

## APPENDIX E

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### **JOINT POWERS AGREEMENT BETWEEN THE CITY OF CITRUS HEIGHTS, THE CITY OF FOLSOM, THE CITY OF SACRAMENTO AND THE COUNTY OF SACRAMENTO CREATING THE SACRAMENTO NORTH AREA GROUNDWATER MANAGEMENT AUTHORITY**

This Agreement is made and entered into this 11<sup>th</sup> day of August, 1998, by and between the City of Citrus Heights, a municipal corporation, the City of Folsom, a municipal corporation, the City of Sacramento, a municipal corporation, and the County of Sacramento, a political subdivision of the State of California ("County").

#### **RECITALS**

**WHEREAS**, each of the parties to this agreement is a local government entity functioning within the County of Sacramento; and

**WHEREAS**, pursuant to the Joint Exercise of Powers Act (Chapter 5 of Division 7 of Title 1 of the California Government Code), two or more public agencies may by agreement jointly exercise any power held in common by the agencies entering into such an agreement; and

**WHEREAS**, each of the parties hereto has under its police power the authority to regulate groundwater; and

**WHEREAS**, the parties hereto have each been either directly or indirectly involved in the process commonly referred to as the Sacramento Area Water Forum ("Water Forum"); and

**WHEREAS**, the Water Forum process has resulted in the development of a Groundwater Management Element, dated August 1998 ("Groundwater Management Element"), which provides for the formation of a groundwater management authority for the north area of the County of Sacramento pursuant to a joint powers agreement between the City of Citrus Heights, the City of Folsom, the City of Sacramento and the County; and

**WHEREAS**, a true and correct copy of the Groundwater Management Element is attached hereto and incorporated herein as Exhibit "A"; and

**WHEREAS**, the completion of the Water Forum process and the approval of the final Water Plan by the Water Forum stakeholders has been delayed for reasons unrelated to groundwater management issues; and

**WHEREAS**, the parties hereto and the Water Forum stakeholders who have been involved in the development of the Groundwater Management Element believe that it is in the public interest to move forward with the development of the institutional framework necessary to implement the Groundwater Management Element within the North Area Basin, rather than suspending those efforts until such time as the Water Forum process is finalized; and

**WHEREAS**, the formation of the joint powers authority contemplated by this agreement is not legally dependent upon the finalization of the Water Forum process, but is independently authorized by state law; and

**WHEREAS**, the parties hereto find that it is to their mutual advantage and benefit to establish such a groundwater management authority pursuant to this agreement in order to implement the groundwater management policies embodied in the Groundwater Management Element; and

**WHEREAS**, the parties hereto find and declare that the conservation of groundwater resources within the North Area Basin for agricultural and municipal and industrial uses is in the public interest and for the common benefit of all water users within the County of Sacramento; and

**WHEREAS**, the overriding purpose of the joint powers authority established pursuant to this agreement is to maintain the sustainable yield of the North Area Basin as set forth in the Groundwater Management Element; and

**WHEREAS**, it is the desire of the parties hereto to use the groundwater management powers which they have in common that are necessary and appropriate to further the purposes for which the joint powers authority is being established; and

**WHEREAS**, the parties hereto are receptive to amending this agreement in the future to include public agencies outside the County of Sacramento who have a specific and relevant interest in the North Area Basin.

**NOW, THEREFORE**, in consideration of the promises, terms, conditions, and covenants contained herein, the City of Citrus Heights, the City of Folsom, the City of Sacramento and the County hereby agree as follows:

1. **Incorporation of Recitals.** The foregoing recitals are hereby incorporated by reference.

2. **Definitions.** As used in this agreement, the following words and phrases shall have the meanings set forth below unless the context clearly indicates otherwise.

(a) “Conjunctive use” shall mean the planned management and use of both groundwater and surface water in order to maintain the sustainable yield of the North Area Basin.

(b) “North Area Basin” shall mean the groundwater basin underlying the area within the boundaries of the Authority.

(c) “Sustainable yield” shall mean the amount of groundwater which can be safely extracted from the North Area Basin on an estimated average annual basis while maintaining groundwater elevations and groundwater quality at acceptable levels as set forth in the Groundwater Management Element. Sustainable yield requires a balance between extraction and basin recharge and is expressed as the number of acre feet of groundwater per year which can be extracted from the North Area Basin on an average annual basis as set forth in the Groundwater Management Element.

