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CASITAS MUNICIPAL WATER DISTRICT and
10 CASITAS MUNICIPAL WATER DISTRICT
COMMUNITY FACILITIES DISTRICT NO. 2013-1
11 (OJAI)

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA
13 FOR THE COUNTY OF VENTURA

15 GOLDEN STATE WATER COMPANY,
a California corporation,

16 Petitioner/Plaintiff,

17 vs.

18 CASITAS MUNICIPAL WATER DISTRICT,
19 a quasi-municipal corporation, CASITAS
MUNICIPAL WATER DISTRICT
20 COMMUNITY FACILITIES DISTRICT
NO. 2013-1 (OJAI), a purported community
21 facilities district, ALL PERSONS
INTERESTED IN THE VALIDITY OF
22 CASITAS MUNICIPAL WATER DISTRICT
RESOLUTIONS NOS. 13-12, 13-13, AND
23 13-14 and DOES 1 through 50, inclusive,

24 Respondents/Defendants.

Case No. 56-2013-00433986-CU-WM-VTA

ANSWER TO VERIFIED PETITION FOR
WRIT OF MANDATE AND COMPLAINT TO
DETERMINE VALIDITY AND
DECLARATORY RELIEF

Date Action Filed: March 26, 2013
Trial Date: None Set

25
26 Respondents/Defendants CASITAS MUNICIPAL WATER DISTRICT and CASITAS
27 MUNICIPAL WATER DISTRICT COMMUNITY FACILITIES DISTRICT NO. 2013-1 (OJAI)
28 (collectively, "Casitas") hereby answer the Verified Petition for Writ of Mandate and Complaint to

1 Determine Validity and Declaratory Relief (the "Petition") filed in this action and admit, deny, and
2 allege as follows:

3 **RESPONSE TO GOLDEN STATE'S ALLEGATIONS SETTING FORTH ITS**
4 **"SUMMARY OF ACTION"**

5 1. In answer to Paragraph 1 of the Petition, Casitas admits and alleges that for a
6 number of years Golden State Water Company ("Golden State") has provided and currently
7 provides water service to an area that includes most of the incorporated territory in the City of Ojai
8 and certain other unincorporated territory near or adjacent to the City of Ojai (sometimes referred
9 to in this Answer as Golden State's "Ojai service area"), that Golden State owns water system
10 facilities including water wells, pumps, tanks, water mains, and certain property rights relating to
11 its provision of water service to properties and customers in its Ojai service area, and that Golden
12 State's water rates must be approved by the California Public Utilities Commission. Except as so
13 expressly admitted and alleged, Casitas lacks sufficient knowledge to admit or deny the
14 allegations in Paragraph 1 of the Petition and, on that basis, denies said allegations.

15 2. In answer to Paragraph 2 of the Petition, Casitas admits and alleges that (1) Golden
16 State's Ojai service area is within Casitas's boundaries, (2) Casitas currently provides water
17 service to approximately 60,000-70,000 residents and hundreds of farms in Western Ventura
18 County in an area that includes the portions of the City of Ojai not currently served by Golden
19 State, Upper Ojai, the Ventura River Valley area, the City of Ventura to Mills Road, and the
20 Rincon and beach area to the ocean and Santa Barbara County line, (3) in response to a petition
21 signed by approximately 1,900 residents in Golden State's Ojai service area and based on strong
22 grassroots community support, Casitas's Board of Directors took action on March 13, 2013, to
23 form Community Facilities District No. 2013-1 (Ojai) (the "CFD"), and (4) if the CFD is approved
24 by two-thirds of the voters residing in Golden State's Ojai service area who vote on the matter at a
25 special election scheduled for August 27, 2013, Casitas will be authorized to impose CFD special
26 taxes and sell bonds to acquire Golden State's Ojai water service area and become the provider of
27 water service to customers in that area as well. In further answer to Paragraph 2 of the Petition,
28 Casitas lacks sufficient knowledge to admit or deny the allegation that Golden State has "made

1 clear that its Ojai water system is not for sale” and, on that basis denies said allegation. Except as
2 so expressly admitted, alleged, and denied, Casitas denies the allegations set forth in Paragraph 2
3 of the Petition, including without limitation the allegation that Casitas already has made a decision
4 to exercise its power of eminent domain and Casitas further denies any inference that Casitas it is
5 engaged in some sort of “power grab” or “empire building” or that it is doing anything other than
6 responding to widespread community support for Casitas’s acquisition of Golden State’s Ojai
7 service area due to Golden State’s extremely high water rates and Golden State’s
8 unresponsiveness to the needs of its customers and ratepayers.

9 3. In answer to Paragraph 3 of the Petition, Casitas admits and alleges that (1) the
10 CFD is a type of financing district authorized pursuant to the Mello-Roos Community Facilities
11 Act of 1982, as amended (the “Mello-Roos Act”), which is codified in Government Code Section
12 53311 *et seq.*, (2) on March 13, 2013, Casitas’s Board of Directors unanimously adopted its
13 Resolution Nos. 13-12, 13-13, and 13-14, true and correct copies of which are set forth in Exhibits
14 1-3 to the Petition forming the CFD and taking certain actions relating thereto, (3) on April 10,
15 2013, Casitas’s Board of Directors unanimously adopted its Resolution No. 13-16 amending and
16 restating Resolution No. 13-14, (4) the contents of each resolution referred to in clauses (2) and (3)
17 speaks for itself, and (5) if approved by the voters at the August 27, 2013, special election called
18 for in Resolution No. 13-16, Casitas will be authorized to impose special taxes on only developed
19 taxable properties located within the boundaries of the CFD. Except as so expressly admitted and
20 alleged, Casitas denies the allegations set forth in Paragraph 3 of the Petition, including without
21 limitation the allegations that (1) Casitas has an “eminent domain litigation and takeover plan” and
22 (2) CFD bonds would be repaid by property taxes levied upon “every parcel of land in the City of
23 Ojai.”

