



## Ojai Basin Groundwater Management Agency

### Water Well Registration and Verification

#### Indemnification Agreement

1. **Indemnification.** As part of the application for a water well permit from the Ventura County Public Works Agency (“VCPWA”) and request for written verification from the Ojai Basin Groundwater Management Agency (“OBGMA”) pursuant to Governor Newsom’s Executive Order N-3-23 (hereinafter collectively “Application”), as the applicant for the well permit (“Applicant”) and \_\_\_\_\_ as the owner(s) of the subject property (“Owner”), if the Owner is different than the Applicant, individually and collectively agree to indemnify, defend (along with counsel separate from legal counsel representing the Owner and Applicant), and hold harmless the OBGMA, and all its respective directors, officers, elected officials, member agencies, member entities, employees, consultants, contractors, and agents (individually and collectively the “OBGMA Parties”) as follows:
  - a. From and against any and all claims, demands, actions, proceedings, lawsuits, losses, damages, costs, judgments, and/or liabilities of any kind arising out of, related to, or in connection with the Application, including any to attack, set aside, void, or annul, in whole or in part, VCPWA’s action on the Application, or OBGMA’s determination pursuant to Executive Order N-3-23 to issue or deny written verification (hereinafter “Claim”); and
  - b. For any and all costs and expenses (including but not limited to attorneys’ and consultants’ fees and costs) incurred by the OBGMA Parties in connection with any Claim except where such indemnification is prohibited by law.
  - c. The indemnification obligation of the Owner and Applicant set forth herein does not apply to the OBGMA Parties’ sole negligence or willful misconduct.
2. **Defense.** Unless expressly agreed to in writing by each of the OBGMA Parties, the OBGMA Parties will have legal counsel separate from legal counsel representing the Owner and Applicant. Upon receiving a Claim, the OBGMA Parties have the right to retain their separate legal counsel, subject to being reimbursed by the Owner and Applicant for the full cost of such separate counsel. Owner and Applicant shall permit the OBGMA Parties, with the OBGMA Parties’ unlimited discretion, to direct the OBGMA Parties’ counsel and participate in the defense of any Claim but such participation shall not relieve the Owner or Applicant of any obligation imposed by this Agreement.

In the event of a disagreement between the OBGMA Parties and the Owner and/or Applicant over litigation issues, the OBGMA Parties shall have the authority to control the litigation and make litigation decisions as to any Claims made against the OBGMA Parties, including, but not limited to, the manner in which the defense is conducted by the OBGMA Parties’ counsel as to such Claims.

3. **Reimbursement.** To the extent the OBGMA Parties use any of their resources to respond to a Claim, the Owner and Applicant shall reimburse the OBGMA Parties upon demand. Such resources include, but are not limited to, consultant time, staff time, legal counsel time, court costs, and any other direct or indirect costs associated with responding to the Claim. In the event that the OBGMA Parties seek reimbursement hereunder, the OBGMA Parties shall provide, as a precondition to any obligation of the Owner and Applicant to pay, an itemized list of any time spent, costs incurred, or resources used, including calculations for how each item listed in the request is determined.
4. **Obligations.** The obligations of the Owner and Applicant under this Agreement shall survive and apply regardless of whether any action taken by OBGMA in connection with the Application is invalidated, set aside, expires, or is abandoned for any reason.

This Agreement and the obligations of the Owner and Applicant set forth herein shall remain in full force and effect throughout any and all stages of review, reconsideration, challenge, or litigation, including any and all appeals of any lower court decrees, orders, or judgments, and regardless of whether the Owner or Applicant has brought any claim, action, or demand against the OBGMA Parties.

The Owner and Applicant are solely responsible for compliance with all local, state, and federal laws and for obtaining necessary authorizations, approvals, and/or permits from other local, state, and federal agencies. Any failure of the Owner or Applicant to comply with applicable laws or to obtain necessary authorizations, approvals, and/or permits shall not invalidate this Agreement or excuse the obligations of the Owner or Applicant under this Agreement except where such indemnification is prohibited by law.

5. **Successors and Assigns.** The obligations of Owner and Applicant under this Agreement shall be binding upon each and every one of their respective successors, assigns, and transferees of any interest in the water well permit that is the subject of the Application. The Owner and Applicant shall cause all successors, assigns, and transferees to be so obligated; provided that the Owner and Applicant shall be and remain personally obligated to all of the terms of this Agreement, notwithstanding any attempt to assign, delegate, or otherwise transfer any of the obligations of this Agreement, and notwithstanding a change in ownership or any transfer or conveyance of any interest in the water well permit that is the subject of the Application.
6. **Stipulation, Release, or Settlement.** The Owner and Applicant shall not execute, pay, or perform pursuant to any stipulation, release, settlement agreement, or other disposition of the matter on any Claim unless the OBGMA Parties and the Owner and Applicant have approved the stipulation, release, or settlement agreement in writing, such approval not to be unreasonably withheld.

In no case shall the Owner or Applicant assume, admit, or assert any fault, wrongdoing, or liability on the part of the OBGMA Parties as a condition of or as part of any stipulation, release, settlement, or otherwise. The Owner and Applicant shall not assert any defense, claim, or complaint against the OBGMA Parties on any Claim as a condition of or as part of any stipulation, release, settlement or otherwise.

7. **No Waiver.** Any failure, actual or alleged, on the part of the OBGMA Parties to monitor or enforce compliance with any of the requirements or provisions of this Agreement shall not be deemed as a waiver of any rights on the part of the OBGMA Parties.
8. **Authority.** Each person signing this Agreement represents and warrants that such person has the power, is duly authorized, and has the capacity to enter into this Agreement and that this Agreement is a valid and legal agreement binding on the Owner and Applicant and enforceable in accordance with its terms.
9. **California Law.** This Agreement is governed by the laws of the State of California. Any litigation regarding this Agreement or its contents must be filed in the County of Ventura, if in state court, or in the federal district court nearest to Ventura County, if in federal court.
10. **Severability.** If any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.
11. **Complete Agreement.** This Agreement shall constitute the complete understanding of the parties with respect to the matters set forth herein. No party is relying on any other representation, oral or written.
12. **Counterparts.** This Agreement may be signed in counterparts and must be signed by all Owner(s) and Applicant.

Water Well Registration and Verification APN(s): \_\_\_\_\_

**NOW THEREFORE**, the Owner and Applicant agree to be bound by the terms of this Indemnification Agreement as demonstrated by their signature(s) below:

**APPLICANT:**

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

Printed Name \_\_\_\_\_ Title: \_\_\_\_\_

**PROPERTY OWNER** (if different from Applicant):

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

Printed Name \_\_\_\_\_ Title: \_\_\_\_\_