

**RECORDING REQUESTED BY AND WHEN  
RECORDED MAIL TO:**

Rancho California Water District  
42135 Winchester Road  
Temecula, CA 92590

EXEMPT FROM FEES PURSUANT TO GOV.  
CODE §§ 27383, 6103

APN(s): XXXXXXXXX

Space above this line for Recorder's use.

**PARTICIPATION AGREEMENT AND LIABILITY WAIVER**

This Participation Agreement and Liability Waiver (this "**Agreement**") is effective this \_\_\_\_ day of April, 2021 ("**Effective Date**"), by and between Rancho California Water District, a California independent Special District with its principal place of business in Temecula, California ("**District**"), and \_\_\_\_\_, an individual with his principal place of business at \_\_\_\_\_, Temecula, California 92590 ("**Participating Grower**").

**RECITALS**

WHEREAS, Participating Grower is the fee title owner of 1 parcel(s) in the County of Riverside, State of California, as further described in Exhibit A, attached hereto and incorporated herein (the "**Property**"); and

WHEREAS, the District supports water use efficiency programs that benefit all District customers through improved District-wide water supply reliability; and

WHEREAS, the District intends to implement a CropSWAP Program ("**Program**") through a partnership between the District, the California Department of Water Resources, the U.S. Bureau of Reclamation, Participating Grower, and in some cases, the Natural Resources Conservation Service, and

WHEREAS, the Program provides financial assistance to the District's Agricultural and Agricultural/Residential customers for completion of crop conversion projects that save water through the replacement of existing crops with those that require less irrigation water; and

WHEREAS, the Program aids in sustaining local agriculture through current economic and water supply conditions while conserving water supplies for the benefit of all District customers; and

WHEREAS, the District's Board of Directors has approved a framework, which describes the Program's guidelines; and

WHEREAS, the Participating Grower desires to complete a crop conversion project ("**Project**") on the Property according to the guidelines defined in the Program's framework.

NOW, THEREFORE, in consideration of the mutual covenants set forth herein, and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the District and the Participating Grower hereto agree as follows:

## AGREEMENT

1. Term. The term of this Agreement shall begin on the Effective Date and, except as otherwise set forth in this Agreement, shall expire ten (10) years from the Project Completion Date (as defined below).
2. Scope of Work. The Project shall consist of the tasks set forth in the Scope of Work attached hereto and incorporated herein as Exhibit B, and shall encompass the area depicted in Exhibit D, attached hereto and incorporated herein ("**Project Area**"). The Project includes the conversion of at least 2 acres of existing irrigated crop to a different crop that requires less irrigation water. The Project shall be completed as shown in the Project Design Plans, attached hereto and incorporated herein as Exhibit E.
3. Covenants Running with the Land; Recordation. The covenants set forth in this Agreement shall run with the Property described in Exhibit A and bind each successive owner of the Property during the owner's period of ownership. This Agreement, along with its Exhibits, shall be recorded against the title to the Property.
4. District's Obligations. The District shall:
  - 4.1 Inspect the Project following completion of the Project to ensure the conversion was completed according to Exhibits B, D and E of this Agreement. Following inspection, the District will notify the Participating Grower in writing whether the Project was completed in accordance with this Agreement. If the Project was completed in accordance with this Agreement, the date of such notice will be the "**Project Completion Date**."
  - 4.2 Evaluate the efficiency of the newly installed/retrofitted irrigation system to ensure it operates at acceptable levels of distribution uniformity as further set forth in Exhibit B.
  - 4.3 Lower the water allocation of the water service account(s) associated with the Property where the Project is implemented for a period of ten (10) years following the Project Completion Date. Water allocations will be lowered to reflect the needs of the newly planted crop and are determined by the District's Board of Directors. The water allocations are subject to change at any time based on actions taken by the District's Board of Directors. As a result of this Project, the water allocation for water service account #XXXXXXX associated with District location #XXXXXX will be lowered from \_\_\_\_\_ acre feet per acre to \_\_\_\_\_ acre feet per acre within the Project Area. Water use beyond the allocation will result in higher tiered rates.
  - 4.4 Following the fulfillment of the Participating Grower's obligations set forth in Section 5 herein, and after verifying the Project was completed in accordance with this Agreement, contribute funds in the amount set forth in Exhibit C ("**Project Funding Amount**"), not to exceed the total cost of the Project. Notwithstanding

the foregoing, if the availability of funds is affected by actions taken by the U.S. Bureau of Reclamation and/or the California Department of Water Resources which are outside the control of the District, then the funds available for contribution to a Participating Grower could be reduced or eliminated. The District shall not be liable for any loss or reduction of funds.

