

**AGREEMENT BETWEEN PLACER COUNTY WATER AGENCY
AND NORTHRIDGE WATER DISTRICT FOR A WATER SUPPLY
FOR GROUNDWATER STABILIZATION**

This Agreement is entered into as of the 1st day of June, 2000, and amends and supersedes in its entirety the agreement (as amended) entered into on August 21, 1995, by and between Placer County Water Agency, a public agency (the "Agency"), and Northridge Water District, a public agency ("Northridge") in the County of Sacramento, California.

Recitals

A. The Agency is a public agency created and existing under the Placer County Water Agency Act (Statutes 1957, Chapter 1234, as amended), and is authorized to conserve and utilize, within and outside of the Agency, water for any purpose useful to the Agency.

B. The Agency owns and operates the Middle Fork American River Project pursuant to water right permits 13855 through 13858 issued by the State of California ("Agency Water Rights").

C. Northridge is a public agency located in northern Sacramento County, created and existing under the County Water District Law (Division 12 of the Water Code, commencing with section 30,000), and is authorized to acquire water rights and entitlements to provide water service within its service area.

D. Northridge currently provides water for potable use within its service area primarily from groundwater. The groundwater aquifer utilized by Northridge (and other water purveyors) is located in both Placer and Sacramento Counties. This aquifer has experienced a steady decline for many years, and is expected to continue to decline in the future unless surface water is made

available as a supplemental water source to enable implementation of a conjunctive use program to stabilize the aquifer in Placer and Sacramento Counties.

E. San Juan Water District ("San Juan") diverts water from Folsom Reservoir (including water purchased from the Agency) for treatment and distribution within its service area, which is in both Placer and Sacramento Counties. San Juan has completed a project to increase the capacity of its water conveyance system from its treatment plant ("San Juan Pipeline"), and Northridge has purchased the right to use a portion of the capacity in the San Juan Pipeline for use within Northridge's service area. San Juan has also agreed to give Northridge first priority to use of surplus capacity in San Juan's water treatment facility. Northridge has installed a pipeline to convey treated surface water from the San Juan Pipeline to Northridge's service area to enable Northridge to better conserve and utilize its groundwater resources.

F. The Agency has determined that, subject to the terms and conditions set forth in this Agreement, there will be water available under the Agency's water rights for delivery to Northridge for the purpose of stabilizing the groundwater basin in Placer and Sacramento Counties as provided for in this Agreement.

G. The Agency is willing to deliver to, and Northridge is willing to pay for, water delivered by the Agency under the terms and conditions set forth in this Agreement.

H. The Agency (as lead agency) and Northridge (as a responsible agency) have prepared and approved a final environmental impact report ("EIR") under the California Environmental Quality Act for the sale of water under this agreement.

I. The State Water Resources Control Board ("SWRCB") issued orders on May 24,

2000 ("SWRCB Orders") that approve a change in the place of use of the Agency Water Rights to include the area served by Northridge, which is described in Article 19 of this Agreement.

J. The Agency and Northridge are signatories to the Water Forum Agreement, which sets forth provisions that are related to the diversion and use of water under this Agreement that are implemented by the EIR and SWRCB Orders.

K. Northridge and the U.S. Bureau of Reclamation ("Reclamation") have entered into an agreement that authorizes Northridge to use Reclamation facilities at Folsom Reservoir to convey water delivered by the Agency under this Agreement (the "Warren Act Contract", including any renewal, extensions or subsequent agreement for that purpose).

Now, therefore, in consideration of the mutual covenants contained, herein, the parties agree as follows:

1. **Recitals Incorporated.** The foregoing recitals are incorporated by reference.
2. **Term of Agreement.** This Agreement shall be effective as of June 1, 2000, and shall remain in effect through December 31, 2025, unless terminated earlier under the provisions of this Agreement.
3. **Renewals of Term.** Renewals of this Agreement may be made for successive periods not to exceed twenty-five years each. The terms and conditions of each renewal shall be agreed upon by the parties not later than one year before the expiration of the then current term of the Agreement.
4. **Water to be Furnished to Northridge.** Each year during the term of this Agreement the Agency

shall make available to Northridge, subject to the water shortage provisions set forth in this Agreement, and the operating criteria set forth in Exhibit A to this Agreement, the following amounts of untreated water ("Northridge Annual Entitlement"):

| <u>YEAR</u> | <u>NORTHRIDGE ANNUAL ENTITLEMENT</u> |
|----------------------------------|--------------------------------------|
| June 1 through December 31, 2000 | 7,000 acre-feet |
| 2001 | 11,000 acre-feet |
| 2002 | 12,000 acre-feet |
| 2003 | 14,000 acre-feet |
| 2004 | 16,000 acre-feet |
| 2005 | 18,000 acre-feet |
| 2006 | 20,000 acre-feet |
| 2007 | 22,000 acre-feet |
| 2008 | 23,000 acre-feet |
| 2009 | 24,000 acre-feet |
| 2010 | 25,000 acre-feet |
| 2011 | 26,000 acre-feet |
| 2012 | 27,000 acre-feet |
| 2013 | 28,000 acre-feet |
| 2014 and each year thereafter | 29,000 acre-feet |

Each year Northridge shall be required to pay for its Annual Entitlement or surrender its right to some of it so that the Agency will be free to put the water to use elsewhere. In order to do this, if Northridge does not take or pay for the Northridge Annual Entitlement for any year, the Northridge Annual Entitlement for each year thereafter shall be reduced by an amount equal to 50% of the amount which Northridge did not take or pay for during that year.

5. Water Shortage Provisions.

(a) The Northridge Annual Entitlement shall be subject to temporary or permanent reduction or elimination whenever the Agency notifies Northridge that the Agency has determined that it will not have sufficient water (1) to meet the needs of the Agency's then current customers within Placer County, (2) to meet the contractual entitlement of San Juan under its water supply contract with the Agency, or (3) to meet the Agency's obligations under its April 30, 1963 Middle Fork Project Power Purchase Contract with Pacific Gas and Electric Company ("the Power Purchase Contract"). Such notification shall be provided at the earliest date feasible. The Northridge Annual Entitlement shall not be subject to reduction or elimination because the Agency has insufficient water to meet the needs of other Agency contractors or users whose service areas are outside of Placer County, except for San Juan.

(b) The Agency may temporarily discontinue or reduce the amount of the Northridge Annual Entitlement for the purpose of maintaining, repairing, replacing, investigating or inspecting any of the facilities necessary for the storage or furnishing of water to Northridge. In so far as it is feasible, the Agency will give Northridge due notice in advance of such temporary discontinuances or reductions except in cases of emergency, in which case notice will be provided at the earliest date feasible. In the event of any such discontinuance or reduction, the Agency will, upon the resumption of service, attempt to approximate delivery of the quantity of Northridge Annual Entitlement that would have been furnished to Northridge in the absence of such event.

(c) The Northridge Annual Entitlement shall be subject to reduction in accordance with the provisions of Exhibit A.

(d) In the event of a water shortage as described in subparagraphs (a), (b) or (c) of this

article, Northridge shall be solely responsible for obtaining alternative supplies of water to meet its customers' needs, and no liability shall accrue against the Agency or any of its directors, officers, agents or employees for any damage, direct or indirect, arising from such shortages. In any year in which less than the Northridge Annual Entitlement from the schedule set forth in Article 4 is available to Northridge, a proportionate adjustment shall be made to the amounts to be paid by Northridge provided for in Article 12. To the extent that there is a deficiency in the availability of the Northridge Annual Entitlement not caused by wrongful conduct of the Agency, such adjustment shall constitute the sole remedy of Northridge or anyone having or claiming to have by, through or under Northridge the right to the use of any of the water supply provided for herein.

6. Delivery of Water. The Agency shall deliver the Northridge Annual Entitlement into Folsom Reservoir, and Northridge shall be responsible for diversion, treatment and conveyance of such water, including without limitation the payment of any charges to Reclamation concerning the diversion of such water from Folsom Reservoir and the cost of any facilities necessary to divert such water from Folsom Reservoir.