24 4. Paragraph 4 of the Petition contains nothing other than improper and incorrect legal
25 argument. Casitas denies each and every allegation set forth therein. Not by way of limitation of
26 the foregoing, Casitas denies that this lawsuit is necessary to prevent Casitas from implementing a
27 plan that violates the law and Casitas alleges that, in fact, this lawsuit is an improper attempt by
28 Golden State to prevent the voters in Golden State’s Ojai service area from expressing their

1 constitutional right to vote on the question of whether Casitas should be authorized to impose a
2 CFD special tax on taxable developed properties within Golden State's Ojai service area and sell
3 CFD bonds in order to enable Casitas to acquire Golden State's Ojai service area and help Golden
4 State's existing customers and rate payers escape the oppressive water rates currently charged by
5 Golden State.

6 5. In answer to Paragraph 5 of the Petition, Casitas alleges that its Resolution Nos. 13-
7 12, 13-13, 13-14, and 13-16 speak for themselves. Except as expressly so alleged, Casitas denies
8 the allegations set forth in Paragraph 5 of the Petition, including without limitation the allegations
9 that (1) Casitas plans to sell \$60 million in CFD bonds (\$60 million is the maximum authorized
10 amount of bonds but, if CFD bonds are sold, the actual amount of the bonds may well be less than
11 the maximum), (2) Casitas plans to use bond proceeds to pay for eminent domain litigation
12 (eminent domain litigation is a permitted use of bond proceeds but Casitas has not yet made a
13 decision to institute eminent domain litigation), and (3) there is a "strong possibility" eminent
14 domain litigation, if filed by Casitas, would "not [be] allowed by the Court."

15 6. In answer to Paragraph 6 of the Petition, Casitas alleges that its Resolution Nos. 13-
16 12, 13-13, 13-14, and 13-16 speak for themselves and denies each and every allegation set forth
17 therein, including without limitation the allegations that Casitas's customers could or would suffer
18 the impacts of a theoretical abandonment by Casitas of a possible future eminent domain action.

19 7. In answer to Paragraph 7 of the Petition, Casitas admits and alleges that just
20 compensation in an eminent domain action is determined by the trier of fact, either a jury or the
21 court (if the right to a jury trial is waived by all parties), if the condemnor and condemnee(s) do
22 not agree to the just compensation amount prior to the time the valuation trial is held and a verdict
23 is rendered. In further answer to Paragraph 7 of the Petition, Casitas alleges that the true financial
24 harm at issue in this case is the harm that currently is being suffered by the customers and rate
25 payers in Golden State's Ojai service area every day due to its excessively high water rates.
26 Except as so admitted and alleged, Casitas denies each and every allegation set forth in Paragraph
27 7 of the Petition.

28 8. In answer to Paragraph 8 of the Petition, Casitas alleges that it is a municipal water

1 district with the powers to “exercise the right of eminent domain to take any property necessary to
2 supply the district or any portion thereof with water” (Water Code §71693) and to “exercise the
3 right of eminent domain to take any property necessary to carry out any powers of the district”
4 (Water Code §71694). In further answer to Paragraph 8 of the Petition, Casitas alleges that
5 Paragraph 8 of the Petition contains nothing other than improper and incorrect legal arguments and
6 Casitas denies each and every allegation set forth therein, including without limitation the
7 allegations and inferences that (1) the Mello-Roos Act prohibits the use of CFD special taxes or
8 CFD bond proceeds to pay for eminent domain litigation and related costs, (2) Golden State would
9 be entitled to compensation for loss of “business goodwill” if Casitas acquires Golden State’s Ojai
10 service area, (3) any business goodwill or “water rights” that Golden State may possess are
11 “intangible” rights which Casitas is prohibited from acquiring with CFD special taxes or bond
12 proceeds (see, e.g., Civil Code §658, *San Juan Gold Co. v. San Juan Ridge Mut. Water Ass’n*
13 (1939) 34 Cal.App.2d 159 [water rights are appurtenant to land and considered as “realty”]), and
14 (4) Casitas has already decided to institute eminent domain proceedings.

15 9. In answer to Paragraph 9 of the Petition, Casitas admits and alleges that it has
16 scheduled a special election of voters residing within Golden State’s Ojai service area for August
17 27, 2013, to consider whether to approve the CFD, as provided for in Resolution No. 13-14, as
18 amended and superseded by Resolution No. 13-16. In further answer to Paragraph 9 of the
19 Petition, Casitas has insufficient knowledge to enable it to admit or deny the allegation that
20 Golden State seeks or will seek “prompt relief” from the Court with regard to the validity of
21 Resolution Nos. 13-12, 13-13, and 13-14 (and Resolution No. 13-16) and, on that basis, Casitas
22 denies said allegation. Except as so admitted and alleged, Casitas denies each and every allegation
23 set forth in Paragraph 9 of the Petition.

24 **PARTIES**

25 10. In answer to Paragraph 10 of the Petition, Casitas lacks sufficient information to
26 enable it to admit or deny that Golden State is the owner of any particular personal property or
27 intangible property situated within or relating to its Ojai service area and, on that basis, denies said
28 allegation. In further answer to Paragraph 10 of the Petition, Casitas alleges that if the voters in

1 Golden State's Ojai service area approve the CFD at the scheduled August 27, 2013, special
2 election Casitas intends to proceed in an effort to use the Mello-Roos Act only to acquire "real or
3 other tangible property with an estimated useful life of five years or longer" within the meaning of
4 Government Code §53313.5 and Casitas denies that it seeks to acquire or "take" any personal
5 property or intangible property of Golden State using CFD financing that does not fit within that
6 meaning. Except as so denied and admitted, Casitas admits the allegations set forth in Paragraph
7 10 of the Petition.