5. Participating Grower's Obligations. The Participating Grower shall:

- 5.1 Complete the Project as described in Exhibits B, D, and E of this Agreement within by Month Day Year, 202X. If the Project is not completed by Month Day Year, 202X, this Agreement shall expire unless extended in writing by the parties.
- 5.2 Provide records of all payments made or received for the purpose of completing the Project, if requested by the District.
- 5.3 Make reasonable efforts to continue agricultural production of the crop to which the Project Area was converted for a period of ten (10) years following the Project Completion Date. Any further conversion of crops within the Project Area within the ten year period shall be subject to the District's approval. Should Participating Grower desire to cease agricultural production of the crop to which the Project Area was converted within the ten year period, Participating Grower shall notify the District prior to taking such action.
- 5.4 Permit the District and/or its contractors to enter the Project Area following Project completion to conduct a post-conversion inspection.
- 5.5 The Participating Grower and its contractors shall be responsible for ensuring compliance with all applicable laws, ordinances, rules and regulations, including but limited to, those related to agriculture.
- 5.6 Participating Grower is aware of the requirements of California Labor Code Sections 1720 et seq. and 1770 et seq., which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects ("Prevailing Wage Laws"). If work on the Project is being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is \$1,000 or more, Participating Grower shall and shall cause any contractors and subcontractors to fully comply with such Prevailing Wage Laws. If the work is being performed as part of an applicable "public works" or "maintenance" project, then pursuant to Labor Code Sections 1725.5 and 1771.1, contractors and subcontractors performing such work must be registered with the Department of Industrial Relations and maintain registration for the duration of the Project, unless exempt under applicable law. The Project may be subject to compliance monitoring and enforcement by the Department of Industrial Relations. Participating Grower shall defend, indemnify and hold the District, its officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

6. Hold Harmless. Participating Grower agrees to hold District and its officers, directors, agents, contractors, and employees harmless from and against any and all liabilities, losses, costs, damages (including but not limited to equipment damage and/or crop failure), attorney's fees, and any other expenses which Participating Grower may sustain or incur as a result of participation in the Project. IN NO EVENT SHALL DISTRICT BE LIABLE TO PARTICIPATING GROWER IN ANY MANNER WHATSOEVER, FOR GENERAL, CONSEQUENTIAL, INCIDENTAL, SPECIAL OR PUNITIVE DAMAGES, AND PARTICIPATING GROWER EXPRESSLY WAIVES ANY SUCH CLAIMS. The District shall require each of its contractors responsible for physically entering the Project Area to carry adequate insurance to protect their employees and agents in the event of bodily injury, which insurance shall be primary over any applicable policy of the Participating Grower with respect to such event.
7. Limitation of Liability. The District shall not be responsible for any loss of crops or environmental impacts associated with the Participating Grower's conversion of the Project Area. The District shall not be a party to any contract entered into by Participating Grower and its contractors and shall not be responsible for any property damage, bodily injury, or defective work which is connected with or related to work performed by Participating Grower's contractors.
8. Taxes. Should the Project Funding Amount constitute taxable income or be otherwise deemed taxable, the Participating Grower shall be responsible for paying all Federal, State, and local taxes associated with its receipt of the Project Funding Amount.
9. Attorney's Fees and Venue. If an action at law or in equity is necessary to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and costs in addition to any other reasonable relief to which it may be entitled. With respect to any suit, action or proceeding arising out of or related to this Agreement, or the documentation related hereto, the parties hereby submit to the jurisdiction and venue of the appropriate court in the County of Riverside, State of California for any proceeding arising hereunder.
10. Successors and Assigns. The covenants and agreements contained in this Agreement shall be binding upon and inure to the benefit of the heirs, successors and permitted assigns of the parties hereto.
11. Amendment. No change, amendment or modification of this Agreement shall be valid unless in writing and signed by the parties hereto.
12. Governing Law. This Agreement shall be construed and governed pursuant to the laws of the State of California.
13. Counterparts. This Agreement may be executed in multiple counterpart originals, each of which is deemed to be an original.
14. Recitals; Exhibits. The above Recitals and attached Exhibits are incorporated into this Agreement. If there is any conflict between the terms of this Agreement and the terms of the Exhibits, the Agreement shall control.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have executed this Agreement effective on the day and in the year first set forth above.