(d) “Total water production” shall be defined as follows:

(i) For purposes of determining assessments, fees or charges to support the **administrative costs** of the Authority, total water production means the combined surface water and groundwater delivered by retail providers, together with that water produced by agricultural and self-supplied users, for use within the boundaries of the Authority.

(ii) For purposes of determining assessments, fees or charges to support **water costs**, total water production means the groundwater portion of the total amount of water delivered by retail providers, together with that water produced by agricultural and self-supplied users, for use within the boundaries of the Authority.

**3. Purpose.** This agreement is being entered into in order to establish a joint powers authority for the following purposes:

- (a) to maintain the long-term sustainable yield of the North Area Basin;
- (b) to manage the use of groundwater in the North Area Basin and facilitate implementation of an appropriate conjunctive use program by water purveyors;
- (c) to coordinate efforts among those entities represented on the governing body of the joint powers authority to devise and implement strategies to safeguard groundwater quality; and
- (d) to work collaboratively with other entities, including groundwater management authorities that may be formed in other areas of the County of Sacramento and adjacent political jurisdictions, to promote coordination of policies and activities throughout the region.

**4. Establishment Of The Authority.** There is hereby established pursuant to the Joint Exercise of Powers Act a joint powers authority which shall be a public entity separate from the parties to this agreement. The name of such entity shall be the Sacramento North Area Groundwater Management Authority (“Authority”). The boundaries of the Authority shall be as follows: north of the American River to the Sacramento County line; bounded on the south by the American River; on the west by the Sacramento River; on the north and east by the Sacramento County line; and also including the City of Folsom. A map depicting the boundaries of the Authority is attached hereto and incorporated herein as Exhibit “B”.

**5. Membership Of The Governing Board.** The governing body of the Authority shall be a Board of Directors of seventeen (17) members consisting of the following representatives who shall be appointed in the manner set forth in Section 7 of this agreement:

- (a) An elected member of the governing board of each of the following public agencies: the Arcade Water District, the Carmichael Water District, the Citrus Heights Water District, the Del Paso Manor Water District, the Fair Oaks Water District, the Northridge Water District, the Rio Linda/Elverta Community Water District, the San Juan Water District, the City of Folsom, the City of Sacramento and the Sacramento County Water Maintenance District.
- (b) A member of the board of directors, or designee thereof, of each of the following private water purveyors or investor owned utilities: the Arden Cordova Water Company, Citizens Utilities Company of California, the Natomas Central Mutual Water Company and the Orange Vale Water Company.
- (c) One representative of agricultural interests within the boundaries of the Authority.
- (d) One representative of commercial/industrial self-supplied water users within the boundaries of the Authority.

**6. Adjustment To Composition Of Governing Board.** With the exception of the City of Citrus Heights, the City of Folsom, the City of Sacramento and the County, membership in the governing board shall be limited to public and private water purveyors, investor owned utilities and groundwater rights holders within the boundaries of the Authority. Should circumstances change in the future, any person or entity may petition the parties hereto to amend this agreement so as to add or delete representatives to the governing board to accurately reflect groundwater rights within the boundaries of the Authority.

**7. Appointment Of Members Of Governing Board.**

(a) The members of the governing board of the Authority shall be appointed as follows:

(i) The City of Folsom representative shall be appointed by the Folsom City Council.

(ii) The agricultural representative shall be appointed by the County Board of Supervisors.

(iii) The representative of commercial/industrial self-supplied groundwater users shall be appointed by the Sacramento City Council.

(iv) The Citrus Heights City Council shall appoint the representative of the Citrus Heights Water District.

(iv) The Sacramento City Council shall appoint the representatives of the following entities: Arcade Water District, Arden Cordova Water Company, Citizens Utilities Company of California, the City of Sacramento, Del Paso Manor Water District and the Natomas Central Mutual Water Company.

(v) The County Board of Supervisors shall appoint the representatives of the following entities: Carmichael Water District, Fair Oaks Water District, Northridge Water District, Orange Vale Water Company, Rio Linda/Elverta Community Water District, San Juan Water District and the Sacramento County Water Maintenance District.

(b) Prior to the appointment of the representatives of the entities described in subsections (a)(iv) and (v) above, those entities shall submit a recommended appointment for their respective representatives to the appointing authority. The appointing authority shall give consideration to such recommendations, but shall retain the absolute discretion to appoint any person satisfying the criteria for appointment set forth in Section 5 hereof.

