

AGREEMENT FOR PROVISION OF RECYCLED WATER, SEWER, AND OPERATIONS AND MAINTENANCE SERVICES AT PRADO REGIONAL PARK

This Agreement is made and entered into by and among the INLAND EMPIRE UTILITIES AGENCY, a Municipal Water District, organized and existing in the County of San Bernardino under and by virtue of the laws of the State of California, (hereinafter referred to as “IEUA”), and SAN BERNARDINO COUNTY, a political subdivision of the State of California (“COUNTY”) for the provision of recycled water, sewer, and operations and maintenance services at Prado Regional Park (“Prado Park”) located in the City of Chino (properties collectively referred to hereinafter as “Prado Properties”) by IEUA for three years pursuant to rates adopted by the IEUA Board of Directors. Included in this Agreement are IEUA responsibilities for operations and maintenance of the dechlorination facility located in Prado Park. IEUA and COUNTY shall be collectively referred to herein as “Parties,” and singularly as “Party.”

For and in consideration of the mutual covenants and agreements herein contained, it is mutually agreed as follows:

I. RECITALS

WHEREAS, IEUA produces Title 22 tertiary treated water, also known as recycled water, at IEUA's Wastewater Recycling Facilities for delivery to its customer agencies and neighboring customers; and

WHEREAS, IEUA has developed a distribution pipeline system (“Regional Recycled Water Distribution System”) for the delivery of recycled water to its customer agencies and customers; and

WHEREAS, beneficial reuse of recycled water for irrigation, agriculture, commercial operations, groundwater recharge, and other purposes has replaced the use of costly imported potable water and assists to drought-proof the region; and

WHEREAS, COUNTY operates Prado Park, including Prado Lake as a public recreational facility, including as a fishery, which requires water quality maintenance; and

WHEREAS, IEUA may utilize the Prado Lake facility as a State permitted wastewater discharge point, and to meet its 1969 Santa Ana River judgment; and

WHEREAS, the COUNTY benefits from the Prado Dechlorination Station for ensuring regulatory water quality for recycled water delivered to Prado Lake; and

WHEREAS, on November 1, 2023, IEUA entered into a Regional Sewage Service Contract with the City of Chino Hills, Cucamonga Valley Water District, and the City of Upland which guarantees said agencies in priority against all other recycled water purchase agreements, the right of first purchase of recycled water in a total quantity not exceeding

the annual base entitlement of each agency as defined therein. A copy of the Regional Sewage Service Contract is attached hereto as Exhibit “A” to this Agreement; and

WHEREAS, on December 20, 2023, IEUA adopted Ordinance No. 115 which guarantees all other sewage collection agencies in IEUA’s service area the right of first purchase of recycled water in a total quantity not exceeding the annual base entitlement of each agency as defined therein. A copy of Ordinance No. 115 is attached hereto as Exhibit “B” to this Agreement; and

WHEREAS, subject to the rights and limitations set forth in Exhibits “A” and “B” to this Agreement, IEUA retains full authority over the use and disposition of all recycled water treated by IEUA’s Wastewater Recycling Facilities; and

WHEREAS, IEUA plans to continue the standard operation and maintenance of the Dechlorination facility; and

WHEREAS, IEUA intends to deliver an annual average of approximately 3 million gallons per day (MGD) of recycled water through Prado Lake for the COUNTY, subject to availability of recycled water after exercise of the collective rights of first purchase set forth in Exhibits “A” and “B;” and

WHEREAS, the Regional Sewerage System was expanded with the construction of the Chino Preserve Lift Station, owned by the City of Chino and currently operated by IEUA, to which the COUNTY now receives sewer service in place of the Prado Lift Station.

II. TERM

The term of this Agreement shall be three (3) years, commencing upon October 22, 2024 and ending on October 20, 2027.

