



ADMINISTRATION  
COMMITTEE  
AGENDA LETTER

Secretary of the Board of  
Directors

4699 Hollister Avenue,  
Goleta, CA 93110  
(805) 879-4621

Department Name: Water Supply &  
Conservation

For Agenda Of: April 29, 2015

Estimated Time: 30 MIN

Continued Item: No

If Yes, Date From: NA

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**TO:** Administration Committee

**FROM:** Department: Water Supply and Conservation  
Contact Info: Ryan Drake, Water Supply and Conservation Manager

**SUBJECT:** Cash for Crops Program Implementation Agreements

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**Legal Concurrence:**

As to form: Yes

**Recommended Action:**

Approve the contract and application materials for the Cash for Crops Program, and adopt a Resolution of the Administration Committee of the Goleta Water District Board of Directors Approving Parameters of the Cash for Crops Program.

**Summary Text:**

The Cash for Crops Program is an incentive-based program modeled after popular “Cash for Grass” programs, but targeted specifically to agricultural customers. All of the District rebate programs currently in place are intended to achieve long-term, permanent water savings. The Cash for Crops Program would address the need for immediate, temporary water savings by reducing the amount of agricultural water used for permanent crops and orchards. Permanent crops represent approximately 3,626 acres, or 88%, of farmed acreage in the District service area. Accordingly, targeting permanent crops is expected to yield the highest water savings.

To determine potential realized water savings from a Cash for Crops Program, staff performed a statistical analysis of recent crop production and water use characteristics for approximately 20% of District agricultural customers. Based on the analysis of customer billing and usage data, as well as irrigation practices of each customer, staff determined that 1.5 AFY was a reasonable estimate of per acre water use that would be conserved through the program. To further verify a 1.5 AF/acre water savings associated with stumping is accurate, staff performed an analysis of avocado water use. Mature avocado orchards need approximately 28 inches of water per year (up to 30 inches per year). To date, the Goleta Valley has received 10 inches of rain in the current Water Year (October 1, 2014 – September 30, 2015). If no significant rain storms occur before summer, growers are expected to use approximately 18 inches of water (1.5 AF) to supplement rainfall.

The Cash for Crops Program targets higher water-using permanent crops in the District, mainly avocado orchards, which represent 64% of farmed acreage in the District, to maximize water savings and cost-effectiveness. However, all permanent fruit tree crops in the agricultural customer class would be eligible to participate if the customer can demonstrate water savings. Recognizing that some growers have private groundwater wells, only crops irrigated with District water (i.e., not with private wells) would be eligible to participate in the program. Program eligibility would be verified through District site visits and crop report data provided annually to the District by agricultural customers.

A program budget of \$520,000 was recommended and approved based on an analysis of the estimated cost to remove crops and potential associated water savings. This equates to a cost of approximately \$533 per AF of water saved over the life of the project (approximately one and one half years). Accordingly, this represents a cost-effective approach compared to the current market cost in excess of \$1,100 to 2,000 per AF<sup>1</sup> to purchase additional water. Water savings would be temporary, as the District expects crops to be put back into production following the drought.

The proposed financial assistance to program participants would be calculated at a rate of \$1,200 per acre of crops removed. The proposed per-acre rebate equates to approximately half of the cost to cut down, or “stump,” one acre of avocado trees.<sup>2</sup> Rebates would be calculated based on the proposed number of acres that will be removed from production. The program budget is expected to produce approximately 650 AF of savings, which is 40% of normal agricultural use on the Goleta West Conduit (1,632 AFY), and 15% of agricultural use system-wide. The remaining 25% of agricultural water savings needed under Stage III is expected to be achieved through other agricultural demand reduction programs, including the WSIP, water surveys, and drought surcharges. After extensive outreach to a wide variety of agricultural customers, the majority of customers expressed that drought surcharges were likely to drive large water reductions in operations, due to the need to discontinue watering trees and crops beyond those absolutely necessary to continue to operate into the future.