7. Commencement of Water Service. Water service to Northridge under this Agreement shall commence on June 1, 2000.

8. Delivery Schedule. Prior to commencement of water service, Northridge shall submit a written schedule to the Agency indicating the time and quantities of the Northridge Annual Entitlement to be diverted from Folsom Reservoir for delivery to Northridge pursuant to this Agreement during the remainder of the year. Thereafter, on or before December 1 of each year, Northridge shall submit a written schedule to the Agency indicating the times and quantities of the Northridge Annual Entitlement to be diverted from Folsom Reservoir for delivery to Northridge pursuant to this Agreement during the following year. The Agency shall, consistent with the Agency Water Rights,

the Power Purchase Contract and the provisions hereof, furnish the Northridge Annual Entitlement to the maximum extent feasible in accordance with the schedules submitted by Northridge or any revisions thereof that are satisfactory to the Agency. The Agency shall cooperate with Northridge in any revisions to the schedule for water deliveries as necessary to accommodate limitations in the available capacity of water diversion, treatment and conveyance facilities to be utilized by Northridge.

9. Measurement. Northridge shall measure or cause to be measured all water furnished pursuant to this Agreement at the point of diversion at Folsom Reservoir. Such measurement shall be with equipment satisfactory to the Agency and to Northridge, and Northridge shall furnish the Agency written reports quarterly showing the weekly diversions to Northridge. The Agency may inspect such measuring equipment for the purpose of determining the accuracy thereof at any time, and any errors therein will be adjusted.

10. Water Quality. The Agency assumes no responsibility with respect to the quality of the water to be furnished pursuant to this Agreement and does not warrant the quality of any such water.

11. Responsibilities for Delivery and Distribution of Water. Neither the Agency nor its directors, officers, agents or employees shall be liable for the control, carriage, handling, use, disposal or distribution of water furnished to Northridge hereunder outside of facilities then being operated or maintained by the Agency, nor for claims of damages of any nature whatsoever, including but not limited to property damage, personal injury or death, arising out of or connected with the control, carriage, handling, use, disposal or distribution of such water beyond such facilities, and Northridge shall indemnify and hold harmless the Agency and its directors, officers, agents and employees from any such damages or claims of damages.

12. Rate and Method of Payment for Water.

(a) **Rate of Payment for Water.** Each year Northridge shall pay the Agency for each acre-foot of Northridge Annual Entitlement made available for use in Northridge's service area the highest of the following three rates: (1) Thirty-five dollars (\$35); (2) One hundred seventy-five percent (175%) of the acre-foot price the Agency charges the City of Roseville and San Juan that year for water made available to them in Folsom Reservoir for use within Placer County; or (3) One hundred fifty percent (150%) of the total amount, per acre-foot, including any restoration and other fees and charges, which the Agency is required to pay that year to Reclamation for water to be used within the Agency pursuant to the Agency's September 18, 1970 contract with Reclamation as amended and supplemented or pursuant to any renewals of that contract.

Each year, Northridge shall pay the Agency for each acre-foot of Northridge Annual Entitlement which is sold, leased, transferred or disposed of by Northridge for use outside the authorized service area for Agency water as described in Article 19, either: (1) the price provided for in the previous sentence; or (2) an amount equal to 95% of the value received by Northridge for such water, whichever is higher, and the first water sold, leased, transferred or disposed of by Northridge each year for use outside the authorized service area for Agency water shall be deemed to be the water made available to Northridge by the Agency pursuant to this Agreement. Prior to December 31 each year, the Agency shall confirm and document in writing to Northridge the applicable water rate for the next year.

(b) **Time and Method of Payment.** Payment shall be made quarterly in advance on or before January 1, April 1, July 1 and October 1 of each year. The amount of the payment shall be based upon the amount of water in the delivery schedule or amendments thereof furnished pursuant to Article 8. At the close of each year, the Agency shall recalculate the amount owing to it for the

previous year based upon the actual deliveries and amounts of water made available to Northridge, and shall thereupon bill Northridge for any underpayments or refund any overpayments. Any amounts due and owing from one party to the other as a result of such recalculation shall be paid within thirty days after the Agency renders a statement to Northridge for such payment.

