CITY OF SANTA CLARA, UTAH
ORDINANCE NO. 2019-__

AN ORDINANCE TO FACILITATE ACQUISITION OF WATER RESOURCES TO SERVICE NEW DEVELOPMENT IN THE CITY WITH SECONDARY IRRIGATION WATER.

WHEREAS, Santa Clara City recently established a secondary water irrigation system, and adopted ordinances to govern the operation of the system; and

WHEREAS, in order to maintain the viability of the secondary water system over time, the City must establish a means to acquire additional water resources for use in the system; and

WHEREAS, the City Council has made certain findings that water resources are scarce, and that the City is growing rapidly, as set forth in the ordinance below; and

WHEREAS, the City Council has determined that it is in the best interests of the City and its citizens, and their health, safety, and welfare, including with respect to the viability of the secondary water irrigation system, to establish a requirement that water resources be transferred to the City as a requirement of new development, in order to service such new development through the secondary water system.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Santa Clara, Utah, that the following amendments to the Santa Clara City Code be adopted as stated below:

SECTION 1. New Requirements – Secondary Water Acquisition:

The following sections shall be added to Santa Clara City Code, Title 13 "Public Utilities," Chapter 20 "Water System."

13.20.500: WATER ACQUISITION FINDINGS, PURPOSE AND POLICY:

A. Santa Clara City has limited water rights. The city provides culinary and irrigation water for residential, commercial, and industrial uses consistent with City ordinance. Culinary water is provided from city-owned wells, and pursuant to a Regional Water Supply Agreement with the Washington County Water Conservancy District. What secondary irrigation water is controlled by the city is currently provided to the city as a shareholder of the New Santa Clara Field Canal Company.

B. The city is experiencing sustained residential, commercial, and industrial growth, and growth necessitates acquisition of additional water rights.

C. The State of Utah water engineer has determined that the water rights in the city's area have been fully appropriated and has closed the area to future appropriation of water rights.

D. The City's primary purpose for establishing this ordinance is to acquire the water

resources necessary to serve its expanding population. Therefore, no applicant of a land use application will be allowed to pay the special assessment established herein if the property on which they are filing a land use application has been the point of use for water rights, or the approved place of use for water based on shares in the New Santa Clara Field Canal Company (or its successor) in the previous three years or since the enactment of this ordinance, whichever is the shorter look back period.

E. In order to carry out the policy stated above, it is hereby ordained that all land within the city, or petitioning for annexation into the city, is wet land if the property has been the point of use for water rights, or of water based on Canal Company shares, within the three (3) years previous to the application. All wet land must deed all water rights used on the land, or transfer shares in the Canal Company representing water used on the land, up to the amount sufficient to satisfy the provisions of this ordinance and will not be required to pay the special assessment for the deeded water.

F. All land that has not been the point of use for water within the three-year look back period prior to filing of a land use application, is ordained to be dry land and the party submitting a land use application may pay the special assessment contained in this ordinance and not be required to deed water rights to the City.

G. All land use applications filed with the City must be accompanied by sufficient documentation from the state engineers' office to show if the subject property was or was not the point of use for any water rights within the three-year look back period described herein.

13.20.510: RESIDENTIAL SUBDIVISION:

Prior to a residential subdivision's final plat approval being granted, the developer or owner of the land to be subdivided shall either deed to the City water rights sufficient to comply with Section 13.20.____ below, if they are subdividing wet land pursuant to section 13.20.500 (E); or pay to the City the special assessment established in section 13.20._____ below, if they are subdividing dry land pursuant to 13.20.500 (F).

13.20.520: BUILDING PERMIT:

If real property is not in a residential platted subdivision, or is in a residential subdivision which was platted or vested prior to the effective date of this ordinance, then prior to receiving a building permit the owner shall either deed to the City sufficient water rights to comply with this ordinance, if the property is wet land pursuant to section 13.20.500 (E); or pay the special assessment set by this ordinance, if the land is dry land pursuant to 13.20.500 (F). Nothing in this ordinance shall require deeding of water rights or payment of the special assessment when a building permit is pulled for repair, remodel, or expansion of a building that has been granted a building permit prior to, or after, the effective date of this ordinance.

13.20.530: ACQUISITION OF EXCESS WATER RIGHTS OR SHARES:

If at any time an owner is required to deed water rights to the City, and if that owner owns more

water rights or water shares approved for use in the City than the owner is required to deed to the City, then the City may request that the owner either sell the excess rights or shares to the City, or enter into an agreement with the City giving the City the first right of refusal should the owner decide to sell said water rights or shares in the future. The owner shall not be required or compelled to agree to sell or grant a first right of refusal on the water rights or shares.