**8. Governing Board Voting Requirements.**

(a) Each member of the governing board of the Authority shall have one vote. With the exception of fiscal items as set forth in subsections (b) and (c) below, a majority vote of all members of the governing board is required to approve any item.

(b) Fiscal items related to the **administrative costs** of the Authority shall require approval by a double majority consisting of the following: a majority vote of all members of the governing board and a majority vote weighted on the basis of total water production within the boundaries of the Authority, as defined in Section 2(d)(i) hereof, during the previous fiscal year.

(c) Fiscal items related to **water costs** shall require approval by a double majority consisting of the following: a majority of all members of the governing board and a

majority vote weighted on the basis of total water production as defined in Section 2(d)(ii) hereof.

(d) For purposes of subsection (c) hereof, the weighted vote of the representative of agricultural interests and the commercial/industrial self-supplied water users representative shall be weighted on the basis of total water production by all such users within the boundaries of the Authority, adjusted to reflect any differential rate which may be paid by a particular classification of water users; e.g., if each acre foot of water pumped equals one vote and agricultural users pump 100,000 acre feet, but pay only 20% of the per acre assessment, fee or charge levied on other types of pumpers, the vote of the agricultural representative would be calculated at 20,000 votes.

(e) Total water production within the boundaries of the Authority during the previous calendar year for purposes of subsections (b) and (c) above shall be based on an annual determination by the governing body of the Authority of the total water production during the previous fiscal year of each entity represented on the governing body. Until such time as the governing board of the Authority makes its annual determination of total water production, the calculation for the previous year shall be controlling for purposes of the double majority requirement set forth in subsections (b) and (c) above.

**9. Quorum.** A majority of the members of the governing board shall constitute a quorum for purposes of transacting business, except less than a quorum may vote to adjourn a meeting.

**10. Terms Of Office.** With the exception of the initial term of the representatives appointed by the City of Folsom and the City of Sacramento, the term of office of each member of the governing board the Authority shall be for a period of four (4) years. The initial term of the City of Folsom and the City of Sacramento representatives shall be for a period of two (2) years. Each member of the governing board shall serve at the pleasure of the appointing body and may be removed as a member of the governing board by the appointing body at any time. If at any time a vacancy occurs on the governing board, a replacement shall be appointed to fill the unexpired term of the previous representative pursuant to the provisions of Section 7 hereof within ninety (90) days of the date that such position becomes vacant.

**11. Alternates.** The City of Citrus Heights, the City of Folsom, the City of Sacramento and the County, in addition to their regular appointments, shall appoint one or more persons with the required qualifications to serve as alternate members of the governing board of the Authority. Any such alternates shall be empowered to cast votes in the absence of the regular members or, in the event of a conflict of interest preventing the regular member from voting, to vote because of such a conflict of interest.

**12. Organization Of The Authority.** The governing board of the Authority shall elect a chair, a vice chair and such other officers as the governing board shall find appropriate. Such officers shall serve for a term of one (1) year unless sooner terminated at the pleasure of the governing board.

**13. Treasurer, Controller, Clerk and Legal Counsel.** The controller and the treasurer of the Authority shall be the County Director of Finance. The governing board of the Authority shall appoint a clerk and legal counsel as it deems appropriate. The controller of the Authority shall cause an independent annual audit of the Authority's finances to be made by a certified public accountant in compliance with Government Code Section 6505. The treasurer of the Authority shall be the depositor and shall have custody of all money of the Authority from whatever source. The controller of the Authority shall draw warrants to pay demands against the Authority when the demands have been approved by the Authority or by its authorized representative pursuant to any delegation of authority adopted by the Authority. The treasurer and controller shall comply strictly with the provisions of statutes relating to their duties found in Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code.

**14. Chief Executive Officer.** The governing board of the Authority shall appoint a chief executive officer who shall be responsible to the governing board for the proper and efficient administration of the Authority as directed by the governing board pursuant to the provisions of this agreement or of any ordinance, resolution or order of the governing board. In addition to any other duties which may be assigned, the chief executive officer shall have the following authority:

- (a) under the policy direction of the governing board, to plan, organize and direct all Authority activities;
- (b) to authorize expenditures within the designations and limitations of the budget approved by the governing board;
- (c) to make recommendations to and requests of the governing board concerning any matter which is to be performed, done or carried out by the governing board;
- (d) to have the authority to appoint, discipline, assign and otherwise supervise and control the activities of any employees or contractors which may be hired or retained by the Authority; and
- (e) to have charge of, handle and have access to any property of the Authority.