8 11. In answer to Paragraph 11 of the Petition, Casitas alleges that the Casitas Municipal
9 Water District is, and at all times mentioned in the Petition was, a municipal water district formed
10 and existing pursuant to the Municipal Water District Law of 1911 (Division 20, commencing
11 with Section 71000, of the California Water Code), doing business in the County of Ventura, State
12 of California, and possessing all of the powers of a municipal water district under that law, the
13 Mello-Roos Act, and the California Eminent Domain Law (Code of Civil Procedure §1230.010 *et*
14 *seq.*), including without limitation the power to acquire property for the public purposes and uses
15 of Casitas and to exercise its power of eminent domain to do so (see, e.g., Water Code §§71690-
16 71694, Government Code §§53313.5 and 53345.3, and Code of Civil Procedure §§1240.010,
17 1240.110, 1240.125, and 1240.650). In further answer to Paragraph 11 of the Petition, Casitas
18 alleges that it is unaware what Golden State means by describing the Casitas Municipal Water
19 District as a "quasi-municipal corporation" and, on that basis, denies said allegation.

20 12. Casitas admits the allegations set forth in Paragraph 12 of the Petition.

21 13. In answer to Paragraph 13 of the Petition, Casitas admits and alleges that any action
22 challenging Casitas's formation of the CFD and the actions relating thereto must be filed and
23 prosecuted as an *in rem* validation action that is subject to various procedural requirements and in
24 which interested persons have the right to appear and represent their respective interests.

25 14. Casitas has insufficient knowledge to enable it to admit or deny the allegations set
26 forth in Paragraph 14 of the Petition and, on that basis, denies said allegations.

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RESPONSE TO GOLDEN STATE’S ALLEGATIONS REGARDING
“THE PERTINENT FACTS AND LAW”

15. In answer to Paragraph 15 of the Petition, Casitas alleges that Golden State’s Ojai service area encompasses only a portion of the City of Ojai and includes some territory outside the City of Ojai and Casitas denies the inference that Golden State’s Ojai service area is co-terminous with the City’s boundaries. In further answer to Paragraph 15 of the Petition, Casitas alleges that Golden State applies to the California Public Utilities Commission to set the rates that customers in Golden State’s Ojai service area pay for water delivered by Golden State. Except as so alleged and denied, Casitas admits the allegations set forth in Paragraph 15 of the Petition.

16. In answer to Paragraph 16 of the Petition, Casitas admits that Golden State’s Ojai service area includes facilities similar to what is described therein but Casitas has insufficient knowledge to enable it to admit or deny the allegations set forth in Paragraph 16 with the specificity alleged by Golden State and, on that basis, denies said allegations.

17. In answer to Paragraph 17 of the Petition, Casitas alleges that there has been no adjudication of water rights in the Ojai Valley Groundwater Basin and, on that basis, denies that Golden State holds a “vested, appropriative right to pump over 2,000 acre-feet of water annually” from its wells. In further answer to Paragraph 17 of the Petition, Casitas lacks sufficient information to enable it to answer the allegation as to whether Golden State plans to sell its water system and any alleged water rights it possesses with respect to its Ojai service area and Casitas further lacks sufficient knowledge to enable it to answer the allegation as to what Golden State believes the market value of its Ojai water system and alleged water rights might be and, on that basis, denies said allegations. Finally, in further answer to Paragraph 17 of the Petition, while Casitas has not yet prepared a formal appraisal of the fair market value of Golden State’s Ojai water system and alleged water rights, Casitas alleges that the California Public Utility Commission has set Golden State’s water rates for its Ojai service area (in 2012) based upon a valuation of Golden State’s entire Ojai water utility of only Fourteen Million Six Hundred Forty-Three Thousand Two Hundred Forty-Nine Dollars (\$14,643,249) and that in Golden State’s most recent general rate-setting application (Application 11-07-017) to the California Public Utilities

1 Commission, the Commission's assigned Administrative Law Judge recently (on March 19, 2013)
2 recommended that Golden State's water rates for its Ojai service area for 2013 be set based upon a
3 valuation for Golden State's entire Ojai water system of only Seventeen Million One Hundred
4 Forty-Four Thousand Four Hundred Dollars (\$17,144,400), which makes Golden State's
5 allegation that its Ojai water utility "potentially has a cumulative market value exceeding \$100
6 million" grossly inflated and absolutely preposterous.

7 **RESPONSE TO GOLDEN STATE'S ALLEGATIONS REGARDING**
8 **THE ALLEGED "UNPRECEDENTED TAKEOVER PLAN"**

9 18. In answer to Paragraph 18 of the Petition, Casitas admits and alleges that Golden
10 State's Ojai customers and ratepayers have suffered with inordinately high water rates charged by
11 Golden State for a number of years, that in recent years many of those customers and ratepayers
12 have become vocal in their opposition to Golden State, that a grassroots community group in Ojai
13 calling itself Ojai Friends of Locally Owned Water or "Ojai FLOW" formed itself in an effort to
14 organize a transfer of ownership and control of Golden State's Ojai water system to the people—
15 through acquisition by a public agency such as either the City of Ojai or Casitas, that Ojai FLOW
16 submitted a petition to Casitas's Board of Directors signed by approximately 1,900 Ojai residents
17 urging Casitas to take steps to acquire Golden State's Ojai service area, and that Casitas's
18 Resolution Nos. 13-12, 13-13, 13-14, and 13-16 are responsive to that grassroots campaign.
19 Except as so admitted and alleged, Casitas denies each and every allegation set forth in Paragraph
20 18 of the Petition, including without limitation the allegations that (1) the impetus for the actions
21 taken by Casitas that are challenged in this action arose from the activities of "a group from
22 outside of [Golden State's] Ojai [service area]," (2) the acquisition by Casitas of Golden State's
23 Ojai service area must necessarily occur through eminent domain litigation, (3) "there is no legal
24 or statutory authorization for using the Mello-Roos Act to finance a taking by eminent domain,"
25 (4) the Felton, California, "takeover" was "the only time that the Mello-Roos Act has ever been
26 used to fund a taking by eminent domain," and (5) "[t]he legality of the Felton takeover scheme
27 was never tested in the courts."