III. IEUA RESPONSIBILITIES

A. Recycled Water

1. IEUA, either directly or through a retail recycled water provider, will continue the delivery of recycled water to COUNTY subject to availability in accordance with Exhibits “A” and “B,” or successors thereof, and Chapter 3 of Division 4 of Title 22 of the California Code of Regulations. IEUA will make recycled water available to COUNTY if and when there remains unclaimed recycled water after IEUA’s local Sewage Collection Agencies exercise their respective rights of first purchase of recycled water pursuant to Exhibits “A” and “B.”
2. IEUA will calculate recycled water use by COUNTY based on metered recycled water delivered, and by formula herein calculating for evaporation at Prado Lake. Prado Golf deliveries will be metered, maintained, and read by IEUA through an IEUA owned meter at the point of entry for the facility.

Prado Park deliveries will be metered, maintained, and read by COUNTY and provided to IEUA on a monthly basis. Should COUNTY provided metered recycled water usage data be unavailable, IEUA reserves the right to bill COUNTY based on estimated recycled water usage.

3. IEUA may, at its discretion and expense, construct an outfall discharge from a point above Prado Lake to a point immediately below the dam to segregate IEUA and COUNTY discharges.
4. IEUA and COUNTY agree that the amount of water evaporated from Prado Lake is 165-acre feet per year (“AFY”), less any amount that COUNTY pumps into Prado Lake from its wells. 165 AFY was calculated based on the Penman formula and average weather conditions in San Bernardino County. According to information from the Chino Basin groundwater model, recharge from Prado Lake is negligible and would surface downstream and contribute to stream flow into Prado Basin; therefore, no recharge quantity is considered. At such time as the discharges are completely segregated, and COUNTY requests all its water through meters, the evaporation amount will no longer be applicable.
5. IEUA retains discretion to continue operating and maintaining the Dechlorination facility for recycled water discharge to Prado Lake. Both parties understand long term operation of the Dechlorination facility by IEUA is not feasible due to the large investments required for refurbishment and potential relocation due to the raising of the spillway at Prado Dam by the United States Army Corps of Engineers. It is also understood that when the 3-year agreement concludes, IEUA plans to cease operation of the Prado Dechlorination facility, and as a result, will be unable to provide dechlorinated recycled water to COUNTY. Should critical infrastructure at the Dechlorination facility fail before the end of the 3-year agreement, recycled water service to Prado Park and Prado Lake will cease.
6. It is IEUA’s preference that any continued recycled water service past this agreement be through a water retailer. At the COUNTY’s request, IEUA will make its staff available to assist the COUNTY in coordinating with the local water retailer to continue recycled water service for the Prado Properties in accordance with Exhibits “A” and “B,” or successors thereof, and Chapter 3 of Division 4 of Title 22 of the California Code of Regulations.

B. Sewer Service

1. COUNTY initially purchased capacity equivalent to 126 equivalent dwelling units (“EDU”). In the 2014 Agreement with COUNTY, it was estimated that a capacity of 196 EDUs would be required. IEUA temporarily issued the

additional capacity and agreed that no additional equivalent capital connection fees for all existing sewer service connections (estimated as 196 EDU) on COUNTY's Prado properties are due.

2. COUNTY agrees that IEUA shall not provide reimbursements for capital expenditures made annually to date.
3. The parties agree that the base EDU that may be set by a retail service provider, or the 196 EDU, whichever is the minimum, is the governing base connected capacity for the COUNTY through the term of this agreement.
4. IEUA and COUNTY agree that all additional new sewer connections will require IEUA-established capital connection fees pursuant to IEUA's adopted rate resolutions in force at the time of the new sewer connection.
5. It is acknowledged by both parties that it is IEUA's preference to have sewer service provided through a retail service provider, with wastewater treatment provided by IEUA in accordance with IEUA Ordinance No. 114, or successors thereof.