### ***Implementing Documentation***

Staff developed an application for enrollment in the system, accompanied by an agreement for program participation. The draft application (Attachment 1) describes terms and conditions of participation in the program, and expressly makes enrollment in the program contingent upon the customer’s review and execution of the Cash for Crops Program Agreement (Agreement). The Agreement prepared by General Counsel (Attachment 1) is designed to incentivize program participation by offering a one-half portion of the rebate up front to cover stumping costs, to be paid after a pre-inspection by District staff and verification that the proposed stumping actually occurred. A participant agrees to stump back all living fruit trees within a certain acre and within a specified number of inches of the tree stump. The participant would then agree not to plant any other crop, trees or vegetation that would require water on the stumped acreage, and must not irrigate the stumped acreage.

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<sup>1</sup> Bloomberg Business News, “California Water Prices Soar for Farmers as Drought Grows”; see also, Pacific Institute, “Beyond Water Pricing.”

<sup>2</sup> Stumping avocados is a practice common among avocado growers, particularly during times when water is in short supply. Estimated stumping costs include the cost of sucker graft branches and labor to cut down and graft trees. Data was collected from agricultural resources, such as the Cachuma Resource Conservation District, the California Avocado Growers’ Alliance, and direct communication with numerous agricultural customers, including large scale and smaller scale operations.

The second portion of the rebate will be paid to the customer upon verification that the customer has remained in compliance with the agreement and monitoring provisions for the 18-month period. No second payment will be owed to the customer if the customer has been found to be out of compliance, unless for good cause shown. Under this contract structure, the owner agrees that the District may come onto the property at any time with 24-hour advance notice to monitor compliance with the terms of the Agreement.

Staff recommends this approach because a program structure that requires monthly verification of water use reductions against a baseline is problematic, and is likely to disincentivize enrollment in the program. For example, selection of a base year upon which water use reductions shall be measured is difficult because each property is at different stages in grow cycles and manages crops differently in response to weather patterns and individual management decisions. Thus, selecting a “one size fits all” formula for measuring water reductions is difficult to implement. Further, special counsel has advised the District that implementation of allocations for agricultural customers is highly problematic in terms of equity and enforcement issues. Thus, staff proposes not setting a “baseline” water use against which program participants must reduce total water use each month.

The District Board of Directors identified the need for program accountability to prevent abuse. The following cost analysis illustrates the profit and loss associated with operating an acre of avocado trees under two different scenarios: normal production and stumped acreage. According to the California Avocado Commission study, “The Cost of Growing Avocados” (2013), an acre of avocados in Santa Barbara County yields an average profit of \$2,455 under normal operating scenarios. Profit increases to \$7,482 for growers that do not incur land payment, equipment, building, and other non-cash overhead costs. When trees are stumped, sales revenue is reduced to zero while many of the operating expenses remain the same as normal production (i.e., taxes, insurance, land, etc.). Under the stumped scenario, growers are operating at a loss of between \$3,800 and \$8,830 without and with non-cash overhead expenses, respectively. Based on this data, the Cash for Crops rebate of \$1,200 per acre of stumped trees reduces the loss by approximately 15% to 30%, providing some relief to growers taking trees out of production to save water.

	Normal Production (\$/Acre)	Stumped Acreage (\$/Acre)
<b>Operational Expenses</b>		
Cultural care (pruning, pest control, fertilizer, etc.)	1,792	-
Irrigation (water costs* and labor to check irrigation lines)	882	-
Harvesting	1,808	-
Cash overhead (insurance, taxes, soil analysis, etc.)	1,304	1,304
Non-cash overhead (land, buildings, equipment, tools, etc.)	5,027	5,027
Stumping costs	-	2,500
<b>Total operational expenses (with non-cash overhead):</b>	<b>10,813</b>	<b>8,831</b>
<b>Total operational expenses (without non-cash overhead):</b>	<b>5,786</b>	<b>3,804</b>
<b>Revenue</b>		
Sales revenue (assumes an avg. price of \$1.07 per pound, 12,400 pounds per acre)	13,268	-
Cash for Crops rebate		1,200
<b>Operating Profit / Loss</b>		
<b>Profit / Loss (with non-cash overhead):</b>	<b>2,455</b>	<b>-7,631</b>
<b>Profit / Loss (without non-cash overhead):</b>	<b>7,482</b>	<b>-2,604</b>

\*Water costs presented are under current rates

Compared to the relatively smaller potential ability to increase production by using more water on another portion of the property, the operating loss from stumping demonstrates there is little economic incentive to take a loss of the magnitude above per acre solely to utilize the water elsewhere on the property, where irrigation costs are only \$882 per acre.