13. Interest on Overdue Payments. Northridge shall pay the Agency interest at the legal rate for interest on State of California judgments on any charges that remain unpaid after they become due and payable.

14. Obligation of Northridge to Make Payments.

(a) Character of obligation.

The obligations of Northridge arising out of or pursuant or incidental to this Agreement shall constitute general obligations of Northridge, and Northridge shall use all the powers and resources available to it under the law to collect the funds necessary for and to pay its obligations to the Agency under this Agreement. Northridge as a whole is obligated to pay to the Agency the payments coming due under this Agreement, notwithstanding any individual default by its water users, constituents or others in the payment to Northridge of assessments, taxes, tolls or other charges levied by Northridge.

(b) Refusal of Water Does Not Affect Obligation.

Northridge's failure or refusal to accept delivery of any of the Northridge Annual Entitlement in any year shall in no way relieve it of its obligation to make payments to the Agency for that year's Annual Entitlement as provided for herein to the extent the Agency was ready, willing

and able to supply the Northridge Annual Entitlement that year.

15. Compliance with Provisions of EIR, SWRCB Orders and Warren Act Contract.

(a) The Agency shall not petition the SWRCB for a change in the place of use under the Agency Water Rights to eliminate any of Northridge's service area as of the date of this Agreement, or for any other change to the Agency Water Rights that would adversely affect Northridge's rights under this Agreement.

(b) The Agency and Northridge shall fully comply with (1) the provisions of the EIR that limit the diversion and use of water under this Agreement and (2) the provisions of the SWRCB Orders that limit the diversion and use of water under this Agreement, by complying with the operating criteria set forth in Exhibit A.

16. Remedies Not Exclusive. The use by either party of any remedy specified for the enforcement of this Agreement is not exclusive and shall not deprive the party using such remedy of, or limit the application of, any other remedy provided by law.

17. Waiver of Rights. Any waiver at any time by either party of its rights with respect to a breach or default, or any other matter arising in connection with this Agreement, shall not be deemed to be a waiver with respect to any other breach, default or matter.

18. Assignment. The provisions of this Agreement shall apply to and bind the successors and assigns of the respective parties, but no assignment or transfer of this Agreement, or any part hereof or interest herein, shall be valid until and unless approved by the Agency.

19. Areas Served by Northridge. Water delivered to Northridge pursuant to this Agreement shall not be sold or otherwise disposed of by Northridge for use outside of the service area shown on the map marked Exhibit B, without the prior written consent of the Agency, which consent shall not unreasonably be withheld; provided, however, in no event shall any such water be used outside the place of use described in the Agency's water right permits.

20. Opinions and Determinations. Where the terms of this Agreement provide for action to be based upon judgment, approval, review or determination of either party, such terms are not intended to be and shall never be construed as permitting such opinion, judgment, approval, review or determination to be arbitrary, capricious or unreasonable.

21. Notices. All notices that are required either expressly or by implication to be given by any party to the other under this Agreement shall be signed for the Agency and for Northridge by such officers as they may from time to time authorize to so act. Any notices to parties required by this Agreement shall be delivered or mailed, U.S. first-class postage prepaid, addressed as follows:

To Agency:

General Manager
Placer County Water Agency
P.O. Box 6570
Auburn, California 95604

To Northridge:

General Manager
Northridge Water District
P.O. Box 41258
5331 Walnut Avenue
Sacramento, California 95841

Either party may change its address for notice by sending notice of such change to the other party.

22. Inspection of Books and Records. The proper officers or agents of Northridge shall have full and free access at all reasonable times to the account books and official records of the Agency in so

far as the same pertain to the matters and things provided for in this Agreement, with the right at any time during office hours to make copies thereof at Northridge's expense, and the proper representative of the Agency shall have similar rights with respect to the account books and records of Northridge.

23. Integration. This is an integrated agreement and contains all of the terms, considerations, understanding and promises of the parties. It shall be read as a whole.

