

STANISLAUS LAFCO

Stanislaus Local Agency Formation Commission

1010 – 10 th Street, 3rd Floor ♦ Modesto, CA 95354

(209) 525-7660 ♦ FAX (209) 525-7643

www.stanislauslafco.org

OUT OF BOUNDARY SERVICE APPLICATION

AGENCY TO EXTEND SERVICE:

AGENCY NAME: Keyes Community Services District (KCSD)

CONTACT PERSON: Michelle Harris, Administrative Executive

MAILING ADDRESS: P.O. Box 699, Keyes, CA 95328

PHONE: (209) 668-8341 E-MAIL: mharris@keyescsd.org

PROPERTY OWNER (PARTY RECEIVING SERVICE):

PROPERTY OWNER NAME: Top Shelf Mega Storage, LLC; Attn: Brian Demello

SITE ADDRESS: 4401 W. Barnhart Road; Turlock, CA 95382

PHONE: (209) 613-6140 E-MAIL: topshelfmegastorage@gmail.com

ASSESSOR PARCEL NUMBER(S): 045-052-031

ACREAGE: 10.0 acres (If multiple properties, attach a list with names, addresses and APNs.)

REQUIRED ATTACHMENTS - Please provide the following:

- Completed application and fees. (See [Schedule of Fees and Deposits](#). Please consult with LAFCO staff to determine the appropriate fee.)
- Map showing existing facilities and proposed extensions. The map should include measurements detailing how services are to be extended to the property.
- Draft service agreement or contract between the service provider and property owner OR a will-serve letter from the service provider.

PROPOSAL-SPECIFIC ATTACHMENTS – The following may also be required:

- If the proposed extension will serve new development, a copy of the environmental determination made by the Lead Agency.
- If the proposed service extension is to remedy a health and safety situation, documentation of the health and safety issue.

The following application questions are intended to obtain enough data about the proposal to allow the Commission and staff to adequately assess the service extension. By taking the time to fully respond to the questions below, you can reduce the processing time for this application. You may include any additional information that you believe is pertinent. Use additional sheets where and if necessary.

1. List type of service(s) to be extended:

Domestic water.

2. Is the service extension for new development or an existing use? Provide a complete description of the project and/or use to be served.
Enclosed RV and Boat Storage Facility

3. Is this request to address a health and safety situation? Yes No

If yes, please explain below.

Existing Groundwater inadequate to serve the site.

KCSD water line runs in front of the site and serves some surrounding uses.

4. Is the property to be served within the Agency's sphere of influence? Yes No

5. LAFCO policies generally prefer annexation rather than an extension of services outside the agency's boundary. Is annexation of the territory by your agency anticipated at a future time? Yes No

6. Please provide an explain of the Agency's preference for an out-of-boundary instead of annexation.

Annexation is preferred, but the property is currently outside of the KCSD sphere of influence.

Properties in the vicinity are working on a sphere expansion, with a target date of 2025.

7. Are there any land use entitlements involved in the project or contract? Yes No
If yes, please check the entitlements that were obtained and provide a copy of the approval:

Tentative Map and Conditions

Subdivision Map or Parcel Map

Specific Plan

General Plan Amendment

Rezoning

Other: _____

CERTIFICATION

I hereby certify that the statement furnished above and in the attached exhibits present the data and information required for this evaluation of service extension to the best of my ability, and that the facts, statement, and information presented herein are true and correct to the best of my knowledge and belief.

INDEMNITY AGREEMENT

As part of this application, the applicant agrees to defend, indemnify, hold harmless and release the Stanislaus Local Agency Formation Commission (LAFCO), its officers, employees, attorneys, or agents from any claim, action or proceeding brought against any of them, the purpose of which is to attack, set aside, void, or annul, in whole or in part, LAFCO's action on a proposal or on the environmental documents submitted to support it. This indemnification obligation shall include, but not be limited to, damages, costs, expenses, attorney fees, and expert witness fees that may be asserted by any person or entity, including the applicant arising out of or in connection with the application.