RANCHO CALIFORNIA WATER DISTRICT,  
A California special district government

Date: \_\_\_\_\_ By: \_\_\_\_\_  
Enter Name Here  
Assistant General Manager – CFO/Treasurer

PARTICIPATING GROWER

Date: \_\_\_\_\_ By: \_\_\_\_\_  
Enter Name Here  
Title: Property Owner

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A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA )  
COUNTY OF RIVERSIDE )

On \_\_\_\_\_, 202\_\_ before me, \_\_\_\_\_, Notary Public, personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: \_\_\_\_\_ (seal)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA )  
COUNTY OF RIVERSIDE )

On \_\_\_\_\_, 202\_\_ before me, \_\_\_\_\_, Notary Public, personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: \_\_\_\_\_ (seal)

EXHIBIT A  
DESCRIPTION OF PROPERTY

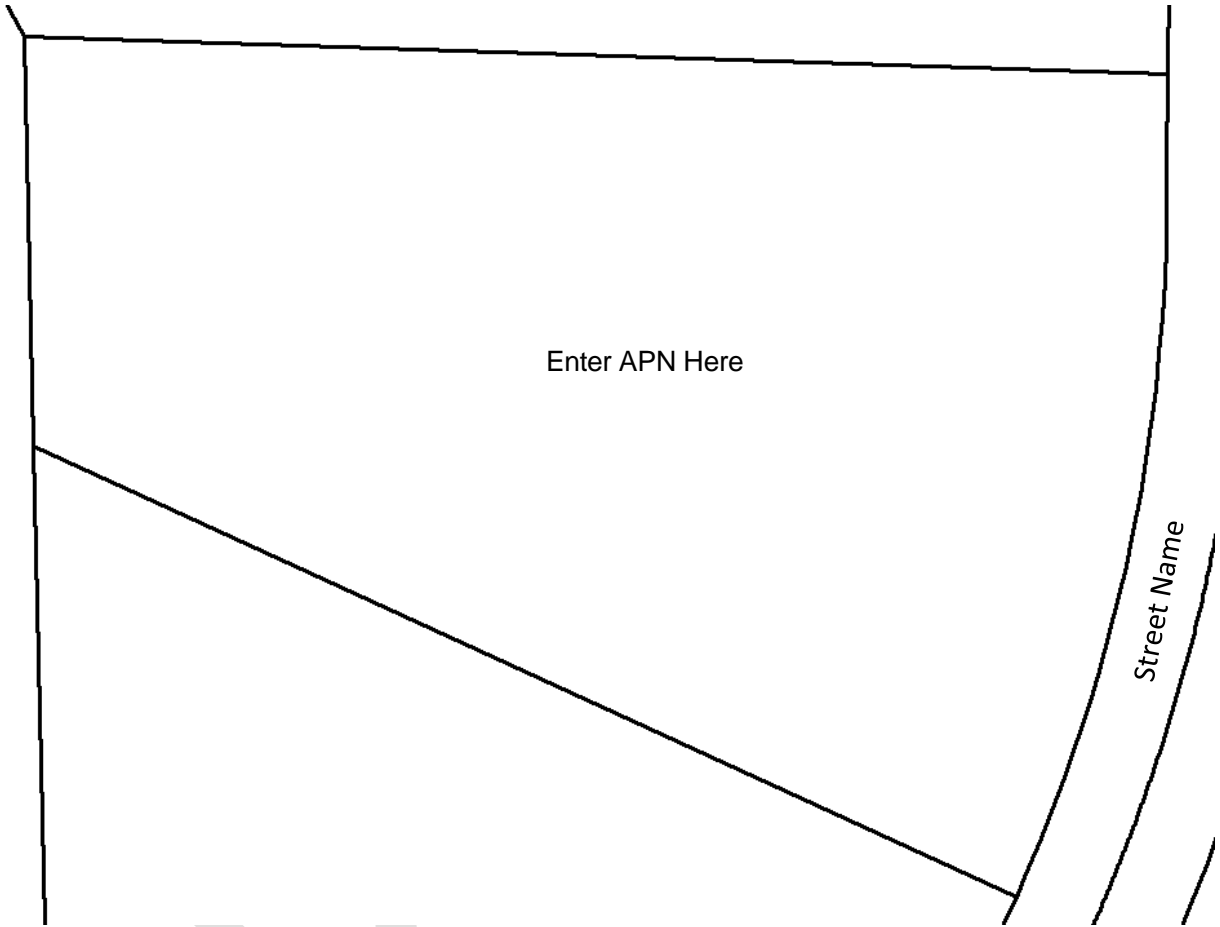




EXHIBIT B  
SCOPE OF WORK

This Project consists of the removal of X acres of Avocados, and the replacement of these acres with X acres of winegrapes on one property located on Sandia Creek Dr. in Temecula, CA as per Exhibit "A" of this Agreement.

**Project Requirements**

The following are requirements for the Project:

- After the X acres of Avocados are removed, the acres must be replaced with a minimum of 600 winegrape vines per acre within the Project Area.
- All Avocados removed through implementation of the Project must be handled and/or disposed of in adherence with all Federal, State, and local laws.
- Any grading that is conducted through implementation of the Project must be performed according to Federal, State, and local laws. Grading permits must be obtained from appropriate agencies, if applicable.
- The existing irrigation system within the Project Area will be retrofitted to suit the newly planted crop, and will be designed and installed to operate at a minimum of 85% distribution uniformity. Pressure regulation devices will be used for achieving this level of distribution uniformity.
- The existing irrigation system within the Project Area will be designed to avoid runoff.
- Automatic metering valves, irrigation timers, and pressure compensating emitters are not required for installation, but are recommended where appropriate.
- Appropriate types of mulch should be applied in areas where mulch application is reasonable.