**15. Meetings.** The Authority shall provide for regular and special meetings in accordance with the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code) or with any successor provision.

**16. Powers and Functions.**

- (a) The Authority shall have no power to regulate land use or to engage in the retail sale of water and shall be prohibited from restricting or otherwise limiting the extraction of groundwater within the boundaries of the Authority except by means of economic incentives and disincentives. The Authority shall further be prohibited from funding any capital construction projects. In addition, during the first five (5) years after the effective date of this agreement, the Authority shall be prohibited from levying annual fees or assessments to fund water cost payments that exceed an annual average charge during such five (5) year period of \$5.00 for each acre foot (minimum \$0.00-maximum \$10.00) of groundwater pumped from the North Area Basin during such five (5) year period. Further, during any individual year of such five (5) year period, the Authority shall be prohibited from levying annual fees or assessments to fund water cost payments that

exceed a charge of \$10.00 for each acre foot of groundwater pumped from the North Area Basin during any such year. For purposes of this section, water costs shall include the cost of water, pumping and treatment costs, and other costs related to any conjunctive use program administered by the Authority.

(b) Subject to the limitations set forth in subsection (a), the Authority shall have any and all powers commonly held by the parties hereto necessary or appropriate to regulate groundwater within the boundaries of the Authority including, but not limited to, the following powers:

- (i) Collect and monitor data on the extraction of groundwater from, and the quality of groundwater in, the North Area Basin;
- (ii) Establish and administer a conjunctive use program for the purpose of maintaining sustainable yields in the North Area Basin consistent with the Groundwater Management Element;
- (iii) Buy and sell water on other than a retail basis;
- (iv) Exchange water;
- (v) Distribute water in exchange for ceasing or reducing groundwater extractions;
- (vi) Spread, sink and inject water into the North Area Basin;
- (vii) Store, transport, recapture, recycle, purify, treat or otherwise manage and control water for the beneficial use of persons and property within the Authority;
- (viii) To implement any conjunctive use program which the Authority deems necessary to maintain sustainable yields in the North Area Basin consistent with the Groundwater Management Element; and
- (ix) Study and plan ways and means to implement any or all of the foregoing powers.

(c) For purposes of exercising the authority set forth in subsection (b), and subject to the limitations set forth in subsection (a), the Authority shall have the following corporate and political powers:

- (i) To sue and be sued in all actions and proceedings in all courts and tribunals.
- (ii) To adopt a seal and alter it at its discretion.
- (iii) To take by grant, purchase, gift, devise or lease, to hold, use and enjoy, and to lease, convey or dispose of, real and personal property of every kind, within or without the boundaries of the Authority, necessary or convenient to the full exercise of its power.
- (iv) For the common benefit of the Authority, to store water in underground water basins or reservoirs within and outside the Authority, to appropriate water and acquire water rights within or outside the Authority, to import water into the Authority, and to conserve, or cause the conservation of, water within or outside the Authority.
- (v) To exercise the right of eminent domain to take any property necessary to supply the Authority or any portion of it with replenishment water; provided that the right of eminent domain may not be exercised with respect to water and water rights, and may not be exercised with respect to any property owned or occupied

by any of the parties hereto or the entities represented on the governing board of the Authority.

(vi) To act jointly, or cooperate, with the United States or any agency thereof, the state, or any county or agency thereof, or any political subdivision or district therein, including flood control districts, private and public corporations, and any person, so that the powers of the Authority may be fully and economically exercised.

(vii) To cause taxes, assessments, fees or charges to be levied in accordance with applicable State law, and in a manner consistent with the Groundwater Management Element, to accomplish the purposes of the Authority.

(viii) To require the permitting of groundwater extraction facilities within the boundaries of the Authority, to maintain a record of extraction with respect to any such facilities, and to require the installation of meters on groundwater extraction facilities for the purpose of determining the amount of groundwater being extracted from the North Area Basin.

(ix) To make contracts, employ labor and to do all acts necessary for the full exercise of the Authority's powers.

(x) To carry on technical and other investigations of all kinds necessary to further the purposes of the Authority.