SIGNED: Michelle Harris
PRINTED NAME: Michelle Harris
AGENCY: Keyes Community Services District
DATE: January 6, 2024

Please forward the completed form, fees, and related information to:

Stanislaus Local Agency Formation Commission
1010 10th Street, 3rd Floor
Modesto, CA 95354

**KEYES COMMUNITY SERVICES DISTRICT
5601 7TH STREET
P O BOX 699
KEYES, CA 95328**

May 1, 2024

David Romano for Philip Mastagni
1034 12th Street
Modesto, Ca 95354

Re: Will Serve Letter Request for Commercial Industrial Institutional Project
APN #045-052-031

Dear Mr. Romano:

The Keyes Community Services District is willing to provide the requested water service on the following conditions:

1. All water service lines must be installed to District standards and according to plans approved by the district, at the expense of the owner.
2. All applicable District connection, facilities and inspection fees must be paid upon application for connections.
3. The owner must comply with all District rules and regulations.
4. This will-serve commitment will expire on May 2, 2025 unless construction has commenced by that date.
5. This Will Service Letter is valid only upon approval by Stanislaus County Local Agency Formation Commission (LAFCO).

Sincerely,



Ernie Garza
General Manager

Health and Safety Finding to Support **Out-of-Boundary Water Service**

The Top Shelf Mega Storage project is located at the farthest south end of the Keyes Community Plan area and within the unincorporated area of Stanislaus County. On July 26, 2022, the Stanislaus County Board of Supervisors approved the Top Shelf Mega Storage project.

Due to groundwater contamination in the area, the Keyes Community Services District (KCSD) extended a water line down Golden State Boulevard and in front of this site. The water line continues east in Barnhart Road to an existing mobile home park that was experiencing water quality issues. At the same time, Valley Peterbilt connected to the water line and was able to take its well off-line. South of the project site, the Price Ford dealership was also considering a water connection to the KCSD, but instead the City of Turlock ended up extending water service south of Barnhart Road.

All of these aforementioned projects are outside of either the KCSD or City of Turlock sphere of influence.

In August of 2021, the County approved a new Price Honda project, outside of the City of Turlock sphere, and in September of 2021, LAFCO approved an out-of-boundary service - for both water and sewer - to the new Price Honda site. This action, in addition to allowing the existing Price Ford project to connect to domestic water service and abandon its well, also allowed the new Price Honda project to proceed and avoid construction of a new well. Since known water quality issues existed in the area, the County and LAFCO determined that new development, outside of the City's sphere of influence, was appropriate and the health and safety finding required to provide the out-of-boundary service was also appropriate. That is, new development outside of the City's sphere was allowed to proceed with the out-of-boundary service.

In this instance, the Top Shelf Mega Storage project is similarly situated, although it is adjacent to a KCSD water line. Connection to this line will provide health and safety benefits in that drilling of a new well and extraction of groundwater can be avoided in an area with known groundwater challenges.

Based on the foregoing, and historic precedence, connecting to the existing KCSD water service, rather than drilling a new water well, is appropriate and past actions and known water issues clearly demonstrate that connection to an existing water source is preferred from a health and safety perspective.

**REIMBURSEMENT AGREEMENT BETWEEN
THE KEYES COMMUNITY SERVICES DISTRICT
AND
TOP SHELF MEGA STORAGE, LLC**

This Reimbursement Agreement (“Agreement”), by and between the Keyes Community Services District, Stanislaus County, California, a political subdivision of the State of California, duly organized and existing under the Community Services District Law (California Government Code Sections 61000, et seq.) (the “District”) and Top Shelf Mega Storage, LLC (“Top Shelf”), is dated and effective as of 8/18/2024 [DATE].

Recitals

A. The District provides water and wastewater collection services to properties in the District and the surrounding areas that are within the District’s boundaries.

B. Top Shelf is the fee simple owner of a portion of that certain land located in Stanislaus County at Assessor’s Parcel Number 045-052-031 consisting of approximately 10 acres identified in Exhibit “A” (the “Property”) and commonly described as 4401 W. Barnhart Road, Turlock, CA 95382.

