

SANTA YNEZ COMMUNITY SERVICES DISTRICT
MEMORANDUM

TO: Board of Directors

FROM: Loch A. Dreizler, General Manager
Alicia Marin, Office Manager/Board Secretary

DATE: September 20, 2023

SUBJECT: Installment payment agreement for APN 141-350-004, 3085 Horizon Drive.
Approve the Installment Payment Plan agreement.

Recommendation: Review and accept the costs and terms in the attached agreement and approve the installment payment plan agreement for APN 141-350-004. Staff published and noticed the public hearing and now bring the resolution to your Board for this Board meeting.

Proposed Motion: I move that the SYCSD accept the costs and terms in the attached agreement, approving the installment payment plan agreement for APN 141-350-004, also recognized as 3085 Horizon Drive. The Board President will sign, and the Board Secretary will attest to the attached agreement.

Policy Implications: Resolution 17-01 established a revised policy for approving installment payment plans for capacity fees and other costs for new connections. Health and Safety Code Section 5463 permits installment payment plan to be added to the tax rolls.

Fiscal Implications:

The District will not receive capacity fees upfront. The fees will be collected through the property tax on an annual basis, payable twice a year, provided the property taxes are paid on time.

Alternatives Considered: None

Discussion: The staff and property owner reviewed the steps of the installment payment plan and determined which costs the property owner would like to include in the installment payment plan. The total cost is \$75,472.11, or \$703.50 monthly, over 20 years to be placed on the property tax bill annually at \$8,442.00 (\$703.50 * 12 months).

Attachment(s):

1. Installment payment agreement

INSTALLMENT PAYMENT PLAN AGREEMENT

THIS INSTALLMENT PAYMENT PLAN AGREEMENT (this “Agreement”), dated for reference purposes as of **September 20, 2023**, is made and entered into by and between the Santa Ynez Community Services District, a public agency (the “District”), and the property owner(s) identified on the signature page hereof (“Owner”).

Recitals

A. Pursuant to Resolution No. 20-10 adopted on September 16, 2020, the District has established a policy (the “Installment Plan Policy”) for approving installment payment plans (“Installment Plans”) for connection fees and related costs for new connections to the District’s public sewer system.

B. Owner desires to have the District approve an Installment Plan for the real property owned by Owner at **3085 Horizon Drive**, Santa Ynez, California (the “Eligible Parcel”). The Eligible Parcel is improved with one or more existing buildings that (i) have a kitchen, bathroom or other facilities that produce sewage, and (ii) are connected to a septic system or other on-site private sewage disposal system (the “Existing Buildings”).

C. Pursuant to the Installment Plan Policy, Owner is required to enter into this Agreement before the District’s Board of Directors approves the Installment Plan.

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Owner Consent and Waiver. In connection with the approval of the Installment Plan by the District’s Board of Directors, Owner hereby consents to and waives the right to protest or object to (i) the imposition of a lien against the Eligible Parcel to secure the installment payments payable under the Installment Plan, (ii) the collection of the Installment Payments on the tax roll, and (iii) the recording of a lien certificate with the Santa Barbara County Recorder to secure the payment of all costs that are covered under the Installment Plan, together with interest thereon.

2. Reimbursement of Costs. If Owner withdraws Owner’s request to have the District approve an Installment Plan for the Eligible Parcel before the District’s Board of Directors takes action on such request, or if Owner does not complete the connection of the Existing Buildings on the Eligible Parcel to the District’s public sewer system within one (1) year after the approval of the Installment Plan by the District’s Board of Directors, Owner agrees to immediately reimburse the District for any and all fees and costs incurred by the District relating to Owner’s request to have the District approve an Installment Plan for the Eligible Parcel, including but not limited to the following (collectively, “Reimbursable Costs”):

(a) Constructing a side sewer and any necessary plumbing to facilitate the connection of the Existing Buildings to the District’s public sewer system.

(b) Converting Owner's on-site septic system or other on-site private sewage disposal system, including the cost of pipes, pumps, and other equipment, and septic system abandonment.

(c) The time of District staff and legal counsel associated with the preparation of this Agreement, the preparation and adoption of the resolution approving the Installment Plan, and the preparation of a lien certificate to secure the payment of amount due to the District from Owner.

(d) Noticing, publication, and recording costs.

If Owner fails to immediately reimburse the District for all Reimbursable Costs, the District shall have the right to (i) collect the Reimbursable Costs on the tax roll, and (ii) record of a lien certificate against the Eligible Parcel with the Santa Barbara County Recorder to secure the payment of the Reimbursable Costs. Owner hereby consents to and waives the right to protest or object to such collection and recording. A release of said lien certificate shall be recorded when the Reimbursable Costs have been paid in full.