13.20.540: AMOUNT AND TYPE OF WATER REQUIRED:

A. Amount of water required.

1. If water is required at the time of final residential plat approval pursuant to section 13.20.510 above, as a condition of final plat approval, the owner will be required to deed _____ acre feet (___ af) of water rights per acre of property proposed for a platted residential subdivision, or a number of shares in the New Santa Clara Field Canal Company (or successor) representing the right to irrigation water in the same amount. All lots within the proposed subdivision that are one (1) acre in size or greater (when including the portion of City streets fronting those lots), shall be assessed pursuant to the standard set forth in paragraph 2 of this section.

2. If water is required prior to acquiring a building permit pursuant to section 13.20.520 above, the owner will be required to deed a minimum of _____ acre feet (___ af) of water rights per each _____ (___) gallons per minute of the secondary irrigation water meter's maximum flow rating. The amount of water required for all subdivided residential lots equal to or greater to one (1) acre, including the portion of City streets fronting those lots, shall be pursuant to this provision.

B. Type of water rights required.

1. As used in this section, the following terms shall have the following meaning:

a. "sub-surface water rights" shall mean all rights to underground water within aquifers that can physically and legally supply water to Santa Clara City;

b. "class 1 surface rights" shall mean all surface water rights to Santa Clara River water adjudicated up to 1870;

c. "class 2 surface rights" shall mean all surface water rights to Santa Clara River water on which claims were filed from 1870 through 1880;

d. "class 3 surface rights" shall mean all surface water rights to Santa Clara River water on which claims were made from 1880 through 1890;

e. "class 4A surface rights" shall mean all surface water rights to Santa Clara River water on which claims were made from 1890 through 1898;

f. "class 4B surface rights" shall mean all surface water rights to Santa Clara

River water on which claims were made post 1898.

2. When water rights are deeded to the city by an owner of property subject to a pending subdivision final plat approval or pending building permit, the City will accept water rights in the following classifications and proportions to satisfy applicable requirements:

a. A minimum of one third (1/3) of the required water rights, measured by acre-feet, shall be sub-surface water rights;

b. No more than two thirds (2/3) of the required water rights, measured by acre-feet, may be class 1, 2, or 3 surface rights; and

c. No more than one third (1/3) of the required water rights, measured by acre-feet, may be class 4A or 4B surface rights.

d. If a secondary or supplemental sub-surface water right can be transferred to and used by the City with a primary surface water right, then fifty percent (50%) of the total right shall be credited as a sub-surface water right, and fifty percent (50%) of the total right credited as a surface water right of the class designated for the primary right.

3. The requirements of paragraph B above and its subparagraphs shall not apply when the owner is transferring water shares to the City instead of water rights.

C. Exceptions.

1. Open space exception. If at the time of final plat approval, or pulling of a building permit, land is deeded to the City for undeveloped open space, parks and recreation, or placed in a conservation easement that complies with the provisions of Title 57, Chapter 18, Sections 1 through 7, Utah Code Annotated, 1953, as amended, then that acreage is not subject to the requirements of this ordinance that mandate the deeding of water rights or payment of special assessments.

2. Nothing in this ordinance shall require the City to deed water or pay a fee if the City develops land for any purpose. Furthermore, a purchaser of property from the City will in any event pay the assessment to the City consistent with this ordinance, and nothing in this ordinance shall require any person that purchases land from the City, and within the three-year look back period of the purchase develops the land, to deed water to the City.

13.20.550: ESTABLISHMENT OF SPECIAL ASSESSMENT IN LIEU OF WATER TRANSFER:

There is established a special assessment that owners may pay instead of deeding water rights water shares to the City as required by this ordinance. The special assessment shall be established by the City Council and adopted in the form of written Resolution duly authorized and approve by said Council. This special assessment may be amended from time to time also

by a resolution of the Cedar City Council. Prior to amending the special assessment, the City shall have the surface water rights and sub-surface water rights in the Cedar City area appraised and/or use the best available market information. The council may also, by resolution, add costs for reasonable administrative overhead to this special assessment.

SECTION 2. Effective date:

This Ordinance shall become effective immediately upon adoption, recording and posting in the manner prescribed by law.

ADOPTED and approved by a duly constituted quorum of the City Council of the City of Santa Clara, Utah, this _____ day of _____, 2019.

IN WITNESS THERETO:

_____
RICK ROSENBERG, Mayor

ATTEST:

_____
CHRIS SHELLEY, City Recorder