

**OPT OUT AGREEMENT  
BETWEEN  
MONTEREY COUNTY WATER RESOURCES AGENCY  
AND  
[ENTER WELL OWNER NAME]**

This OPT OUT AGREEMENT (“Agreement”) effective as of the last signature date and is by and between the Monterey County Water Resources Agency, hereinafter called “Agency,” and [REDACTED], hereinafter called “Owner.” Agency and Owner are each a “Party” and collectively the “Parties” to this Agreement.

**WHEREAS**, Agency Ordinance No. 3790 provides that all wells located in Zone 2B, except for those exempt from destruction pursuant to sections 1.03.03 or 1.03.04 of Ordinance No. 3790, shall be destroyed by the Agency;

**WHEREAS**, Agency Ordinance No. 3790 provides that the costs of well destruction shall be borne by the Agency, but does not identify a funding source for well destruction tasks;

**WHEREAS**, Agency’s 2017 report *Recommendations to Address the Expansion of Seawater Intrusion* (“*Recommendations*” report) recommended destruction of wells as described in Ordinance No. 3790;

**WHEREAS**, on April 24, 2018, the Monterey County Board of Supervisors and Board of Supervisors of the Monterey County Water Resources Agency directed staff to seek grant funding for the destruction of wells in Zone 2B in response to the *Recommendations* report;

**WHEREAS**, on June 18, 2020, agreement number SWRCB000000000D1912532 (“Grant Agreement”) was executed between the State Water Resources Control Board and Agency to provide financial assistance through a Proposition 1 Implementation Grant for the *Protection of Domestic Drinking Water Supplies for the Lower Salinas Valley* project (“Project”);

**WHEREAS**, the work completion date of the Grant Agreement is February 28, 2023;

**WHEREAS**, Agency has identified well [REDACTED] (“Well”) for destruction as part of the Project, located on APN ### (“Property”);

**WHEREAS**, Section 1.03.06 of Agency Ordinance No. 3790 provides that the decision to destroy a well under Ordinance No. 3790 may be appealed by the well owner and tenant leasing land on which the well is located;

**WHEREAS**, Owner exercised the right of appeal provided by Ordinance No. 3790 and desires to retain the Well;

**WHEREAS**, Agency agrees that Owner may retain Well as a [standby, domestic, etc.] well as defined by Ordinance No. 3790; and

**WHEREAS**, Owner desires to withdraw appeal, and accept the terms and conditions set forth in this Agreement.

**NOW THEREFORE**, for good and valuable consideration the sufficiency of which is hereby acknowledged, the Parties agree as follows:

**I. CONSIDERATIONS.**

1. Agency agrees that the Owner may retain the Well as a [standby, domestic, etc] well as defined by Ordinance No. 3790.
2. Owner on behalf of itself, and its successors and assigns in ownership of the Well, expressly waives the option to participate in the Project and hereby assumes full responsibility for destruction of the Well, including the full cost of destruction.
3. Owner agrees that Well shall be destroyed in a manner consistent with well standards in Monterey County Code Chapter 15.08 Water Wells, California Department of Water Resources Bulletins 74-81 and 74-90, or any subsequent updates to these regulations or any new regulations concerning well destruction.
4. Owner acknowledges this Agreement has no bearing on the Owner's ability to drill any type of well on the Property.

**II. ATTORNEY FEES AND LIENS.**

Parties shall each bear their own costs and attorney fees. If it becomes necessary to engage in legal proceedings to enforce or interpret any of the provisions of this Agreement, the prevailing party will be entitled to recover his or her reasonable attorney fees incurred in connection with such proceedings.

**III. SEVERABILITY.**

Should any provision of this Agreement be held invalid or illegal, such illegality will not invalidate the remainder of this Agreement. Instead, the Agreement shall be construed as if it did not contain the illegal part, and the rights and obligations of the Party shall be construed and enforced accordingly.

**IV. INTERPRETATION.**

This Agreement shall be construed and enforced pursuant to the laws of the State of California.

**V. REPRESENTATION.**

Owner has had the opportunity to be represented by independent legal counsel of its own choice, and this Agreement was prepared with the joint input of all parties and shall not be construed in favor of or against any party to the Agreement. Owner further acknowledges that this Agreement was executed freely and voluntarily and with the for Owner to receive the advice of independent legal counsel.

**VI. INDEMNIFICATION.**

By signing this Agreement the Owner agrees to indemnify, defend, and hold harmless the Agency, its governing boards, directors, officers, employees, and agents against any claim for loss, injury, damage, expense or liability resulting from or alleging injury to or death of any person or loss of use of or damage to property, arising from or related to the terms of this Agreement. The Owner will reimburse the Agency for any court costs and attorney fees which the Agency may be required by a court to pay as a result of such action. The Agency may, at its sole discretion, participate in the defense of such action.

**VII. COUNTERPARTS.**

The Parties agree that this Agreement may be executed in counterparts. Each of the undersigned, whether signing separately or on the same document with other Party, agrees to each part of the above Agreement. This Agreement is deemed executed on the date upon which all undersigned have signed this Agreement.

*[Page intentionally left blank.]*

**IN WITNESS WHEREOF**, Parties intend to be legally bound and have caused this Agreement to be executed as of the last date of signature.

MONTEREY COUNTY WATER RESOURCES AGENCY

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

Name: Brent Buche

Title: General Manager

Date: \_\_\_\_\_

OWNER

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

Name:

Title:

Date: \_\_\_\_\_

TEMPLATE ONLY