3. **No Rights Conferred.** Owner acknowledges, agrees and confirms that the District's Board of Directors may approve or disapprove an Installment Plan for the Eligible Parcel in its sole and absolute discretion and shall be under no obligation to approve an Installment Plan for the Eligible Parcel, even where if Eligible Parcel satisfies all of the requirements under the Installment Plan Policy. By entering into this Agreement, the District does not confer any rights upon the Eligible Parcel, Owner or any other person.

4. **Partial Invalidity.** If any term or provision of this Agreement or the application thereof to any person or circumstance is, to any extent, determined to be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is determined to be invalid or unenforceable, shall not be affected thereby, and each such term and provision of this Agreement shall be valid and unenforceable to the fullest extent permitted by law.

5. **Waivers.** No waiver of any breach of any provision herein and no delay in enforcing performance of any obligation hereunder shall be deemed a waiver of any preceding or succeeding breach, or of any other provision herein, and no such waiver or delay shall impair any right, power or remedy relating to the breach. No extension of time for performance of any obligation or act shall be deemed an extension of the time for performance of any other obligation or act.

6. **Successors and Assigns.** This Agreement shall be binding upon and shall inure to the benefit of the permitted successors and assigns of the parties hereto.

7. **Professional Fees.** In the event of any action or suit arising in connection with the enforcement or interpretation of any of the covenants or provisions of this Agreement, the prevailing party shall be entitled to recover all costs and expenses of the action or suit, including actual attorneys' fees, accounting fees and any other professional fees incurred in connection therewith.

8. Entire Agreement/Amendments. This Agreement (including all exhibits attached hereto) is the final expression of and contains the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior understandings and communications with respect thereto. This Agreement may not be modified, changed, supplemented or terminated, nor may any obligations hereunder be waived, except by a written instrument signed by the party to be charged. The parties do not intend to confer any benefit hereunder on any person, organization or entity other than the parties hereto. All exhibits, schedules and appendices attached to this Agreement are incorporated herein by reference and are made a part hereof.

9. Time of Essence. Time is strictly of the essence with respect to each and every term, condition, obligation and provision hereof. Failure to timely perform any of the terms, conditions, obligations or provisions hereof by any party shall constitute a material breach of and a non-curable (but waivable) default under this Agreement by the party so failing to perform.

10. Construction. Headings at the beginning of each section, subsection, paragraph and subparagraph are solely for the convenience of the parties and are not a part of this Agreement. Whenever required by the context of this Agreement, the singular shall include the plural and the masculine shall include the feminine and vice versa. This Agreement shall not be construed as if it had been prepared by one of the parties, but rather as if both parties had prepared the same. Unless otherwise indicated, all references to sections, subsections, paragraphs and subparagraphs are to this Agreement.

11. Governing Law. The parties agree that (i) this Agreement shall be governed by, interpreted under and enforced in accordance with the laws of the United States of America and the State of California, (ii) in the event of any dispute, the parties shall be subject to the jurisdiction of the courts of the State of California, regardless of their place of residence, and (iii) in any action arising in connection with this Agreement, venue shall be in the County of Santa Barbara, State of California, United States of America.

12. Signatures. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument. In the event executed copies of this Agreement, or of any notices permitted or required hereunder, are provided by one party to the other(s) by facsimile or email transmission, the facsimile or email copies and the signatures thereon shall for all purposes be treated as originals. Owner represents and warrants to the District that the person(s) signing this Agreement as Owner is/are the sole owner(s) of the Property, or if the Property is owned by a legal entity, that such person(s) has/have full legal authority to sign this Agreement on behalf of such entity and to bind the entity to the terms hereof.

13. Notices. Any notices permitted or required hereunder shall be in writing and shall be (a) given by personal delivery, (b) mailed by certified or registered mail, postage prepaid, return receipt requested, (c) sent by reputable overnight delivery service (e.g., UPS, Federal Express, DHL or Airborne), or (d) sent by facsimile or email transmission using the contact information set forth below.

To District:

Santa Ynez Community Services District
Attn: General Manager
1070 Faraday Street
P.O. Box 667
Santa Ynez, CA 93460
FAX: (805) 688-3006
Email: loch@sycsd.com

To Owner:

Gavin Whalen & Teresa- Ramallo
Whalen
3085 Horizon Drive
Santa Ynez, CA 93460
tmail.teresa@gmail.com

Any party may change its contact information for notice purposes by giving notice of such change in the manner set forth above.

14. Assignment. Neither party may assign its rights or delegate its obligations under this Agreement, in whole or in part, without the prior written consent of the other party.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date(s) set forth below.

“DISTRICT”

SANTA YNEZ COMMUNITY SERVICES
DISTRICT,
a public agency

“OWNER”

(Owner’s signature)

By: _____
Frank Redfern,
President of the Board of Directors

(Owner’s name and title, if applicable)

ATTEST:

(Owner’s signature)

By: _____
Alicia Marin,
Secretary of the Board of Directors

(Owner’s name and title, if applicable)

Date: _____

Date: _____