#### *Alternative Program Structure*

For the Committee's review, staff has developed an alternative program structure that would utilize a water savings target, in order to demonstrate actual water savings at a determined amount.

Under this alternative structure, as shown in the draft agreement provided as Attachment 2, a participant who stumps must also not exceed the water use targeted for the remaining parcels that are not stumped on the property. The water use target is calculated as the total use of District water on the property for the 18 month calendar period, starting 24 months prior to the effective date of the agreement, minus 1.5 acre-feet of water per acre size of the parcel. This savings is consistent with staff's determined average per acre water savings from stumping over an 18-month period.

Under this water saving target structure, a first payment will be provided upon verification of stumping, and the second payment will be owed by the District upon verification that the participant has complied with terms of the agreement and met the water savings target described above. If the water savings target is not demonstrated, the participant would not receive a second payment installment for the remainder of the rebate.

#### **Background:**

The Water Management and Long Range Planning (WMLRP) Committee reviewed the proposed Cash for Crops Program at their February 19 and March 19, 2015 meetings and forwarded to the Board with a recommendation for approval. The program would produce immediate water savings that will be needed in a Stage III Water Shortage, currently projected for early summer 2015. The Board of Directors approved the program at its April 14, 2015 meeting, subject to the Administration Committee's approval of the implementing materials for the program.

#### **Fiscal Analysis:**

The recommended program budget is \$520,000, which is not currently identified in the current Fiscal Year budget. Current year revenues, however, are expected to exceed budget estimates and would sufficiently cover these program expenditures.

#### **Attachments:**

- Attachment 1 – Program Application
- Attachment 2 – Draft Agreement – No Allocations
- Attachment 3 – Draft Agreement – Allocation
- Attachment 4 – Draft Resolution of the Administration Committee Approving Parameters of the Cash for Crops Program

#### **Authored By:**

Ryan Drake, Water Supply and Conservation Manager  
Brooke Welch, Senior Water Resources Analyst

# **Attachment 1**

## Program Application



# CASH FOR CROPS PROGRAM

Name: \_\_\_\_\_ Email: \_\_\_\_\_  
*(As you would like it to appear on the check; please print clearly) (For rebate purposes only)*

Address: \_\_\_\_\_ Phone # (\_\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_  
*(Mailing Address)*

City: \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
*(Mailing Address)*

Water Account Number: \_\_\_\_\_ Service Address: \_\_\_\_\_  
*(As printed on water bill) (As printed on water bill)*

How Did You Hear About the Rebate Program? \_\_\_\_\_

The Goleta Water District (GWD) is offering rebates for the cost to cut back, or “stump” crops of producing fruit trees.  
**PROJECTS MUST BE APPROVED IN ADVANCE. THE PROGRAM IS NOT RETROACTIVE.**

### *How Much Is The Rebate?*

The program covers a portion of the cost of pre-authorized stumping of permanent crops. Rebates are available in the amount of \$1,200 per acre of permanent fruit tree crops removed served by District water. **Properties served by private wells are not eligible for the program.**

### *How Do I Participate?*

- Step 1:** Complete, sign and submit this application to the District with a site description and estimated acres of permanent crops to be stumped.
- Step 2:** GWD staff will contact you to schedule a “Pre-Authorization Site Visit” with a District representative.
- Step 3:** After your application is approved by the District, review, sign and execute the Cash for Crops Program Agreement.
- Step 4:** Complete stumping of permanent fruit tree crops within 10 days of the date of District execution of the Agreement.
- Step 5:** GWD will issue an initial one half of the total rebate amount after confirmation of stumping, in accordance with the Agreement.
- Step 6:** Allow periodic monitoring visits by the District to verify the property has not been replanted or irrigated.
- Step 7:** Upon completion of project (18 months), call for a final “Post-Inspection” appointment within 30 days. District staff will visit the site to confirm acreage remained out of production during the life of the project, and that no other planting or irrigation of crops occurred on the site.
- Step 7:** The final half of the total customer rebate will be issued approximately 30 days after District verification of compliance for the life of the program.