**Post-conversion Inspection Requirements**

After the new crop(s) have been planted and the new irrigation system has been retrofitted/installed, the Participating Grower must schedule a post-conversion inspection. This inspection will be conducted at no cost to the Participating Grower by a contractor hired by the District who will verify that the conversion work was performed pursuant to the Project requirements set forth herein. No payments from the District to the Participating Grower will be made until after the post-conversion inspection has been completed and the District has confirmed that the Project meets the Project Requirements.

**Project Timing Requirements**

The Project must be completed according to the Project Requirements and the post-conversion inspection must be completed by Month Day, 202X.

EXHIBIT C  
PROJECT FUNDING

The following table shows the maximum amount of funding that will be provided by the District for implementation of the Project described in Exhibit B. This funding amount will be paid to the Participating Grower within 30 days following the post-conversion inspection and the Participating Grower's submission of the required Work Completion Certification Form to the District.

<b>FUNDING SOURCE</b>	<b>FUNDING AMOUNT*</b>
Rancho California Water District	\$XX,XXX
<b>TOTAL PROJECT FUNDING:</b>	<b>\$XX,XXX</b>

\*This Project Funding Amount is comprised of grant moneys awarded to the District through the US Bureau of Reclamation and/or the California Department of Water Resources. If the availability of this grant funding is affected by agency actions outside the control of the District, then the availability of the Project Funding Amount eligible to be awarded to a Participating Grower would be equally affected. The District shall not be liable for any loss or reduction of funds.

EXHIBIT D  
PROJECT AREA

The following aerial photo identifies the Project Area within the Property where the conversion work is to take place. The Project Area consists of the orange crosshatched area.

PLACE AERIAL PHOTO HERE

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EXHIBIT E  
PROJECT DESIGN PLANS

The following Project Design Plans provide details regarding the crop conversion and irrigation system retrofit work to be performed by the Participating Grower.

PLACE DESIGN HERE

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