28 19. In answer to Paragraph 19 of the Petition, Casitas admits and alleges that

1 Resolution Nos. 13-12, 13-13, 13-14, and 13-16 speak for themselves and that, assuming the
2 voters within Golden State's Ojai service area approve the CFD at the August 27, 2013, special
3 election, Casitas will be authorized to impose special taxes on the taxable developed properties in
4 the CFD boundaries to finance the acquisition of Golden State's Ojai water system, sell up to \$60
5 million in CFD bonds for that purpose and related purposes, and do so without imposing any
6 special tax liability or risk on property owners, customers, and ratepayers of Casitas located
7 outside the CFD. In further answer to Paragraph 19 of the Petition, Casitas lacks sufficient
8 information to enable it to answer the allegation that Golden State's Ojai water utility is not for
9 sale and, on that basis, denies said allegation. Except as so admitted, alleged, and denied, Casitas
10 denies the allegations set forth in Paragraph 19 of the Petition.

11 20. In answer to Paragraph 20 of the Petition, Casitas admits and alleges that
12 Resolution Nos. 13-12, 13-13, 13-14, and 13-16 speak for themselves and that, assuming the
13 voters within Golden State's Ojai service area approve the CFD at the August 27, 2013, special
14 election, Casitas will be authorized to impose special taxes on the taxable developed properties in
15 the CFD boundaries to finance the acquisition of Golden State's Ojai water system and sell up to
16 \$60 million in CFD bonds for that purpose and related purposes. Except as so admitted and
17 alleged, Casitas denies the allegations set forth in Paragraph 20 of the Petition.

18 **RESPONSE TO GOLDEN STATE'S ALLEGATIONS**

19 **RELATING TO CFD RESOLUTIONS**

20 21. Casitas admits the allegations set forth in Paragraph 21 of the Petition.

21 22. In answer to Paragraph 22 of the Petition, Casitas admits and alleges that the
22 Casitas Board of Directors conducted a duly noticed public hearing on March 13, 2013,
23 concerning the proposed CFD, that the hearing was well attended, that the citizens and residents of
24 Golden State's Ojai service area overwhelmingly supported the Casitas Board moving forward
25 with the CFD, that at the conclusion of the public hearing the Casitas Board of Directors adopted
26 its Resolution Nos. 13-12, 13-13, and 13-14, and that said resolutions (and Resolution No. 13-16
27 adopted on April 10, 2013) speak for themselves. Except as so admitted and alleged, Casitas
28 denies the allegations set forth in Paragraph 22 of the Petition.

1 23. Casitas denies the allegations set forth in Paragraph 23 of the Petition.

2 24. In answer to Paragraph 24 of the Petition, Casitas admits and alleges that
3 Resolution No. 13-12 speaks for itself and that said resolution fully complies with applicable
4 provisions of the Mello-Roos Act. Except as so admitted and alleged, Casitas denies the
5 allegations set forth in Paragraph 24 of the Petition.

6 25. In answer to Paragraph 25 of the Petition, Casitas admits and alleges that
7 Resolution No. 13-12 speaks for itself and that said resolution fully complies with applicable
8 provisions of the Mello-Roos Act. Except as so admitted and alleged, Casitas denies the
9 allegations set forth in Paragraph 25 of the Petition. Not by way of limitation of the foregoing,
10 Casitas expressly denies that the Mello-Roos Act prohibits or prevents Casitas from using CFD
11 special taxes and/or CFD bond proceeds to pay for any of the items set forth in the "List of
12 Authorized Facilities" in Exhibit A to Resolution No. 13-12.

13 **RESPONSE TO GOLDEN STATE'S ALLEGATIONS THAT A TAKING BY**
14 **EMINENT DOMAIN IS NOT AUTHORIZED UNDER THE MELLO-ROOS ACT**

15 26. In answer to Paragraph 26 of the Petition, Casitas alleges that Government Code
16 §53313.5 speaks for itself and Casitas denies that said statute prohibits or prevents Casitas from
17 using CFD special taxes and/or bond proceeds to purchase property through exercise of its power
18 of eminent domain.

19 27. In answer to Paragraph 27 of the Petition, Casitas denies that resort to legislative
20 history is necessary to interpret whether it is permitted to use CFD special taxes and/or bond
21 proceeds to purchase property through exercise of its power of eminent domain and, even to the
22 extent such legislative history is relevant, Casitas denies the legislative history it cites supports its
23 interpretation.

24 28. Casitas denies each and every allegation set forth in Paragraph 28 of the Petition.

25 29. In answer to Paragraph 29 of the Petition, Casitas alleges that Government Code
26 §53321.5 speaks for itself and Casitas denies each and every other allegation set forth therein.

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1 **RESPONSE TO GOLDEN STATE’S ALLEGATIONS RE USE OF CFD TO PAY**
2 **EMINENT DOMAIN LITIGATION EXPENSES AND DAMAGES**

3 30. In answer to Paragraph 30 of the Petition, Casitas alleges and admits that
4 Government Code §53313.5 and Resolution No. 13-12 speak for themselves and, except as so
5 admitted and alleged, Casitas denies each and every other allegation set forth therein.