## CASH FOR CROPS TERMS & CONDITIONS

1. The Applicant applying for the rebate(s) must be a Goleta Water District customer.
2. The Applicant must execute and comply with a Cash for Crops Program Agreement.
3. Only Pre-Authorized permanent crops served by District water, as determined by the District, qualify for participation..
4. The reverse side of this form must be completely filled out.
5. Rebates shall be on a one-time basis per site.
6. Inspections of the property to verify stumping and dormancy.
7. Note: Program funding is limited and participation is not guaranteed until execution of Program Agreement by District.

To be filled out by rebate participant:

SITE DESCRIPTION		
PERMANENT CROP:	REMOVED CROP ACRES: <i>(total served by District water)</i>	IRRIGATION METHOD:
1.		
2.		
3.		
<b>TOTAL ACRES:</b>		NA

By signing below, you indicate that you agree to the **“Terms and Conditions”** of the Cash for Crops Program as detailed on this form. Call **(805) 879-4643** to schedule a Post-Inspection.

The applicant, authorizes the Goleta Water District, or anyone authorized by the Goleta Water District, to use and reproduce in any format including, but not limited to, print or electronic, any visual representation, photograph or video footage submitted by me or on my behalf for any District conservation or outreach purpose, without compensation or limitation.

I hereby represent and certify that I own have the authority to bind the property.

Signature of Applicant: \_\_\_\_\_ Date: \_\_\_\_\_

OFFICIAL USE ONLY:					
Date Application Received:	_____	Estimated Rebate:	_____		
Date of First Site Visit:	_____	Initials:	_____	Total Rebated:	_____
				Initials:	_____
Date of Final Site Visit:	_____	Initials:	_____	Rejected Date:	_____
				Reason:	_____

**Attachment 2**  
Draft Agreement –  
No Allocations



GOLETA WATER DISTRICT  
CASH FOR CROPS PROGRAM AGREEMENT

PARCEL NUMBER: \_\_\_\_\_

This Agreement (“Agreement”) is made as of \_\_\_\_\_ [date] by and between GOLETA WATER DISTRICT with its office and principal place of business at 4699 Hollister Avenue, Goleta, CA 93110, (“District”) and \_\_\_\_\_ (“Owner”).

WHEREAS, the Goleta Water District has declared a Water Shortage Emergency whereby water demand must be reduced in order to ensure sufficient water is available for health and safety purposes; and

WHEREAS, significant water savings can be achieved through the voluntary cutting back of producing fruit trees, a process referred to as “stumping”; and

WHEREAS, Goleta Water District has authorized a “Cash for Crops Program” to provide an incentive for stumping in order to conserve water; and

WHEREAS, Owner has applied for and been approved to participate in the Cash for Crops Program.

WHEREAS, Owner intends that, except for provisions related to water use, the restrictions contained in this Agreement shall apply to that portion of Owner's Property (“Subject Parcels”) which is more particularly described in Exhibit A attached hereto and incorporated by reference herein as though set forth in full; and

NOW, THEREFORE, for valuable consideration the receipt of which is hereby acknowledged, the parties hereto agree as follows:

**1. Definitions:**

- a. “District” shall mean the Goleta Water District.
- b. “General Manager” shall mean the General Manager of the District.
- c. “Owner” shall mean the natural person, corporation, partnership, limited liability company or other entity that owns the Subject Parcels.