C. Rate of Service

1. IEUA will bill COUNTY on a monthly basis for the use of recycled water and sewer service at rates equal to the wholesale rates established through IEUA's adopted rate resolutions.
2. The parties recognize that water quality degradation is likely due to runoff and storm flow and not the lake itself; therefore, no past or further degradation charges are due or considered in this agreement.
3. The COUNTY and IEUA shall share the operation and maintenance costs for the Prado Dechlorination facility, based on each party's amount of recycled water treated by the Dechlorination facility. IEUA will bill COUNTY for its share of operation and maintenance expenses for the Dechlorination facility for Prado Lake. Said expenses include facility operations, monitoring, labor, chemicals, utilities, and daily equipment maintenance, replacement, and refurbishment as required to keep the facility operating in a safe, efficient, and compliant condition. The parties agree to mutually discuss the cost, share, and completion of any required capital replacement in excess of \$100,000. Neither party must fund their proportional share of such capital replacement without mutual agreement.
4. The COUNTY and IEUA shall share the utility costs incurred through pumping recycled water to the Prado Properties. Each year in October, IEUA will average the previous fiscal year per unit energy costs from July through June as ¢/kwh. The average previous annual ¢/kwh will be multiplied by a

constant 456,386 kWh/MGD, which is the average kWh per MGD from July 1, 2023, to July 1, 2024, for IEUA's Regional Plant No. 5 pumps that are responsible for delivering water to Prado Park. The resulting \$/MGD will be multiplied by a constant 1.5 MGD, equal to half of the annual average of recycled water flows planned to be delivered to Prado Lake and billed monthly to COUNTY. COUNTY shall not be billed for additional recycled water pumping costs unless COUNTY specifically requests additional flow from IEUA, in writing or via email, in which case any additional requested pumping will be charged accordingly using the above methodology.

5. For purposes of calculating sewer service from IEUA, the parties agree that current facilities and flow are billed by IEUA as 196 EDU.

IV. COUNTY RESPONSIBILITIES

1. COUNTY shall pay IEUA for recycled water and sewer service pursuant to the wholesale rates as adopted by the IEUA Board of Directors until such time as a retail recycled water and/or sewer service provider provides services to COUNTY. IEUA agrees that this may occur anytime, and COUNTY may utilize existing service-provision facilities.
2. COUNTY shall pay IEUA for its share of the Dechlorination facility for Prado Lake. The COUNTY and IEUA shall share the operating and maintenance costs, based on each party's metered amount of recycled water through the Dechlorination facility.
3. COUNTY shall pay IEUA for 1.5 MGD of recycled water pumping utility costs in addition to IEUA's wholesale recycled water rate as outlined in Section III C.4 above.
4. COUNTY shall install and/or maintain meters at all points of delivery to COUNTY facilities, except Prado Lake and Prado Golf. Any pumped extractions from Prado Lake to Prado Park shall be metered by COUNTY and deliveries to Prado Golf will be metered by IEUA.
5. COUNTY or its designee, vendors, or contractors shall not operate as a retail provider of recycled water service or offer for sale any recycled water provided by IEUA to COUNTY facilities, except COUNTY may sell recycled water to its vendors and contractors located on COUNTY Prado facilities and property.
6. Until the discharges are completely segregated per IEUA's request, COUNTY will annually provide information on water quantity and quality for water supplied from its wells into Prado Lake.

V. GENERAL PROVISIONS

1. This Agreement is personal to the Parties, and the Parties shall not have the right to assign or otherwise transfer this Agreement. Any attempted assignment or other transfer shall be deemed null and void without legal effect.
2. The Parties agree to execute any further documents, and take any further actions, as may be reasonable and appropriate in order to carry out the purpose and intent of this Agreement.
3. All disputes arising out of or in relation to this Agreement shall be determined in accordance with this section. The Parties agree to make every effort to resolve any disputes collectively, and in a mutually beneficial manner. By entering into this Agreement, however, the Parties are obligated, and hereby agree, to submit all disputes arising under or relating to this Agreement that remain unresolved after ninety (90) days from the initial time of notice, and after the exhaustion of attempts to mutually resolve, to non-binding mediation with a mediator selected by the Parties. Each Party agrees to bear its own costs associated with mediation.
4. Each Party agrees to defend and hold harmless the other Parties and their respective officers, directors, agents, employees, servants, and volunteers from any and all liability, judgments, expenses, including defense costs and legal fees, and claims for damages of any nature whatsoever, arising from or connected with the Parties' activities under this Agreement.
5. In the event that the County and/or IEUA are determined to be comparatively at fault for any claim, action, loss or damage which results from their respective obligations under this agreement, County and/or Contractor shall indemnify the other to the extent of its comparative fault.
6. County and IEUA are authorized self-insured or partially self-insured public entities for purposes of Professional Liability, General Liability, Automobile Liability and Worker's Compensation and warrant that through their respective programs of self-insurance and insurance, they have adequate coverage or resources to protect against liabilities arising out of performance of the terms, conditions or obligations of this Agreement.
7. Any notice may be served upon either Party by delivering it in person, or by depositing it in a United States Mail deposit box with the postage thereon fully prepaid, and addressed to the Party at the address set forth below:

If to COUNTY:

San Bernardino County
Department of Regional Parks

268 W. Hospitality Lane, Third Floor, Suite
303
San Bernardino CA 92408

If to IEUA:

Inland Empire Utilities Agency
6075 Kimball Avenue
Chino Hills, California 91708
Attn: General Manager

or at such other address or to such other persons as either of the parties may from time to time designate by written notice given as herein provided.

Any notice given hereunder shall be deemed effective in the case of personal delivery, upon receipt thereof, or in the case of mailing, at the moment of deposit in the course of transmission with the United States Postal Service.

8. All of the terms, conditions and provisions of this Agreement shall inure to the benefit of and be binding upon the Parties, and their respective successors and assigns. Notwithstanding the foregoing, no assignment of the duties or benefits of the Parties under this Agreement may be assigned, transferred or otherwise disposed of without the prior written consent of the other Party and any such purported or attempted assignment, transfer or disposal without the prior written consent of the other Party shall be null, void, and of no legal effect whatsoever.
7. This Agreement represents the entire Agreement of the Parties as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered by the Agreement. This Agreement may not be modified, altered or amended except by written mutual agreement by the Parties.
8. This Agreement is to be governed by and constructed in accordance with the laws of the State of California and under the jurisdiction of the Superior Court of the State of California located in San Bernardino County.
9. The parties shall not hold the other parties responsible for the effects of acts occurring beyond their control; e.g., war, riots, strikes, natural disasters.
10. This Agreement shall supersede any prior agreements between COUNTY and IEUA for recycled water and sewer services at Prado Properties.
11. No alteration, amendment, or variation of this Agreement shall be valid unless made in writing and signed by all Parties.

12. This Agreement may be executed in counterparts, each of which shall be deemed to be an original instrument, but all of which together shall constitute on and the same instrument.
13. This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts shall together constitute one and the same Agreement. The Parties shall be entitled to sign and transmit an electronic signature of this Agreement (whether by facsimile, PDF or other mail transmission), which signature shall be binding on the Party whose name is contained therein. Each Party providing an electronic signature agrees to promptly execute and deliver to the other Party an original signed Agreement upon request.
14. Either Party shall have the right to terminate this Agreement for its convenience at any time, on at least sixty (60) days written notice prior to the effective date of termination, given to the other Party as required herein.

IN WITNESS WHEREOF, the parties hereto have caused the Agreement to be entered as of the day and year written below.

SAN BERNARDINO COUNTY

Inland Empire Utilities Agency

(Print or type name of corporation, company, contractor, etc.)

►

 Dawn Rowe, Chair, Board of Supervisors

By ► _____
(Authorized signature - sign in blue ink)

Shivaji Deshmukh

Dated: _____
 SIGNED AND CERTIFIED THAT A COPY OF THIS
 DOCUMENT HAS BEEN DELIVERED TO THE
 CHAIRMAN OF THE BOARD

Name _____
(Print or type name of person signing contract)

Lynna Monell
 Clerk of the Board of Supervisors
 San Bernardino County

Title General Manager
(Print or Type)

By _____
 Deputy

Dated: _____

Address _____

Approved as to Legal Form
 ►
 Suzanne Bryan, County Counsel
 Date _____

Reviewed for Contract Compliance
 ►
 Moe Yousif, Deputy Executive Officer
 Date _____

Reviewed/Approved by Department
 ►
 Beahta R. Davis, Director, Regional Parks
 Department
 Date _____

FOR COUNTY USE ONLY