6 31. In answer to Paragraph 31 of the Petition, Casitas alleges that Government Code
7 §§53317, 53321.5, and 53325.1(a) speak for themselves and, except as so alleged, Casitas denies
8 each and every other allegation set forth therein.

9 32. Casitas denies each and every allegation set forth in Paragraph 32 of the Petition.

10 **RESPONSE TO GOLDEN STATE’S ALLEGATIONS REGARDING POTENTIAL**
11 **“ABANDONMENT” OF POSSIBLE FUTURE EMINENT DOMAIN ACTION**
12 **CREATING FINANCIAL RISKS FOR CASITAS CUSTOMERS**

13 33. In answer to Paragraph 33 of the Petition, Casitas alleges that Resolution No. 13-12
14 speaks for itself and, except as so alleged, Casitas denies each and every other allegation set forth
15 therein.

16 34. In answer to Paragraph 34 of the Petition, Casitas alleges that Code of Civil
17 Procedure §§1268.510 and 1250.410 speak for themselves and, except as so alleged, Casitas
18 denies each and every other allegation set forth therein.

19 35. Casitas denies each and every allegation set forth in Paragraph 35 of the Petition.

20 **RESPONSE TO GOLDEN STATE’S ALLEGATIONS RELATING TO USE OF**
21 **MELLO-ROOS FINANCING TO TAKE “INTANGIBLE” PROPERTY**

22 36. In answer to Paragraph 36 of the Petition, Casitas alleges that Government Code
23 §53315.5 speaks for itself and, except as so alleged, Casitas denies each and every other allegation
24 set forth therein. Not by way of limitation of the foregoing, Casitas denies that it has any intention
25 to use CFD financing to acquire any property that constitutes “intangible” property within the
26 meaning of Government Code §53315.5.

27 37. In answer to Paragraph 37 of the Petition, Casitas alleges that Government Code
28 §53315.5 speaks for itself and, except as so alleged, Casitas denies each and every other allegation

1 set forth therein. Not by way of limitation of the foregoing, Casitas denies that Golden State
2 would be entitled to compensation for loss of business goodwill, severance damages, or loss of
3 “water rights” if Casitas were to attempt to use CFD special taxes and/or CFD bond proceeds to
4 acquire them in the future and Casitas further denies that any such rights constitute “intangible”
5 property rights within the meaning of Government Code §53315.5.

6 38. Casitas denies the allegations set forth in Paragraph 38 of the Petition, including
7 without limitation that either business goodwill and water rights constitute “intangible” property
8 within the meaning of the Mello-Roos Act (in particular Government Code §53315.5).

9 **ANSWER TO FIRST CAUSE OF ACTION FOR ISSUANCE OF**
10 **WRIT OF MANDATE (CODE OF CIVIL PROCEDURE §1085)**

11 39. In answer to Paragraph 39 of the Petition, Casitas hereby incorporates the
12 admissions, denials, and allegations set forth in Paragraphs 1-38 of this Answer as though fully set
13 forth herein.

14 40. In answer to Paragraph 40 of the Petition, Casitas admits and alleges that its Board
15 of Directors adopted certain resolutions with respect to the CFD on March 13, 2013, and that if the
16 voters in the CFD, which is co-terminous with Golden State’s Ojai service area, approve the CFD
17 at the August 27, 2013, special election, Casitas will be authorized to impose special taxes on
18 developed taxable properties in the CFD and sell up to \$60 million of CFD bonds to acquire
19 Golden State’s Ojai water utility and for related purposes as set forth therein. Except as so
20 admitted and alleged Casitas denies each and every allegation set forth in Paragraph 40 of the
21 Petition.

22 41. Casitas denies each and every allegation set forth in Paragraph 41 of the Petition.

23 42. In answer to Paragraph 42 of the Petition, Casitas alleges that Government Code
24 §53313.5 speaks for itself and Casitas denies the allegation that said statute in particular or the
25 Mello-Roos Act in general do not permit use of CFD special taxes and/or CFD bond proceeds to
26 acquire property through the use of Casitas’s power of eminent domain.

27 43. In answer to Paragraph 43 of the Petition, Casitas alleges that Government Code
28 §53313.5 speaks for itself and otherwise Casitas denies each and every allegation set forth therein.

1 44. In answer to Paragraph 44 of the Petition, Casitas alleges that Government Code
2 §53313.5 speaks for itself and otherwise Casitas denies each and every allegation set forth therein.

3 45. Casitas denies each and every allegation set forth in Paragraph 45 of the Petition.

4 46. Casitas denies each and every allegation set forth in Paragraph 46 of the Petition.

5 47. Casitas denies each and every allegation set forth in Paragraph 47 of the Petition.

6 48. Casitas denies each and every allegation set forth in Paragraph 48 of the Petition.

7 49. Casitas denies each and every allegation set forth in Paragraph 49 of the Petition.

8 **ANSWER TO SECOND CAUSE OF ACTION TO DETERMINE VALIDITY OF**
9 **CASITAS RESOLUTION NOS. 13-12, 13-13, AND 13-14 UNDER GOVERNMENT CODE**
10 **§53510 ET SEQ. AND CODE OF CIVIL PROCEDURE §860 ET SEQ.**

11 50. In answer to Paragraph 50 of the Petition, Casitas hereby incorporates the
12 admissions, denials, and allegations set forth in Paragraphs 1-38 of this Answer as though fully set
13 forth herein.

14 51. In answer to Paragraph 51 of the Petition, Casitas admits and alleges that its Board
15 of Directors adopted three resolutions with respect to the CFD on March 13, 2013, and that said
16 resolutions speak for themselves. Except as so admitted and alleged, Casitas denies each and
17 every allegation set forth in Paragraph 51 of the Petition.