- d. "Cash for Crops" shall mean the program authorized by the District to reduce agricultural water use on eligible real property by stumping all or a portion of the crops cultivated thereon for which the District shall provide an inducement payment to the Owner.
  - e. "Effective Date" shall mean the date set forth in the first paragraph of this Agreement.
  - f. "Property" shall mean the real property owned by Owner and located in the territory of the District consisting of one or more parcels of land and located general at \_\_\_\_\_[address] and comprising the following Assessor Parcels:\_\_\_\_\_.
  - g. "Subject Parcels" shall mean that portion of the Property on which stumping shall be required by this Agreement as depicted on Exhibit A.
2. **Stumping Agreement and District Payment.** The parties agree that the Subject Parcels consists of \_\_\_\_ acres more or less and that the Remaining Parcels consist of \_\_\_\_ acres more or less. The Owner shall at Owner's sole cost and expense stump the trees or crop on the Subject Parcels as hereinafter required. The District shall pay the sum of \$\_\_\_\_\_ to the Owner in the manner set forth herein.
3. **Obligations of Owner.** During the term of this Agreement the Owner shall:
- a. Within 10 days after the effective date of this Agreement cut back all living fruit trees within \_\_\_ inches of the tree stump that are on the Subject Parcels;
  - b. Not plant any other crop, trees, vegetation or landscaping on the Subject Parcels;
  - c. Not water, irrigate or otherwise provide water to the Subject Parcels;
4. **Monitoring by District.** Owner agrees that District, at its option and in its sole discretion may come onto the Subject Parcels at any time provided the District shall give the Owner 24-hour advance notice to monitor compliance with the terms of this Agreement. Notice under this provision may be given orally or by email. The Owner waives any requirement of law that the District obtain permission other than notice given to enter upon the Subject Parcels or to obtain any warrant or other process of law. The Owner irrevocably waives any

claim of trespass by any officer or agent of the District seeking to enforce the terms of this Agreement.

5. **Payments by District.** District shall provide two payments to Owner as set forth below:
  - a. A first payment of \_\_\_\_\_ [% of total amount to be paid to Owner] (“First Payment”) shall be provided to Owner upon District verification of Stumping of all fruit trees on the Subject Parcels.
  - b. A second payment of \_\_\_\_\_ [% of total amount to be paid to Owner] (“Second Payment”) shall be paid to Owner upon verification by District that Owner has complied with this Agreement. No Second Payment shall be owed to Owner if Owner has been found to have violated any term or provision this Agreement. If such violation occurs, District shall have no further liability to Owner.
6. **Attachments.** All of the attachments to this Agreement are a part of this Agreement and are hereby incorporated.
7. **Term of Agreement.** This Agreement and the restrictions set forth herein shall terminate 18 months after verification of Stumping.
8. **Binding on Successors in Interest.** All provisions of this Agreement shall run with the land described herein and shall be binding on the parties hereto and their heirs, assigns, and successors in interest.
9. **Effect of Waiver.** District's waiver of the breach of any one term, covenant, or provision of this Agreement shall not be a waiver of a subsequent breach of the same term, covenant, or provision of this agreement or of the breach of any other term, covenant, or provision of this Agreement.
10. **Event of Default.** The failure of the Owner to perform any provision of this agreement on its part to be performed, the filing by or against the Owner of a petition in bankruptcy, the assignment of the performance of this agreement without prior written consent of the District, the use of water on the Remaining Parcels in excess of the Water Use Target, or the failure of the Owner to comply with any statute, rule or regulation applicable to the performance of this agreement.

11. **Remedies.** If the Owner shall default under this agreement, the District at its option may:
  - a. Terminate this agreement;
  - b. Seek recovery of any monies paid to the Owner;
  - c. Recover monetary damages;
  - d. Costs, disbursements and other expenses incurred to enforce this agreement except as limited by paragraph 15;
  - e. Seek such other remedies as are allowed by law.
  
12. **Judicial Enforcement.** Enforcement shall be by proceeding at law or in equity, either to restrain a violation or an attempted violation or by suit to recover damages against any person or persons violating or attempting to violate any covenant or restriction contained herein.
  
13. **Law Governing and Venue.** This Agreement has been executed and delivered in, and shall be interpreted, construed, and enforced pursuant to and in accordance with the laws of the State of California. All duties and obligations of the parties created hereunder are performable in the County of Santa Barbara California, and such County shall be that venue for any action, or proceeding that may be brought, or arise out of, in connection with or by reason of this Agreement.
  
14. **Enforceability.** If any term, covenant, condition, or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby.
  
