

WATER RIGHT TRANSFER AND BANKING AGREEMENT

This Water Right Transfer and Banking Agreement (“**Agreement**”) is entered into as of the 2nd day of February, 2021 (“**Effective Date**”), by and between RG 91, LLC (“**Owner**”), and GRANTSVILLE CITY, a municipal corporation and political subdivision of the State of Utah (“**City**”).

RECITALS

WHEREAS Owner is the owner of Water Right No. 15-5668 (“**Water Right**”), which is a segregated portion of Water Right No. 15-5641 and allows Owner to divert 80.54 acre-feet of water from two wells for the sole supply irrigation of 20.135 acres; and

WHEREAS Owner and City jointly filed Permanent Change Application a47899 (“**Change Application**”), which permits the diversion of 80.54 acre-feet from City’s wells for municipal purposes within City’s service area; and

WHEREAS Owner desires to transfer the Water Right and Change Application to City in order to meet City’s water dedication requirements for Owner’s development(s) and/or to bank the water with City for use by other developers to meet City’s water dedication requirements for development; and

WHEREAS City is willing to accept the Water Right and Change Application for use in its system in satisfaction of its water dedication requirements for present or future developments of Owner or Owner’s assigns, to the extent provided by City Code section 21.6.12, as may be amended.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing premises, the mutual covenants hereafter set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Owner and City, incorporating the recitals set forth above, agree as follows:

1. Transfer and Acceptance of the Water Right. Subject to the terms and provisions of this Agreement, Owner has conveyed and assigned, or will convey and assign, the Water Right and Change Application to City by Water Right Warranty Deed and Assignment recorded with the Tooele County Recorder’s Office, and City hereby agrees to accept the conveyance and assignment of the Water Right and Change Application. City has obtained or will obtain, at Owner’s expense, a water rights title insurance policy for the Water Right. City agrees and acknowledges that the Water Right is an acceptable water right for purposes of satisfying City’s water dedication requirements. Owner acknowledges that under the Article XI, Section 6 of the Utah Constitution, City is prohibited from returning to Owner any portion of the Water Right once it has been dedicated to City.

2. Water Credits. In exchange for the transfer of the Water Right, City hereby grants water dedication credits for **80.54 acre-feet** of water (“Credits”) to Owner. As provided herein, the Credits may be used by Owner to meet City’s water dedication requirements for Owner’s development(s) or may be assigned by Owner to other developers. The City Recorder shall maintain a credit log to keep track of any Credits that have not yet been dedicated to a specific development to meet City’s water dedication requirements. Owner, or any assignee of all or a portion of the Credits, may request a copy of the credit log by making a written request to the City Recorder. Within five business days of receiving the request, the City Recorder will provide a copy of the credit log.

3. Use of Credits for Owner’s Developments. Owner may use the Credits in order to meet City’s water dedication requirements as part of the development approval process. Prior to final plat approval, Owner shall send the City Recorder a completed Dedication of Water Credits form to apply a portion of the Credits to a specific development. The number of acre-feet from the Credits required for dedication to a particular development shall be determined by City ordinances and policies existing at the time of the dedication. A decision to apply the Credits to a specific development is final, and any Credits so applied are deemed attached to the development property and are no longer available for application to another project or assignment to a third party.

4. Assignment of Credits. Owner may assign any or all of the Credits to other developers using an Assignment of Water Credits form similar to Exhibit A (“Assignment”). An Assignment must be signed by each and every Owner. An assignee shall present the Assignment, with original signatures, to the City Recorder, at which time the City Recorder shall update the credit log to account for the Assignment. The City Recorder shall also keep a copy of each Assignment in his/her records. An assignee may assign the Credits in the same manner outlined herein or may use the Credits in order to meet City’s water dedication requirements. Any assignment of Credits that is not presented to the City Recorder as provided in this paragraph shall be void as against any subsequent purchaser, in good faith and for valuable consideration, of the same Credits, or any portion thereof, where the subsequent purchaser’s assignment is first presented to the City Recorder.

5. Use of Credits by Assignees. An assignee may use the Credits in order to meet City’s water dedication requirements as part of the development approval process. Prior to final plat approval, assignee shall send the City Recorder a completed Dedication of Water Credits form to apply a portion of the Credits to a specific development. The number of acre-feet from the Credits required for dedication to a particular development shall be determined by City ordinances and policies existing at the time of the dedication. A decision to apply the Credits to a specific development is final, and any Credits so applied are no longer available for application to another project or assignment to a third party.

6. City’s Use of Water Right. Upon execution of this Agreement, City shall have the full and unencumbered right to divert and beneficially use the water under the Water Right. City bears the responsibility to protect and maintain in good standing the Water Right, including placing the Water Right to beneficial use, filing proof documents on the Change Application, and filing other documentation with the Utah Division of Water Rights. Owner agrees to provide any information or other assistance, as requested by City, that is reasonably necessary to protect and

maintain the Water Right. Owner's rights to Credits under this Agreement will not be affected if the Water Right is forfeited, abandoned, or otherwise lost due to City's nonuse.