18 52. In answer to Paragraph 52 of the Petition, Casitas denies that Resolution Nos. 13-
19 12 and 13-14 constitute the issuance of bonds, warrants, contracts, obligations, or evidences of
20 indebtedness by a local agency such as to make such resolutions subject to judicial challenge in a
21 validation proceeding under Government Code §53511 or any other statute. In further answer to
22 Paragraph 52 of the Petition, Casitas alleges that Resolution No. 13-16 also does not constitute the
23 issuance of bonds, warrants, contracts, obligations, or evidences of indebtedness by a local agency
24 such as to make such resolution subject to judicial challenge in a validation proceeding under
25 Government Code §53511 or any other statute. In further answer to Paragraph 52 of the Petition,
26 Casitas alleges that Section 3 of Resolution No. 13-12 contains Casitas's Board of Director's
27 express finding and determination that "all prior proceedings taken by [the Board] in connection
28 with the establishment of the CFD, and the levy of the special tax have been duly considered and

1 are hereby found and determined to be valid and in conformity with the [Mello-Roos] Act” and,
2 accordingly, (1) Resolution No. 13-12 is “final and conclusive” and not subject to judicial
3 challenge in a validation action or any other type of action under Government Code §53325.1(b)
4 and (2) the portion of Resolution No. 13-14, as amended and restated in Resolution No. 13-16,
5 calling the August 27, 2013, special election by way of polling place ballot for the purpose of
6 approving the CFD special tax provided for in Resolution No. 13-12 and establishing an
7 appropriations limit for the CFD are similarly “final and conclusive” and not subject to judicial
8 challenge in a validation action or any other type of action. In further answer to Paragraph 52 of
9 the Petition, Casitas admits and alleges that, subject to voter approval, (1) Resolution No. 13-13
10 constitutes the Casitas Board of Director’s approval of the issuance of bonds, warrants, contracts,
11 obligations, or evidences of indebtedness within the meaning of Government Code §§53355.5 and
12 53359, provisions of the Mello-Roos Act, and Government Code §53511, which makes said
13 resolution subject to judicial challenge in a validation action and (2) the portion of Resolution No.
14 13-14, as amended and restated in Resolution No. 13-16, calling the August 27, 2013, special
15 election for the purpose of approving the issuance of CFD bonds is subject to judicial challenge in
16 a validation action as well.

17 53. In answer to Paragraph 53 of the Petition, Casitas denies that Golden State is an
18 interested person or that Golden State has any standing to challenge the validity of Resolution No.
19 13-12 or the portions of Resolution No. 13-14, as amended and restated in Resolution No. 13-16,
20 calling the August 27, 2013, special election for the purpose of approving the CFD special tax
21 provided for in Resolution No. 13-12 and establishing an appropriations limit for the CFD. In
22 further answer to Paragraph 53 of the Petition, Casitas admits that Golden State owns real property
23 within the territory of the CFD and is an interested party with standing to challenge the validity of
24 Resolution No. 13-13 and the portion of Resolution No. 13-14, as amended and restated by
25 Resolution No. 13-16, calling the August 27, 2013, special election for the purpose of approving
26 the issuance of CFD bonds. Except as so admitted and denied, Casitas denies each and every
27 allegation in Paragraph 53 of the Petition.

28 ///

1 **ANSWER TO THIRD CAUSE OF ACTION FOR DECLARATORY RELIEF**

2 54. In answer to Paragraph 54 of the Petition, Casitas hereby incorporates the
3 admissions, denials, and allegations set forth in Paragraphs 1-38 of this Answer as though fully set
4 forth herein.

5 55. Casitas denies each and every allegation set forth in Paragraph 55 of the Petition.

6 56. Casitas denies each and every allegation set forth in Paragraph 55 of the Petition.

7 **FIRST AFFIRMATIVE DEFENSE: TO EACH AND EVERY CAUSE OF ACTION**

8 57. Section 3 of Resolution No. 13-12 contains Casitas’s Board of Director’s express
9 finding and determination that “all prior proceedings taken by [the Board] in connection with the
10 establishment of the CFD, and the levy of the special tax have been duly considered and are
11 hereby found and determined to be valid and in conformity with the [Mello-Roos] Act” and,
12 accordingly, (1) Resolution No. 13-12 is “final and conclusive” and not subject to judicial
13 challenge in a validation action or any other type of judicial action under Government Code
14 §53325.1(b) and (2) the portions of Resolution No. 13-14, as amended and restated in Resolution
15 No. 13-16, calling the August 27, 2013, special election by way of polling place ballot for the
16 purpose of approving the CFD special tax provided for in Resolution No. 13-12 and establishing
17 an appropriations limit for the CFD are similarly “final and conclusive” and not subject to judicial
18 challenge in a validation action or any other type of judicial action under Government Code
19 §53325.1(b).

20 **SECOND AFFIRMATIVE DEFENSE: TO EACH AND EVERY CAUSE OF ACTION**

21 58. For the reasons set forth in Paragraph 57 of this Answer, Golden State is not an
22 “interested party” and has no standing to challenge the validity of Resolution No. 13-12 or the
23 portions of Resolution No. 13-14, as amended and restated in Resolution No. 13-16, calling the
24 August 27, 2013, special election by way of polling place ballot for the purpose of approving the
25 CFD special tax provided for in Resolution No. 13-12 and establishing an appropriations limit for
26 the CFD.

