



Connection Fee Credit Agreement

2600 Moraga Road, San Pablo CA

This Connection Fee Credit Agreement ("**Agreement**") is effective as of _____, 2021 ("**Effective Date**") and is between the City of San Pablo (the "**City**"), Moraga Rd Storage, LLC, a _____ ("**Developer**"), and West County Wastewater District ("**WCW**"). The signatories to this Agreement are each referred to as a "**Party**," and together as the "**Parties**."

A. City owns property located at 2600 Moraga Road, City of San Pablo, County of Contra Costa, California, APN 416-140-050, which is approximately 8.947 acres (the "**Property**"). Prior to the City's ownership of Property, it was owned by the West Contra Costa Unified School District, which operated a school facility on the Property.

B. City is in the process of splitting the Property into two parcels according to the depiction attached as Exhibit A. City will retain the northern portion of the Property, which is currently developed with school buildings, and is approximately 4.867 acres (the "**City Remainder Parcel**") for development of a park, and Developer will acquire the southern portion, which is currently vacant and is approximately 4.08 acres (the "**Proposed Sale Parcel**") for development of a self-storage facility, pursuant to a Disposition and Development Agreement between the City and Developer dated May 26, 2021 ("**Disposition and Development Agreement**").

C. Pursuant to Section 8.20.030 (E) of the West County Wastewater District Code (the "**Code**"), every person connecting a building, structure, or facility to the WCW sewer system must pay a charge to the District as specified in the West County Wastewater District Schedule of User Fees (a "**Connection Fee**"). A parcel that has been connected to the public sewer system prior to the adoption of the Code may be given a credit for existing units (Code Section 8.20.040). Based on its historic usage, WCW has attributed to the Property a Connection Fee credit of \$135,500.00.

D. The Code does not provide for the method of allocation of Connection Fee credits in the event of a parcel split. Therefore, WCW, the City, and the Developer have agreed to allocate the Connection Fee credit assigned to the Property according to the terms of this Agreement.

The Parties therefore agree as follows:

1. **Connection Fee Credit.** The Connection Fee credit attributed to the Property is \$135,500.00 allocated as follows:

1.1 The City's Remainder Parcel: \$67,750.00.

1.2 The Proposed Sale Parcel: \$67,750.00.

2. **Release and Indemnity.** In consideration for this Agreement, City and Developer hereby release WCW from any claims relating the Connection Fee credit allocation, and shall indemnify, defend, and hold harmless WCW from all claims, damages, liabilities, costs and

expenses, including reasonable attorney's fees and court costs, arising from or relating to the Connection Fee credit allocation.

3. **Effect on Prior Rights.** This Agreement represents the entire understanding of the Parties as to their interests and obligations relating the Connection Fee credit allocation. The terms of this Agreement govern the Parties and supersede all contrary terms in prior agreements between the Parties with respect to WCW connection fees and charges.

4. **Capacity Ownership.** Wastewater capacity in the WCW system belongs to WCW. Nothing in this Agreement creates a property right in the City or Developer in capacity owned by WCW.

5. **Termination.** If the Disposition and Development Agreement between City and Developer is terminated without the Developer taking ownership of the Proposed Sale Parcel, then Developer will have no rights to the allocated Connection Fee credit and this Agreement will terminate. The full amount of the Connection Fee credit will remain eligible for use on the Property or may be allocated pursuant to a future lot split as approved by the District.

6. **Credit Expiration.** The Connection Fee credits allocated to the City Remainder Parcel and the Proposed Sale Parcel will expire if the parcel owners do not apply for a connection fee permit from the District within five years of the Effective Date.

7. **Governing Law.** This Agreement is governed by the laws of the State of California and shall be construed as if drafted by all Parties.

8. **Third Parties.** This Agreement does not create any third-party beneficiary or any rights in any person or party other than the Parties.

9. **Signing Authority.** Each Party represents and warrants that each person or persons executing this Agreement on its behalf is duly authorized to do so by the respective Party and that this Agreement shall bind the Parties.

10. **Notices.** Any written notice required by this Agreement shall be made by U.S. mail or by reliable overnight courier and delivered to the following address, together with a courtesy copy by email:

To WCWD: West County Wastewater District
2910 Hilltop Drive
Richmond, CA 94806
Attn: Michael Savannah, Director of Infrastructure & Planning
with a courtesy e-mail to: msavannah@wcwd.org

To City: City of San Pablo
San Pablo City Hall
1000 Gateway Avenue
San Pablo, CA 94806
Attn: Matt Rodriguez, City Manager
with a courtesy e-mail to: mattr@sanpabloca.gov

To Developer: Moraga Rd Storage, LLC
85 Keystone Avenue, STE E
Reno, NV 89503
Attn: Lawrence C. Thom II, Vice President
with a courtesy e-mail to: larry@arecess.com

Either party may, by written notice to the other, designate a different address or addressee, which will be substituted immediately for that specified above.

11. **Severability.** If any provision of this Agreement, for any reason, is held to be invalid, illegal, or unenforceable in any respect, that invalidity, illegality, or unenforceability will not affect any other provision of this Agreement, but this Agreement will be construed as if the invalid, illegal, or unenforceable provision had never been set forth herein, and the remainder will be enforceable to the fullest extent permitted by law.

12. **Successors & Assigns.** The terms of this Agreement are binding upon and will inure to the benefit of and be enforceable by the respective successors and assigns of the Parties.

13. **Counterparts.** This Agreement may be executed in counterparts, each of which is an original, but all of which together will constitute one and the same instrument.

The Parties are signing this Agreement as of the Effective Date.

WEST COUNTY WASTEWATER DISTRICT

Dated: _____

By: _____

Approved as to Form:
Hanson Bridgett, LLP

By: _____
District Counsel

CITY OF SAN PABLO

Dated: _____

By: _____

Approved as to Form:

By: _____

MORAGA RD STORAGE, LLC

Dated: _____

By: _____