(xi) To fix rates at which water acquired by the Authority shall be sold for replenishment purposes, and to establish different rates for different classes of service or conditions of service, provided that the rates shall be uniform for like classes and conditions of service.

(xii) To participate in any contract under which producers may voluntarily agree to use surface water in lieu of groundwater, and to that end the Authority may become a party to the contract and pay from Authority funds that portion of the cost of the surface water as will encourage the purchase and use of that water in lieu of pumping so long as persons or property within the boundaries of the Authority are directly or indirectly benefitted by the resulting replenishment of the North Area Basin.

(xiii) To apply for, accept and receive state, federal or local licenses, permits, grants, loans or other aid from any agency of the United States, the State of California, or other public or private entity necessary or appropriate for the Authority's full exercise of its powers.

**17. Budgets.** Within ninety days after the first meeting of the governing board of the Authority, and thereafter prior to the commencement of each fiscal year (defined as July 1 through June 30), the governing board shall adopt a budget for the Authority for the ensuing fiscal year.

**18. Termination.** This agreement shall remain in effect until terminated by one of the parties hereto pursuant to this section. This agreement may be terminated by any of the parties hereto at any time and for any reason by providing ninety (90) days written notice of termination to the other parties. Except as provided in Section 19(b) hereof, the Authority shall automatically terminate upon the effective date of the termination of this agreement.



**19. Disposition Of Authority Assets Upon Termination.**

(a) In the event of the termination of the Authority where there will be a successor public entity which will carry on the functions of the Authority and assume its assets, the assets of the Authority shall be transferred to the successor public entity.

(b) If there is no successor public entity which will carry on the functions of the Authority and assume its assets, the assets shall be returned to the parties hereto in proportion to the contribution of each party during the term of this agreement.

(c) If there is a successor public entity which will carry on some of the functions of the Authority and assume some of its assets, the assets of the Authority shall be allocated by the governing board of the Authority between the successor public entity and the parties hereto.

**20. Liabilities.** The debts, liabilities and obligations of the Authority shall be the debts, liabilities and obligations of the Authority alone, and not of the parties to this agreement.

**21. Rules.** The governing board of the Authority may adopt from time to time such rules and regulations for the conduct of its affairs as it deems necessary and appropriate.

**22. Minutes.** The clerk appointed by the governing board of the Authority shall cause to be kept minutes of all meetings of the governing board, and shall cause a copy of the minutes to be forwarded to each member of the governing board and to each of the parties hereto.

**Effective Date.** This agreement shall become effective and the Authority shall be created when the governing bodies of all the parties shall have authorized its execution.

**Amendments.** This agreement may only be amended by the affirmative vote of the governing bodies of all of the parties hereto.

IN WITNESS WHEREOF, the parties here to execute this agreement on the date first written above.

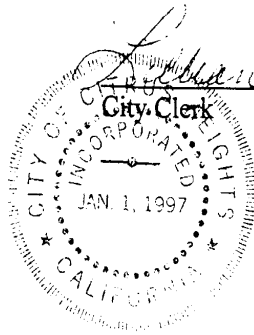
CITY OF CITRUS HEIGHTS

Dated: 9-25-98

By Wm. Hogg  
Mayor

Attest:

Approved As To Form:



Lillian E. Hare, Deputy  
City Clerk

Robynn D. Ziegler  
City Attorney

CITY OF FOLSOM

Dated: 10/3/98

By John E. Miller  
Mayor

Attest:

Approved As To Form:

Theresa Biddle  
City Clerk

Martha Clark  
City Attorney

CITY OF SACRAMENTO

Dated: 9-15-98

By [Signature]  
Mayor

Attest:

[Signature]  
Assistant City Clerk

Approved As To Form:

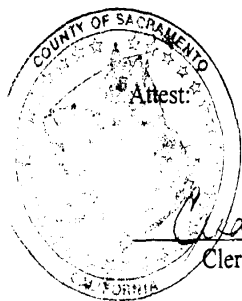
[Signature]  
City Attorney

COUNTY OF SACRAMENTO

Dated: \_\_\_\_\_

By [Signature]  
Chairperson, Board of Supervisors

Approved As To Form:



[Signature]  
Clerk of the Board

[Signature]  
County Counsel

## EXHIBIT A

Exhibit A is a copy of the Groundwater Element, found on pages 96-116 of the *Water Forum Agreement*.

**EXHIBIT B**