C. The Property is located at the northeast corner of Golden State Boulevard and Barnhart Road in Stanislaus County, California.

D. Top Shelf desires to have the District provide water service to the Property.

E. As of the effective date of this Agreement, there are no District water distribution lines within the vicinity of the Property.

F. In order for the District to provide water service to the Property, a water line that meet the standards set forth by the District’s Engineer must be constructed to connect to the District’s existing water distribution system.

G. It is not certain whether the Project is feasible.

H. Top Shelf agrees to submit all plans and specifications for any public improvements (i.e., all improvements concerning water service connections to District, including but not limited to water mains and/or laterals) signed by a California registered civil engineer upon which construction of the public improvements for the Project are to be based (hereinafter referred to as the “Project Drawings”) to the District in an acceptable electronic format to the District’s General Manager and District Engineer for review.

I. Upon District General Manager and District Engineer being satisfied that Project Drawings submitted by Top Shelf satisfy all District requirements, the Project Drawings will be submitted to the District’s Board of Directors for consideration as to whether the Project is feasible.

J. The District desires to be reimbursed by Top Shelf for all costs incurred by the District associated with determining whether the Project is feasible, including, but not limited to the drafting of this Agreement, General Manager and District Engineer review of Project Drawings, and any other cost to the District arising from this Agreement.

K. Top Shelf is willing to deposit funds with the District to ensure payment for all costs incurred by the District associated with the performance of this Agreement in the amount of five thousand dollars (\$5,000).

L. The Parties agree that the sole purpose of this Agreement is to set forth the Parties' understanding regarding the conditions by which the District will consider the feasibility of the Project proposed by Top Shelf.

M. The parties hereto wish to set forth the terms and conditions under which the District's Board of Directors agrees to consider whether the Project is feasible.

Agreement

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants set forth herein, and for other consideration the receipt and sufficiency of which hereby are acknowledged, the District and Top Shelf agree to the following terms, covenants, and conditions:

1. Top Shelf Obligations.

- a. **Plan Review.** Top Shelf shall submit to the District's General Manager and District Engineer Project Drawings for review and comment to ensure that Project Drawings comply with all District requirements.
- b. **Deposit – Incidental Costs.** Top Shelf agrees to reimburse the District for all costs incurred by the District associated with any District efforts to determine whether the Project is feasible including but not limited to the costs to develop this Agreement, the District General Manager's and District Engineer's costs to review Project Drawings, the updating of the District's water maps, all costs of maintenance staff, administration, legal, and all other actual expenses relating to the District's efforts in determining the Project's feasibility. Top Shelf agrees to deposit, in cash, cash equivalents, or by Top Shelf's check, with the District's General Manager upon execution of this Agreement, the sum of five thousand dollars (\$5,000.00) (the "Deposit"). Any remaining balance on Deposit after payment of all such costs shall be refunded to Top Shelf upon the District's Board of Directors making a determination as to whether the Project is feasible. No interest shall be paid by the District on any refunded balance.
- c. Any time the balance of the Deposit with the District falls below Two Thousand Dollars (\$2,000.00), and upon seven (7) days' written notice by the District, Top Shelf agrees to place an additional deposit in the amount of Five Thousand Five Hundred Dollars (\$5,500.00) with the District prior to the District continuing any efforts in determining whether the Project is feasible.
- d. In the event that Top Shelf shall fail or refuse to remit any Deposit to or at the direction of the District, all efforts by the District related to review of determination of whether the Project is feasible, at the discretion of the District's General Manager, shall cease until such time as the Deposits so required are paid. Additionally, Top Shelf may, by written request executed and delivered by Top Shelf, direct the District to cease all work related to the Project and to not incur any additional costs under the Agreement.
- e. Top Shelf shall have the right to review all costs submitted by the District for which Top Shelf may be responsible, and the right to a review by the District Board of Directors. To that end, the District will provide Top Shelf with documentation supporting costs incurred by the District in connection with this Agreement concurrently with the District's notice requesting additional deposits, if any, and within a reasonable period of time upon the District's Board of

with a copy to: Dennis L Hay, General Counsel for Keyes Community Services District
Law Office of Dennis L. Hay, Esq.
P.O. Box 74
Proberta, California 96078
Telephone: (209) 759-3222

If to Top Shelf: Top Shelf Mega Storage, LLC
Attn: Brian Demello, Manager
201 N. Hopper Road
Modesto, California 95357

5. Construction of Terms; Severability. All parts of this Agreement shall be construed according to their plain meaning and shall not be construed in favor or against either of the parties. If any term, provision, covenant, or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, in whole or in part, the remainder of this Agreement shall remain in full force and effect and shall not be affected, impaired, or invalidated thereby.

