

RECORDING REQUESTED BY  
CITY OF HAYWARD  
AND WHEN RECORDED MAIL TO:

┌ **City Clerk** ─┐  
┌ **City of Hayward** ─┐  
┌ **777 "B" Street** ─┐  
┌ **Hayward CA 94541-5007** ─┐

SPACE ABOVE THIS LINE FOR RECORDER'S USE

The undersigned grantor hereby declares: This instrument is exempt from Recording Fees (Govt. Code §27383) and from Documentary Transfer Tax (Rev. and Taxation Code §11922).

**WATER SERVICE AGREEMENT**

**UTILITY SERVICE AGREEMENT 19-01**

APN# - 85A-6000-004, 005, 006, 007, 008, 009, 010, 011, 012, 013, 014, 015, 016, 017, 018, 019, 020, 021, 022, 023, 024, 025, 026, 027 and 028

Lot 1 through 25 as designated on the Final Map of Tract 6869 (Oak Terrace), filed October 9, 2006 in Book 293 of Maps, Page 44 through 50, Official records for the County of Alameda

THIS AGREEMENT, dated for convenience this \_\_\_\_\_ day of \_\_\_\_\_, 2019, by and between RBC Real Estate Finance Inc., property owners, the nature of interest in fee, hereinafter designated as "Applicant", and the CITY OF HAYWARD, a municipal corporation, located in the County of Alameda, State of California, hereinafter designated "City".

**AGREEMENT**

WHEREAS, Applicant is the owner of a certain property in the Castro Valley Five Canyons Area, located outside the boundaries of the City of Hayward, in the County of Alameda, State of California, and more particularly described in Exhibit "A" attached hereto and made a part hereof; and

WHEREAS, the Alameda County Community Development Agency approved Tentative Map Tract 6869 on May 3, 2004 entitling the proposed subdivision of the property and construction of 25 detached single-family residential homes; and

WHEREAS, the Final Map Tract 6869 was filed and recorded with the Alameda County Recorder's Office on October 9, 2006, which created 25 lots for the future single-family residential home development; and

WHEREAS, the property is located within the East Bay Municipal Utility District's (EBMUD) Ultimate Service Boundary, but EBMUD has notified the Applicant that water service to the development is not available or feasible from EBMUD; and

WHEREAS, the City can, by virtue of the City's existing water infrastructure and an existing 8-inch diameter water main in Five Canyons Parkway, provide water service to the property; and

WHEREAS, Condition No. 41 of the Vesting Tentative Map Tract 6869, adopted on May 3, 2004, requires a letter or other form of verification from the City of Hayward stating that it has agreed to provide water to each lot in the land subdivision; and

WHEREAS, the parties have negotiated terms and conditions to allow Applicant to receive water service from the City by connecting to the City's existing 8-inch diameter water main in Five Canyons Parkway.

NOW THEREFORE, in consideration of the premises, terms, and conditions of this Agreement, the parties hereto do mutually agree as follows:

1. City agrees to authorize water service from the City of Hayward Municipal Water System, upon formal approval by the Alameda County Local Agency Formation Commission (LAFCO).
2. Applicant shall pay to the City a non-refundable Water System Facilities Fee (also known as a "Connection Fee") for each domestic water meter equivalent to the East Bay Municipal Utility District (EBMUD) System Capacity Charge (SCC) for Region 2 in effect at the time of application for water service. The City shall have the option to require installation of separate irrigation water service meters for each home, with no additional Connection Fees required to be paid by the Applicant.
3. Connection to the City's water system is subject to the provisions of applicable ordinances of the City of Hayward related to the field installation fee schedules in effect at the time of application for water service.
4. Applicant shall pay to the City the nonrefundable amount of four hundred and sixty thousand dollars (\$460,000) to mitigate the City's water supply impacts of providing water service to the property. These funds shall be paid in full at the time of application for water service for the first lot. The funds shall be allocated, in the City's sole discretion, to projects that conserve or augment the City's drinking water supplies.
5. Applicant shall pay to the City the nonrefundable amount of three hundred and fifty thousand dollars (\$350,000) towards enhanced fire protection. These funds shall be

paid in full at the time of application for water service for the first lot. The funds shall be allocated towards purchase of a water tender (tanker) or other fire protection enhancements, at the City's sole discretion, to augment the City's firefighting capabilities.

6. In the event that the City Council imposes "excess use" charges due to a water supply shortage, all homes subject to this Agreement will receive a zero water allotment in accordance with the City Council Resolution 92-298. All consumption by these homes shall be considered "excess use" and may be subject to higher charges, in addition to regular meter service and water usage charges. The assignment of a zero water allotment will not affect the quantity of water that will be delivered to the homes within this development during a water shortage, which will be determined based on the City's water shortage policies applied to similarly sized homes within the City's corporate limits.
7. All homes within this development shall comply with the highest water efficiency standards for plumbing fixtures and outdoor water use in effect in the City of Hayward code at the time of issuance of building permits.
8. Applicant hereby agrees that this development shall be subject to the requirements in the City of Hayward's Bay-Friendly Water-Efficient Landscape Ordinance.
9. Applicant hereby consents to the property being annexed to the City of Hayward if annexation is requested by the City.
10. If Applicant withdraws or attempts to withdraw consent to annex the property, City may, at its option, terminate this agreement and all privileges granted hereunder, whereupon this agreement shall be null and void.
11. All covenants herein contained shall pertain to and run with the land hereinabove described, and this Agreement shall apply to, bind, and inure to the Applicant's successors in interest of the party hereto.
12. This Agreement shall be null and void after 2 years from and after the date of execution of this agreement by the City if Improvement Plans for Final Map Tract 6869 have not yet been issued.

IN WITNESS WHEREOF, Applicant, duly authorized to act, has caused these presents to be executed and the City of Hayward by and through its City Manager duly authorized to so act by virtue of Resolution No. \_\_\_\_\_, has caused these presents to be executed the day and year first above written.

APPLICANT  
RBC REAL ESTATE FINANCE INC.,

A Delaware corporation

BY: \_\_\_\_\_  
James Team, Jr.  
President

CITY OF HAYWARD,  
a municipal corporation

RECOMMENDED:

APPROVED:

BY: \_\_\_\_\_  
Alex Ameri, Director of Public Works

BY: \_\_\_\_\_  
Kelly McAdoo, City Manager

APPROVED AS TO FORM:

ATTEST:

BY: \_\_\_\_\_  
Michael Lawson, City Attorney

BY: \_\_\_\_\_  
Miriam Lens, City Clerk

## EXHIBIT "A"

### Legal Description

Real property in the unincorporated area of the County of Alameda, State of California, described as follows:

#### PARCEL 1:

LOTS 1 THROUGH 25 AS SHOWN ON THE MAP OF TRACT 6869, FILED OCTOBER 9, 2006 IN MAP BOOK 293, PAGE 44-50, OFFICIAL RECORDS OF ALAMEDA COUNTY.

#### PARCEL 2:

PARCEL "A" (HILLTOP ROAD) (PRIVATE), AS SHOWN ON THE MAP OF TRACT 6869, FILED OCTOBER 9, 2006 IN MAP BOOK 293, PAGE 44-50, OFFICIAL RECORDS OF ALAMEDA COUNTY.

APNs: 085A-6000-004 through 085A-6000-028 (Lots 1 through 25) and 085A-6000-003 (Parcel A)