24. Construction and Interpretation. It is agreed and acknowledged by the parties that this Agreement has been arrived at through negotiation, and that each party has had a full and fair opportunity to revise the terms of this Agreement. Consequently, the normal rule of construction that any ambiguities are to be resolved against the drafting party shall not apply in construing or interpreting this Agreement.

25. Amendment. This Agreement may be modified or amended only by a subsequent written agreement approved by both parties.

26. Attorney's Fees. In any action brought by either party to enforce or construe this Agreement, the prevailing parties shall be entitled to an award of reasonable attorney's fees, expert witness and consulting fees, litigation costs and costs of suit.

27. Counterparts. This Agreement may be executed in counterparts. Northridge shall deliver its counterpart to the Agency, which shall deliver a fully-conformed counterpart to Northridge.

28. Obligations Prior to Termination. The obligations of the parties incurred pursuant to this

Agreement prior to the termination of this Agreement shall survive the termination.

29. Supporting Resolutions. Each party represents that it has legal authority to enter into this Agreement and to perform its obligations hereunder, and shall submit to the other party concurrent with execution of this Agreement a duly-authorized resolution or other document evidencing the authority and authorizing the person executing this Agreement to do so.

30. General Indemnity. Each party agrees to protect, defend, indemnify and hold harmless the other party, its directors, officers, agents, employees and consultants from and against any and all losses, claims, liens, demands and causes of action of every kind and character, without limitation by enumeration, occurring or in any wise incident to, connected with, or arising directly or indirectly out of the negligence or willful misconduct of the indemnifying party hereunder.

31. Severability. The invalidity, illegality or unenforceability of any provision of this Agreement shall not render the other provisions unenforceable, invalid or illegal.

32. No Third Party Beneficiaries. This Agreement shall not be construed to create any third party beneficiaries. This Agreement is for the sole benefit of the parties, their respective successors and permitted transferees and assigns, and no other person or entity shall be entitled to rely upon or receive any benefit from this Agreement or any of its terms.

33. Relationship of Parties. Nothing in this Agreement shall be construed to create an association, joint venture, trust or partnership, or to impose a trust or partnership covenant, obligation or liability on or with regard to anyone or more of the parties.

34. **Additional Documents.** Each party agrees to make, execute, acknowledge and deliver any and all documents reasonably required to implement this Agreement.

35. **Supersedes prior Agreement.** This Agreement supersedes in its entirety the "Agreement between Placer County Water Agency and Northridge Water District for a water supply for groundwater stabilization", as amended, which was entered into as of August 21, 1995.

The foregoing is hereby agreed to by the parties.

PLACER COUNTY WATER AGENCY



Attest:

KA SMITH CLERK TO THE
BOARD OF DIRECTORS PCWA

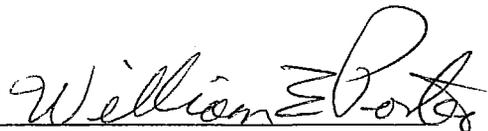
By: 

NORTHRIDGE WATER DISTRICT



Attest:

DEWIGHT F. KRAMER, SR.
Secretary

By: 

WILLIAM E. PORTER
Board of Director
President

Exhibit A

Operating Criteria

The diversion and use of water under this Agreement shall be subject to the following operating criteria, in addition to the terms and conditions set forth in the Agreement:

1. The Northridge Annual Entitlement shall not exceed the annual amount of water that is available for diversion by Northridge in accordance with the terms and conditions of the SWRCB Orders, which are attached hereto. Northridge's obligation in Article 4 of the Agreement to take or pay for the Northridge Annual Entitlement shall be based on the Northridge Annual Entitlement as adjusted in this exhibit.
2. Northridge shall compensate the Agency at the rates provided for in Article 12 for water that the Agency would have appropriated to storage but could not (and which results in a net decrease in the amount of water in storage) as a result of application of Article 2.b. of the September 30, 1999 agreement between the Agency and the Department of Water Resources that is referred to in the SWRCB Orders and attached hereto.
3. To account for the conveyance losses provided for in Article 3(b) of the Warren Act Contract, the Agency shall release five percent more than the quantity of water requested for delivery by Northridge.