15. **Notices.** Unless otherwise provided, all notices herein required shall be in writing, and delivered in person or sent by United States first class mail, postage prepaid. Notices required to be given to District shall be addressed as follows: General Manager, Goleta Water District, 4699 Hollister Avenue, Goleta, California 93110. Notices required to be given to Owner shall be addressed as follows:  
  
[name and address of Owner]
  
16. **Attorney's Fees:** In the event a party institutes legal proceedings of any kind against the other party, counsel fees and expenses of

litigation incurred by a party shall be borne by such party regardless of the outcome of any litigation, proceeding or action.

The parties have executed this Contract by their authorized officers as set forth below to be effective as of the date set forth above.

The person signing below on behalf of the Owner represents and warrants that he/she has the authority to bind the Owner to the terms of this Agreement.

**GOLETA WATER DISTRICT**

By: \_\_\_\_\_  
Lauren Hanson Title: President, Board of Directors

By: \_\_\_\_\_  
John McInnes Title: General Manager and Board Secretary

**Owner**  
**XXXXXXXXXXXXXXXXXXXXXXXXXXXX**

By: \_\_\_\_\_  
Name: Title:

Approved as to Form:

By: \_\_\_\_\_  
Mary L. McMaster, General Counsel

**Attachment 3**  
Draft Agreement –  
Allocation

GOLETA WATER DISTRICT  
CASH FOR CROPS PROGRAM AGREEMENT

PARCEL NUMBER: \_\_\_\_\_

This Agreement (“Agreement”) is made as of \_\_\_\_\_ [date] by and between GOLETA WATER DISTRICT with its office and principal place of business at 4699 Hollister Avenue, Goleta, CA 93110, (“District”) and \_\_\_\_\_ (“Owner”).

WHEREAS, the Goleta Water District has declared a Water Shortage Emergency whereby water demand must be reduced in order to ensure sufficient water is available for health and safety purposes; and

WHEREAS, significant water savings can be achieved through the voluntary cutting back of producing fruit trees, a process referred to as “stumping”; and

WHEREAS, Goleta Water District has authorized a “Cash for Crops Program” to provide an incentive for stumping in order to conserve water; and

WHEREAS, Owner has applied for and been approved to participate in the Cash for Crops Program.

WHEREAS, Owner intends that, except for provisions related to water use, the restrictions contained in this Agreement shall apply to that portion of Owner's Property (“Subject Parcels”) which is more particularly described in Exhibit A attached hereto and incorporated by reference herein as though set forth in full; and

NOW, THEREFORE, for valuable consideration the receipt of which is hereby acknowledged, the parties hereto agree as follows:

**1. Definitions:**

- a. “District” shall mean the Goleta Water District.
- b. “General Manager” shall mean the General Manager of the District.
- c. “Owner” shall mean the natural person, corporation, partnership, limited liability company or other entity that owns the Subject Parcels.

- d. "Cash for Crops" shall mean the program authorized by the District to reduce agricultural water use on eligible real property by stumping all or a portion of the crops cultivated thereon for which the District shall provide an inducement payment to the Owner.
  - e. "Effective Date" shall mean the date set forth in the first paragraph of this Agreement.
  - f. "Property" shall mean the real property owned by Owner and located in the territory of the District consisting of one or more parcels of land and located general at \_\_\_\_\_ [address] and comprising the following Assessor Parcels: \_\_\_\_\_.
  - g. "Subject Parcels" shall mean that portion of the Property on which stumping shall be required by this Agreement as depicted on Exhibit A.
  - h. "Remaining Parcels" shall mean that portion of the Property on which no stumping shall be required but which shall be subject to water use restrictions.
  - i. "Water Use Target" shall be calculated as set forth in Section 3(d) below.
2. **Stumping Agreement and District Payment.** The parties agree that the Subject Parcels consists of \_\_\_\_ acres more or less and that the Remaining Parcels consist of \_\_\_\_ acres more or less. The Owner shall at Owner's sole cost and expense stump the trees or crop on the Subject Parcels as hereinafter required. The District shall pay the sum of \$\_\_\_\_\_ to the Owner in the manner set forth herein.
3. **Obligations of Owner.** During the term of this Agreement the Owner shall:
- a. Within 10 days after the effective date of this Agreement cut back all living fruit trees within \_\_\_ inches of the tree stump that are on the Subject Parcels;
  - b. Not plant any other crop, trees, vegetation or landscaping on the Subject Parcels;
  - c. Not water, irrigate or otherwise provide water to the Subject Parcels;
  - d. Not exceed the water use targeted for the Remaining Parcels ("Water Use Target") as set forth below;