6. ENTITY NAME's Authority. Top Shelf has the full right, capacity, power, and authority to enter into and carry out the terms of this Agreement. Top Shelf is the sole owner in fee simple of the Property and to Top Shelf's knowledge, no other person or entity has any right or interest in the Property.

7. Counterparts. This Agreement may be executed in any number of counterparts and each counterpart shall be deemed to be an original document. Delivery of the executed Agreement may be accomplished by facsimile transmission, and if so, the facsimile copy shall be deemed an executed original counterpart of the Agreement. All executed counterparts together shall constitute one and the same document, and any signature pages, including facsimile copies thereof, may be assembled to form a single original document.

8. Further Assurances. Each party will, whenever and as often as it shall be requested to do so by the other party, execute, acknowledge, and deliver, or cause to be executed, acknowledged, and delivered, any and all such further conveyances, assignments, approvals, consents and any and all other documents and do any and all other acts as may be reasonably necessary to carry out the intent and purpose of this Agreement.

9. Entire Agreement. This Agreement, together with all exhibits hereto and documents referred to herein, if any, constitutes the entire agreement among the parties hereto with respect to the subject matter hereof, and supersedes all prior understandings and agreements. All exhibits to which reference is made in this Agreement are deemed incorporated in this Agreement whether or not actually attached.

10. Amendments. This Agreement may be modified only by a writing signed by both parties.



11. Legal Advice. Each party has had the opportunity to consult independent legal advice from its attorneys with respect to the advisability of executing this Agreement and the meaning of the provisions hereof to the extent they have desired, and that the parties fully understand the terms of this Agreement despite that legal counsel may not have been consulted.

12. Attorney's Fees and Venue. In the event of any litigation or other action between the parties arising out of or relating to this Agreement or the breach thereof, the prevailing party shall be entitled, in addition to such other relief as may be granted, to its reasonable costs and

attorneys' fees. The venue for any litigation, arbitration, or mediation shall be Stanislaus County, California.

13. Headings and Titles. The captions of the articles or sections of this Agreement are only to assist the parties in reading this Agreement and shall have no effect upon the construction or interpretation of any part hereof.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first written above.

<p>Top Shelf Mega Storage, LLC:</p> <p>By:  Brian Demello, Manager</p> <p> See Attached California All Purpose Acknowledgement</p>	<p>DISTRICT:</p> <p>Keyes Community Services District, a political subdivision of the State of California</p> <p>By: _____ Ernie Garza, General Manager</p> <p>Approved as to Form:</p> <p>By: _____ Dennis L. Hay General Counsel</p>
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1283848-2

Exhibit "A"
Property Description




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Top Shelf Mega Storage, LLC:	DISTRICT:
By:  Brian Demello, Manager	Keyes Community Services District, a political subdivision of the State of California
 See Attached California Purpose Acknowledgement	By: _____ Ernie Garza, General Manager
	Approved as to Form:
	By:  Dennis L. Hay General Counsel

1283848-2

Exhibit "A"
Property Description



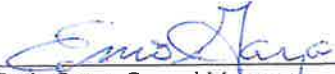
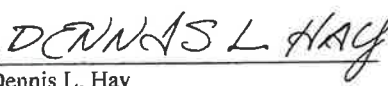
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Exhibit "A"
Property Description

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ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Stanislaus

On 08.08.2024 before me, S. Malhi, Notary Public.
(insert name and title of the officer)

personally appeared Bryan J. Demello,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature 

(Seal)