27 **THIRD AFFIRMATIVE DEFENSE: TO EACH AND EVERY CAUSE OF ACTION**

28 59. Under Government Code §53341, “[a]ny action or proceeding to attack, review, set

1 aside, void, or annul the levy of a special tax. . . pursuant to the [Mello-Roos Act] shall be
2 commenced within 30 days *after* the special tax is approved by the voters.” (Emphasis added.)
3 This statute applies equally to a challenge to the validity of a community facility district’s
4 formation. *New Davidson Brick Co. v. County of Riverside* (1990) 217 Cal.App.3d 1146, 1150-
5 1152. Based on this statute, it is premature for Golden State to challenge the formation of the
6 CFD, the levy of the special tax, and any other actions taken by Casitas at this time and any such
7 challenge must wait until *after* the August 27, 2013, special election has been held and the CFD
8 special tax is approved by the voters.

9 **FOURTH AFFIRMATIVE DEFENSE: TO EACH AND EVERY CAUSE OF ACTION**

10 60. This action is unripe and premature and is based upon multiple levels of totally
11 speculative and conjectural imaginings by Golden State. As stated above, the voters in the CFD
12 have not yet decided whether to approve the actions of the Casitas Board that are the subject of the
13 August 27, 2013, special election. Even if the voters approve such actions by the required two-
14 thirds vote, Casitas has not yet completed preparation of a formal appraisal of Golden State’s Ojai
15 water utility, Casitas has not yet made an offer of just compensation to Golden State, Casitas has
16 not attempted to negotiate a voluntary purchase of Golden State’s property rights, and Casitas’s
17 Board of Directors has not yet held a public hearing as required under the Eminent Domain Law to
18 determine whether to adopt a resolution of necessity to condemn Golden State’s property (which
19 requires a two-thirds vote of the members of the governing board of Casitas). Even if Casitas does
20 eventually proceed to condemn Golden State’s property it is entirely speculative that Casitas will
21 later abandon the lawsuit, that Golden State will challenge Casitas’s right to take Golden State’s
22 Ojai water utility and the Court will side with Golden State and dismiss Casitas’s eminent domain
23 action, that Casitas will end up having to pay damages to Golden State for an uncompleted or
24 unsuccessful condemnation, that Golden State will recover a jury verdict in the astronomical sum
25 of \$100 million (many multiples of the actual fair market value of its Ojai water utility), that the
26 court will the refuse to allow Casitas to abandon the eminent domain action, and/or that Casitas’s
27 existing rate payers outside the CFD boundaries will be at risk of having to pay damages for all of
28 these wild scenarios concocted by Golden State.

1 **FIFTH AFFIRMATIVE DEFENSE: TO FIRST AND THIRD CAUSES OF ACTION**

2 61. To the extent that Golden State is permitted to challenge the validity of any of the
3 actions taken by Casitas that are the subject of this action, this action must be prosecuted and
4 maintained as an *in rem* validation action in accordance with and subject to the strict procedural
5 requirements set forth or referred to in Government Code §§53355.5, 53359, and §53511 and
6 Code of Civil Procedure §860 *et seq.*, and Golden State’s causes of action for writ of mandate and
7 declaratory relief are unavailable and improper.

8 **SIXTH AFFIRMATIVE DEFENSE: TO EACH AND EVERY CAUSE OF ACTION**

9 62. As set forth in Government Code §53315, the Mello-Roos Act “shall be liberally
10 construed in order to effectuate its purposes” and “[n]o error, irregularity, informality, and no
11 neglect or omission of any officer, in any procedure taken under [the Mello-Roos Act], which does
12 not directly affect the jurisdiction of the legislative body to order the installation of the facility or
13 the provision of service, shall void or invalidate such proceeding or any levy for the costs of such
14 facility or service.” Any error, irregularity, informality, or neglect or omission of any officer of
15 Casitas in any procedure taken with respect to the CFD directly affected the jurisdiction of the
16 Board of Directors of Casitas to take the actions it took which are challenged in this action and,
17 accordingly, there is no basis to void or invalidate the CFD, the levy of special taxes in the CFD,
18 or any other action taken by Casitas with respect to the CFD.

19 **SEVENTH AFFIRMATIVE DEFENSE: TO EACH AND EVERY CAUSE OF ACTION**

20 63. The Petition fails to state facts sufficient to constitute a cause of action for
21 invalidation of Casitas’s Resolution Nos. 13-12, 13-13, 13-14, or 13-16 forming the CFD,
22 authorizing the imposition of CFD special taxes, establishing an appropriations limit for the CFD,
23 determining the necessity to incur bonded indebtedness, calling the August 27, 2013, special
24 election, and related matters addressed in said resolutions. At most, the Petition raises questions
25 about the legality of possible future expenditure of CFD special taxes and CFD bond proceeds for
26 particular purposes, which questions can be addressed on an individual basis if and when such
27 expenditures are proposed. Not by way of limitation of the foregoing, if at some point in the
28 future Casitas actually does attempt to use CFD special taxes or CFD bond proceeds to pay for

1 eminent domain abandonment costs and/or damages or to compensate Golden State for its alleged
2 loss of business goodwill and Golden State truly believes such expenditures cannot be made from
3 said sources of funds, Golden State or other interest party could seek appropriate judicial relief at
4 that time challenging the allegedly illegal expenditures. That should not be a basis for wholesale
5 invalidation of the aforescribed resolutions, however.

