

AGREEMENT BETWEEN THE CAMROSA WATER DISTRICT AND COUNTY OF VENTURA, TO COST SHARE FOR THE OVERSIZING OF AN OFF-SITE POTABLE WATER TANK FOR THE RANCHO SIERRA SENIOR APARTMENTS (PROJECT #)

THIS AGREEMENT is made and entered into in the County of Ventura on this _____, day of _____, 2023, by and between the CAMROSA WATER DISTRICT, an independent special district, hereinafter referred to as DISTRICT, and COUNTY OF VENTURA, hereinafter referred to as COUNTY.

WITNESSETH

WHEREAS, COUNTY is the owner of a parcel of land known as Lewis Road Complex (APN 234-0-050-340), which is to be developed into residential apartments known as "Rancho Sierra Senior Apartments" (the "Property") on a 2.11-acre portion of the Property;

WHEREAS, the DISTRICT has identified a potable water storage deficiency in Pressure Zone No. 1 and desires to construct a future oversized potable water tank;

WHEREAS, COUNTY is required to design and construct additional potable water storage to serve the Property as identified in the Camrosa's draft Facilities Master Plan;

WHEREAS, the DISTRICT desires to have constructed oversized 3.0 MG potable water storage tank;

WHEREAS, Government Code Section 66486 provides DISTRICT the authority to require COUNTY to oversize potable water tanks subject to reimbursement to COUNTY for the cost of oversizing the potable water tank ("Oversized potable water tank");

WHEREAS, COUNTY is required by DISTRICT to design and construct an Oversized potable water tank;

WHEREAS, COUNTY's Property does not have sufficient area or elevation to construct the Oversized potable water tank and requiring the County to locate and purchase a suitable site is not practical;

WHEREAS, In-lieu of building a 3.0 MG potable water tank, COUNTY is requesting to enter into this AGREEMENT with the DISTRICT to partially finance (cost share) the cost for the future construction by DISTRICT of the off-site Oversized potable water tank;

WHEREAS, the aggregate engineer's "Opinion of Probable Construction Cost" (Cost Estimate) to construct the Oversized 3.0 million-gallons potable water tank is \$7,777,814.04 as set forth in the attached hereto as Exhibit "A" (the "Cost Estimate");

WHEREAS, DISTRICT and COUNTY agree that the cost of the Oversized potable water tank shall be shared based on the Cost Estimate dated 12/23/2019 and updated on

1/4/2023.

WHEREAS, The Rancho Sierra Senior Apartment's maximum day demand is calculated at 49,665 gallons per day, with COUNTY being responsible for 1.65% ("COUNTY's Share") and DISTRICT responsible for 98.35% of the Cost;

WHEREAS, DISTRICT and COUNTY acknowledge that the timeframe to construct the Oversized potable water tank is unknown, therefore the basis for amounts set forth in the Cost Estimate are intended to serve as the basis for calculating the cost share portion for the Oversized potable water tank (the "Cost Sharing Percentages"), and after DISTRICT's receipt of COUNTY's payment pursuant to Section 3 below, no additional costs or obligations will be required of COUNTY;

WHEREAS, COUNTY's Share of the Cost Sharing Percentage provided herein has been calculated based upon a specific project that is planned by DISTRICT. DISTRICT has sole discretion to use this amount paid by COUNTY for any other capital improvement projects for facilities for the storage, treatment, and distribution of water;

WHEREAS, COUNTY will pay COUNTY's Share to DISTRICT prior to issuance of any Certificates of Occupancy for any units shown on the approved Rancho Sierra Senior Apartments or other plans for the Property.

NOW, THEREFORE, in consideration of their mutual promises, obligations, and covenants hereinafter contained, the parties hereto agree as follows:

The Recitals set forth above are hereby incorporated by reference herein as part of this AGREEMENT as though set forth in full.

