply with the requirements of Applicable Laws regarding the operation of the Onsite System and use of the recycled water, shall constitute a breach of this Agreement.

B. If either Party breaches this Agreement, the non-breaching party may suspend its performance and/or terminate this Agreement and may seek any and all damages and remedies available under law including but not limited to injunctive relief if the breach is not cured by the breaching party within a reasonable time, but no less than sixty days, after written notice from the non-breaching party.

C. In addition to seeking contractual damages and remedies for a breach of this Agreement, District may seek such other recourse that is available under the Applicable Laws based on violations thereof.

9. Notices. All official notices, correspondence and other written documents exchanged between the Parties under this Agreement shall be addressed to District or Purchaser as set forth below, or as District or Purchaser may later designate in writing, and shall be sent through United States mail, duly registered or certified, return receipt

requested, with postage prepaid thereon, or by any other method providing positive proof of delivery.

TO DISTRICT:

Ventura County Director of Water and Sanitation
6767 Spring Road
Moorpark, CA 93020

TO PURCHASER:

Rustic Canyon Valley Farms, LLC
444 W. Ocean Blvd. Suite 650
Long Beach, CA 90802

10. Assignments. Purchaser may not transfer or assign any of its rights or duties under this Agreement without District's prior written consent, which consent shall not be unreasonably withheld.

11. Integration. This Agreement, including the recitals and all exhibits hereto which are incorporated herein by this reference, contains the entire agreement between the Parties respecting the subject matter hereof, and supersedes any and all other representations, negotiations, understandings and agreements, either oral or in writing, between the Parties with respect to the subject matter herein.

12. Choice of Law and Venue. This Agreement is made and entered into in the State of California and shall, in all respects, be interpreted, governed and enforced in accordance with the laws of the State of California applicable to contracts entered into and fully to be performed therein. The venue for any action, suit, arbitration, judicial reference or other proceeding concerning this Agreement shall be in Ventura County, California.

13. Third-Party Beneficiaries. There are no third-party beneficiaries of this Agreement.

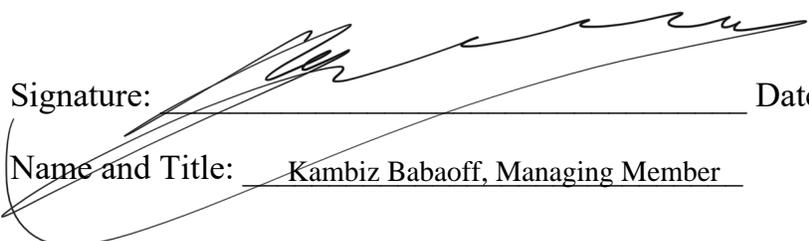
14. Waivers. The failure by one Party to require performance of any provision shall not affect that Party's right to require performance at any time thereafter, nor shall a waiver of any breach or default of this Agreement constitute a waiver of any subsequent breach or default or a waiver of the provision itself.

15. Modifications. Any modification of this Agreement shall be effective only if it is in a writing that is duly approved and executed by both Parties.

16. Severability. If any term or provision of this Agreement is determined to be invalid or unenforceable, the remaining terms and provisions shall not be affected thereby and shall remain in full force and effect to the maximum extent permitted by law.

17. Counterparts. This Agreement may be executed in duplicate originals, one for each Party, each of which duplicate original shall be deemed an original, but all of which shall constitute one and the same agreement.

Rustic Valley Farms LLC, California limited liability company

Signature:  Date: April 19, 2021
Name and Title: Kambiz Babaoff, Managing Member

VENTURA COUNTY WATERWORKS DISTRICT NO. 1

 Date: April 19, 2021

Director, Ventura County Department of
Water and Sanitation