6 **EIGHTH AFFIRMATIVE DEFENSE: TO EACH AND EVERY CAUSE OF ACTION**

7 64. To the extent Golden State seeks to enjoin the special election scheduled for
8 August 27, 2013, such relief would violate the well-established judicial rule that “it is usually
9 more appropriate to review constitutional and other challenges to ballot propositions or initiative
10 measures after an election rather than to disrupt the electoral process by preventing the exercise of
11 the people’s franchise, in the absence of some clear showing of invalidity.” *Brosnahan v. Eu*
12 (1982) 31 Cal.3d 1, 4. Golden State cannot satisfy its burden of making a “clear showing of
13 invalidity” with respect to any of the actions taken by Casitas challenged in this action so as to
14 justify judicial interference with the voters’ exercise of their franchise. If in fact the voters do not
15 approve the actions that are being submitted to them at the August 27, 2013, special election by
16 the required two-thirds margin, this action will become moot. If the voters do approve the actions
17 that are being submitted to them at the August 27, 2013, special election by the required two-
18 thirds margin, the Court can consider Golden State’s claims (and Casitas’s defenses to those
19 claims) at that time. Golden State cannot establish it will suffer any irreparable injury if pre-
20 election judicial review is denied.

21 **NINTH AFFIRMATIVE DEFENSE: TO EACH AND EVERY CAUSE OF ACTION**

22 65. The Petition fails to state facts sufficient to constitute any valid cause of action

23 **PRAYER FOR RELIEF**

24 WHEREFORE, Casitas respectfully requests relief as follows:

25 66. That this Court determine that Resolution No. 13-12 is “final and conclusive” and
26 not subject to judicial challenge in a validation action or any other type of judicial action under
27 Government Code §53325.1(b) and (2) the portions of Resolution No. 13-14, as amended and
28 restated in Resolution No. 13-16, calling the August 27, 2013, special election by way of polling

1 place ballot for the purpose of approving the CFD special tax provided for in Resolution No. 13-
2 12 and establishing an appropriations limit for the CFD are similarly “final and conclusive” and
3 not subject to judicial challenge in a validation action or any other type of judicial action under
4 Government Code §53325.1(b).

5 67. That to the extent this Court reaches the merits of any of Golden State’s claims that
6 it deny all mandate, declaratory, and injunctive relief requested by Golden State and issue
7 judgment in favor of Casitas validating all actions taken by Casitas that are subject to judicial
8 validation in this action.

9 68. For an award of “all costs, damages and necessary expenses resulting [to Casitas]
10 by reason of [Golden State’s] filing of [this] suit” pursuant to Code of Civil Procedure §526b,
11 which applies when, as here, (1) a person or corporation brings any action seeking to obtain an
12 injunction restraining or enjoining the issuance, sale, offering for sale, or deliver of bonds or other
13 securities or the expenditure of the proceeds of such bonds or securities of any district or political
14 subdivision organized under the laws of the State of California, (2) such bonds or securities are for
15 the purpose of acquiring, constructing, completing, improving, or extending water works or other
16 public utility works or property, (3) the injunction sought is finally denied, and (4) such person or
17 corporation bringing the suit owns, controls, or is operating or interested in, a public utility
18 business of the same nature as that for which such bonds or other securities are proposed to be
19 issued, sold, offered for sale, or delivered.

20 69. In addition to the relief provided for in Code of Civil Procedure §526b, for an
21 award of attorney’s fees and costs as permitted by law.

22 70. For such other relief consistent with the foregoing that the Court deems just and
23 proper.

24 Dated: April 24, 2013

RUTAN & TUCKER, LLP

25 By: 

26 Jeffrey M. Oderman
27 Attorneys for Respondents/Defendants
28 CASITAS MUNICIPAL WATER
DISTRICT and CASITAS MUNICIPAL
WATER DISTRICT COMMUNITY
FACILITIES DISTRICT NO. 2013-1 (OJAI)

1 **PROOF OF SERVICE BY MAIL**

2 *Golden State Water Company v. Casitas Municipal Water District, et al.*
3 Ventura County Superior Court Case No. 56-2013-00433986-CU-WM-VTA

4 **STATE OF CALIFORNIA, COUNTY OF ORANGE**

5 I am employed by the law office of Rutan & Tucker, LLP in the County of Orange, State of
6 California. I am over the age of 18 and not a party to the within action. My business address is
611 Anton Boulevard, Suite 1400, Costa Mesa, California 92626-1931.

7 On April 24, 2013, I served on the interested parties in said action the within:

8 **ANSWER TO VERIFIED PETITION FOR WRIT OF MANDATE AND**
9 **COMPLAINT TO DETERMINE VALIDITY AND DECLARATORY RELIEF**

10 by placing a true copy thereof in sealed envelope(s) addressed as stated on the following page.

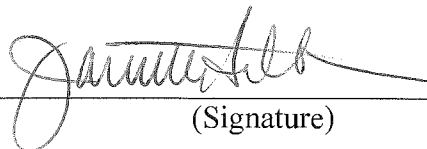
11 In the course of my employment with Rutan & Tucker, LLP, I have, through first-hand
12 personal observation, become readily familiar with Rutan & Tucker, LLP's practice of collection
13 and processing correspondence for mailing with the United States Postal Service. Under that
14 practice I deposited such envelope(s) in an out-box for collection by other personnel of Rutan &
15 Tucker, LLP, and for ultimate posting and placement with the U.S. Postal Service on that same day
16 in the ordinary course of business. If the customary business practices of Rutan & Tucker, LLP
17 with regard to collection and processing of correspondence and mailing were followed, and I am
18 confident that they were, such envelope(s) were posted and placed in the United States mail at
19 Costa Mesa, California, that same date. I am aware that on motion of party served, service is
20 presumed invalid if postal cancellation date or postage meter date is more than one day after date
21 of deposit for mailing in affidavit.

22 Executed on April 24, 2013, at Costa Mesa, California.

23 I declare under penalty of perjury under the laws of the State of California that the
24 foregoing is true and correct.

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29 Janette Hollmer
30 (Type or print name)

31 
32 (Signature)

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PROOF OF SERVICE BY MAIL

Golden State Water Company v. Casitas Municipal Water District, et al.
Ventura County Superior Court Case No. 56-2013-00433986-CU-WM-VTA

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