1. TERM. The term of this AGREEMENT will be from the date this AGREEMENT is made and entered as first written above until the earlier of the date COUNTY has paid COUNTY's Share to DISTRICT or until December 31, 2023.
2. DISTRICT'S OBLIGATIONS. The DISTRICT and COUNTY agree that the amounts to be paid by the DISTRICT will be calculated based on the proportional volume ratio between a 3.0 million-gallons and 49,665-gallons potable water tank and as calculated in the Cost Estimate.
 - 2.1. After DISTRICT's receipt of COUNTY's Share, DISTRICT shall not withhold any water meters or any Certificates of Occupancy. DISTRICT shall be solely responsible for the cost and construction of the Oversized potable water tank, except for COUNTY's obligation to pay COUNTY's Share pursuant to Section 3 below. The terms of this Section 2.1 shall survive any termination of this Agreement.
3. COUNTY's OBLIGATION COUNTY will pay COUNTY's Share (i.e., a lump-sum amount equal to \$128,334 based on the Cost Estimate) to DISTRICT prior to issuance of any Certificate of Occupancy for any building on the Property other than model apartments

used for showing. Upon COUNTY's payment to DISTRICT, COUNTY shall have satisfied all its obligations to DISTRICT under this AGREEMENT, Government Code Section 66486, and the Conditions of Approval.

4. HOLD HARMLESS AND INDEMNIFICATION.

4.1. COUNTY will defend and provide legal representation with attorney(s) reasonably acceptable to DISTRICT, indemnify and hold harmless the DISTRICT, its officials, officers, employees, representatives and agents from and against all claims, lawsuits, costs, liabilities or damages of whatsoever nature arising out of or in connection with or relating in any manner to any errors, omissions or acts of negligence of , its agents, employees, subcontractors and employees thereof in connection with performance or non-performance of this AGREEMENT, but not to the extent the loss arises from the District's gross negligence or willful misconduct. COUNTY will thoroughly investigate any and all claims and indemnify the DISTRICT and do whatever is necessary to protect the DISTRICT, its officials, officers, employees, representatives, and agents from and against all such claims, lawsuits, costs, liabilities, or damages.

4.2. DISTRICT agrees to defend and provide legal representation with attorney(s) reasonably acceptable to COUNTY, indemnify and hold harmless COUNTY, its affiliated companies, their officers, directors, agents and employees, from and against all claims, lawsuits, costs, liabilities or damages of whatsoever nature arising from the gross negligence or willful misconduct of the DISTRICT, its officials, officers, employees, representatives or agents, or the Property after it's conveyance to the DISTRICT. DISTRICT will thoroughly investigate any and all claims and indemnify COUNTY and do whatever is necessary to protect COUNTY, its officers, employees, agents, and representatives from any such claims, lawsuits, cost, liabilities, expenses, or damages.

5. TERMINATION. In the event DISTRICT determines that COUNTY is in breach of any of the provisions of this AGREEMENT or is not performing as required hereunder in accordance with the DISTRICT'S Standards, DISTRICT may give COUNTY a written Notice to Perform describing the deficiency in COUNTY's performance and giving COUNTY a period of at least 20 calendar days to cure or correct the breach or deficiency. In the event COUNTY fails to correct or cure the deficiency or breach within the period prescribed by the Notice to Perform, DISTRICT can immediately terminate this AGREEMENT by giving COUNTY written Notice of Termination. However, if the breach or deficiency described in the Notice to Perform is such that a cure or correction cannot reasonably be completed within the period prescribed by the Notice to Perform, then DISTRICT may give COUNTY written Notice of Termination only if COUNTY has failed to make reasonable, substantial progress in curing or correcting the deficiency within the period prescribed by the Notice to Perform.

6. AMENDMENTS. The parties can amend this AGREEMENT only by written amendment. Any amendment, modification, or variation from the terms of this AGREEMENT will be in writing and will be effective only upon approval by the

DISTRICT's General Manager and COUNTY.

7. ATTORNEY'S FEES. The prevailing party in any action, lawsuit, arbitration, or other proceeding to enforce or interpret this AGREEMENT shall be entitled to recover its reasonable attorney's fees and litigation costs, in addition to any other relief.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed the day and year first above written.

CAMROSA WATER DISTRICT

By: _____

Tony L. Stafford, General Manager
Camrosa Water District

COUNTY OF VENTURA

By: _____

Title: _____