7. Termination by Owner. Owner may, at any time and in its sole discretion, terminate this Agreement by filing written notice of termination with the City Recorder. Upon termination, any Credits that have not been dedicated to a specific development shall immediately and automatically pass to City.

8. Cessation of Owner's Use. Upon execution of this Agreement, Owner shall immediately cease any and all use of the Water Right.

9. Successors and Assigns. Pursuant to the terms of this Agreement, Owner shall have the right to assign its rights, duties, and obligations. The parties acknowledge that the rights, duties, and obligations of Owner will also apply to any successor or assign of Owner, and that the use of the term "Owner" in this contract includes Owner's successors or assigns.

10. Ownership of Water Facilities. Nothing in this Agreement shall alter the ownership of any wells or other water facilities of Owner or City.

11. Entire Agreement. This Agreement represents the entire agreement between the parties and supersedes all prior agreements and understandings concerning its subject matter. This Agreement shall not be amended or modified except by written instrument signed by both parties.

12. Construction and Enforcement. This Agreement shall be construed in accordance with and governed by the laws of the State of Utah. This Agreement may be specifically enforced.

13. Third Party Beneficiaries. Except for the assignees of Credits, this Agreement is not intended to and shall not create any rights in any person or entity not a party to this Agreement.

14. Attorney Fees. In any action arising out of this Agreement, the prevailing party shall be entitled to costs and reasonable attorney fees.

15. Further Assurances. After the execution of this Agreement, the parties agree to execute and deliver such documents, and to take or cause to be taken all such other actions, as either party may reasonably deem necessary or appropriate in order to carry out the intents and purposes of this Agreement.

16. Severability. If any term, covenant, or condition of this Agreement shall be determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and the remainder of the Agreement shall remain in full force and effect.

17. Authority of Parties. The persons signing this Agreement represent and warrant that they have full authority to do so and that their corporation or entity has undertaken and obtained whatever formalities and approvals are necessary to enter into this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

GRANTSVILLE CITY,
a municipal corporation


Mayor Neil A. Critchlow



City Manager Jesse W. Wilson

STATE OF UTAH)

COUNTY OF Wasatch)

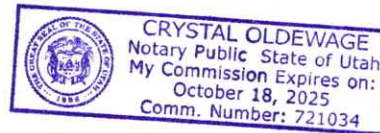
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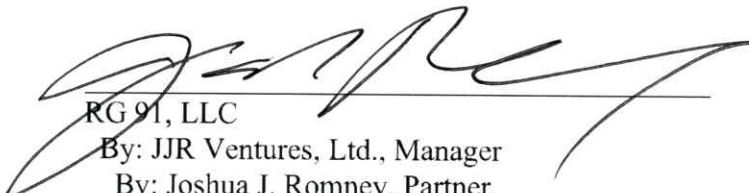
Attest


Braydee Baugh, City Recorder

On the 3 day of February, 2022, personally appeared before me ~~Neil A. Critchlow~~ and Braydee Baugh, known to me to be the Mayor and City Recorder, respectively, of GRANTSVILLE CITY, who acknowledged to me that they executed the within Water Right Transfer and Banking Agreement pursuant to a resolution of the City Council adopted pursuant to notice at a regular meeting at which a quorum was in attendance.


NOTARY PUBLIC




RG 91, LLC

By: JJR Ventures, Ltd., Manager

By: Joshua J. Romney, Partner

STATE OF UTAH)

COUNTY OF Salt Lake)

:ss

On the 31 day of January, 2022, Joshua J. Romney personally appeared before me and duly acknowledged that he, acting in his authorized capacity as Partner of JJR Ventures, Ltd., acting in its authorized capacity as Manager of RG 91, LLC, executed this Water Right Transfer and Banking Agreement for the purposes stated therein.


NOTARY PUBLIC



EXHIBIT A

ASSIGNMENT OF WATER CREDITS

This Assignment of Water Credits ("Assignment") is entered into as of this ____ day of _____, 20____, by and between _____ ("Assignor"), whose mailing address is _____ and _____ ("Assignee"), whose mailing address is _____. For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Assignor transfers and assigns to Assignee _____ acre-feet of water credits that were banked with Grantsville City pursuant to the Water Right Transfer and Banking Agreement between GRANTSVILLE CITY and RG 91, LLC, dated February 2, 2022.

In order to effectuate this Assignment, Assignee shall present this original Assignment to the Grantsville City Recorder.

DATED this _____ day of _____, 20____.

Transferor

State of _____)
County of _____) ss

On the ____ day of _____, 20__, personally appeared before me _____, personally known to me to be the person whose name is subscribed to this instrument, who acknowledged that he/she executed it.

Notary Public