The Water Use Target shall be calculated as the total District Water Use on Property for the 18-month calendar



period starting 24 months prior to the Effective Date minus 1.5 Acre Foot water per acre size of the Subject Parcel.

4. **Monitoring by District.** Owner agrees that District, at its option and in its sole discretion may come onto the Subject Parcels at any time provided the District shall give the Owner 24-hour advance notice to monitor compliance with the terms of this Agreement. Notice under this provision may be given orally or by email. The Owner waives any requirement of law that the District obtain permission other than notice given to enter upon the Subject Parcels or to obtain any warrant or other process of law. The Owner irrevocably waives any claim of trespass by any officer or agent of the District seeking to enforce the terms of this Agreement.
5. **Payments by District.** District shall provide two payments to Owner as set forth below:
  - a. A first payment of \_\_\_\_\_ [% of total amount to be paid to Owner] (“First Payment”) shall be provided to Owner upon District verification of Stumping of all fruit trees on the Subject Parcels.
  - b. A second payment of \_\_\_\_\_ [% of total amount to be paid to Owner] (“Second Payment”) shall be paid to Owner upon verification by District that Owner has complied with this Agreement and has met the Water Savings Target as set forth in Subsections 3(d) above. No Second Payment shall be owed to Owner if Owner has been found to have violated any term or provision this Agreement. If such violation occurs, District shall have no further liability to Owner.
6. **Attachments.** All of the attachments to this Agreement are a part of this Agreement and are hereby incorporated.
7. **Term of Agreement.** This Agreement and the restrictions set forth herein shall terminate 18 months after verification of Stumping.
8. **Binding on Successors in Interest.** All provisions of this Agreement shall run with the land described herein and shall be binding on the parties hereto and their heirs, assigns, and successors in interest.
9. **Effect of Waiver.** District's waiver of the breach of any one term, covenant, or provision of this Agreement shall not be a waiver of a subsequent breach of the same term, covenant, or provision of this

agreement or of the breach of any other term, covenant, or provision of this Agreement.

10. **Event of Default.** The failure of the Owner to perform any provision of this agreement on its part to be performed, the filing by or against the Owner of a petition in bankruptcy, the assignment of the performance of this agreement without prior written consent of the District, the use of water on the Remaining Parcels in excess of the Water Use Target, or the failure of the Owner to comply with any statute, rule or regulation applicable to the performance of this agreement.
11. **Remedies.** If the Owner shall default under this agreement, the District at its option may:
  - a. Terminate this agreement;
  - b. Seek recovery of any monies paid to the Owner;
  - c. Recover monetary damages;
  - d. Costs, disbursements and other expenses incurred to enforce this agreement except as limited by paragraph 15;
  - e. Seek such other remedies as are allowed by law.
12. **Judicial Enforcement.** Enforcement shall be by proceeding at law or in equity, either to restrain a violation or an attempted violation or by suit to recover damages against any person or persons violating or attempting to violate any covenant or restriction contained herein.
13. **Law Governing and Venue.** This Agreement has been executed and delivered in, and shall be interpreted, construed, and enforced pursuant to and in accordance with the laws of the State of California. All duties and obligations of the parties created hereunder are performable in the County of Santa Barbara California, and such County shall be that venue for any action, or proceeding that may be brought, or arise out of, in connection with or by reason of this Agreement.
14. **Enforceability.** If any term, covenant, condition, or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby.
15. **Notices.** Unless otherwise provided, all notices herein required shall be in writing, and delivered in person or sent by United States first

class mail, postage prepaid. Notices required to be given to District shall be addressed as follows: General Manager, Goleta Water District, 4699 Hollister Avenue, Goleta, California 93110. Notices required to be given to Owner shall be addressed as follows:

**[name and address of Owner]**

16. **Attorney's Fees:** In the event a party institutes legal proceedings of any kind against the other party, counsel fees and expenses of litigation incurred by a party shall be borne by such party regardless of the outcome of any litigation, proceeding or action.
  
17. **Payment of Amounts Owed Prior to Initiation of Litigation.** In the event of a dispute between the parties, the Owner may bring a proceeding only after paying to the District as a condition precedent to the commencement of such proceeding (whether in court or arbitration) any amounts claimed by the District to be due pursuant to this Agreement. If there is a dispute about the amount claimed by the District, the District's determination of the amount due shall be conclusive unless such claim is clearly and obviously unreasonable.

The parties have executed this Contract by their authorized officers as set forth below to be effective as of the date set forth above.

The person signing below on behalf of the Owner represents and warrants that he/she has the authority to bind the Owner to the terms of this Agreement.

**GOLETA WATER DISTRICT**

By: \_\_\_\_\_  
Lauren Hanson      Title: President, Board of Directors

By: \_\_\_\_\_  
John McInnes      Title: General Manager and Board Secretary

Owner

XXXXXXXXXXXXXXXXXXXXXXXXXXXX

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

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

Approved as to Form:

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

Mary L. McMaster, General Counsel

## **Attachment 4**

### **Draft Resolution of the Administration Committee Approving Parameters of the Cash for Crops Program**

ADMINISTRATION SUBCOMITTEE

A RESOLUTION OF THE ADMINISTRATION COMMITTEE OF  
THE BOARD OF DIRECTORS OF THE GOLETA WATER DISTRICT  
APPROVING PARAMETERS OF THE CASH FOR CROPS  
PROGRAM

WHEREAS, the Goleta Water District has declared a Water Shortage Emergency whereby water demand must be reduced in order to ensure sufficient water is available for health and safety purposes; and

WHEREAS, significant water savings can be achieved through the voluntary cutting back of producing fruit trees, a process referred to as “stumping”; and

WHEREAS, the Board of Directors of the Goleta Water District approved a “Cash for Crops” Program whereby the District would pay agriculturalists for stumping trees to conserve water; and

WHEREAS, the Board of Directors directed the Administration Committee to review program documents for the Cash for Crops Program.

NOW THEREFORE BE IT FOUND, DETERMINED AND RESOLVED by the Administration Committee of the Board of Directors of the Goleta Water District that:

1. The following program parameters are approved for the cash for crops program:
  - a. The property that is subject to the Program (“Property”) must be currently served by District water and currently use over \_\_\_\_\_ HCF of District water per year.
  - b. The Property must not also be served by a private well.
  - c. At least .25 acres of the Property must be currently planted with producing fruit trees which are not currently stumped and which will be stumped under the Program.
  - d. The owner of the Property must execute a Cash for Crops Agreement.
  - e. District staff shall verify that all trees subject to the program have been stumped prior to a first payment of \_\_\_% of the total award.
  - f. District staff shall monitor the Property to ensure that irrigating is not taking place and that no alternative landscaping or crops have been planted.
  - g. A second payment of the remaining \_\_\_ % of the total award shall be provided to the Property owner only verification that Owner has been in compliance with the Program (by not irrigating or replanting) for 18 months.

- h. The Program will be made available on a first-come, first-served basis.
  - i. The Program will be evaluated by the Board of Directors four months after initiation.
2. The Administration Committee hereby approves the general form of the draft Cash for Crops Agreement and Application.
3. This Resolution shall take effect immediately.

PASSED AND ADOPTED by the Administration Committee of the Board of Directors of the Goleta Water District this 29th day of April, 2015 by the following roll call vote:

AYE:  
NAY  
ABSENT  
ABSTAIN

ATTEST:

\_\_\_\_\_  
JOHN MCINNES  
DISTRICT SECRETARY

\_\_\_\_\_  
WILLIAM C ROSEN, PRESIDENT  
BOARD OF DIRECTORS