

RESOLUTION NO. 2019-0279

Adopted by the Sacramento City Council

June 25, 2019

A Resolution Authorizing Execution of an Agreement for Wholesale Water Service with the Natomas Unified School District

BACKGROUND

- A. The City of Sacramento ("City") operates a water supply system that delivers surface water diverted from the Sacramento and American Rivers under the City's water right permits and entitlements, and groundwater pumped from City wells for municipal and industrial use to customers located within and outside of the City.
- B. The Natomas Unified School District ("School District") is the owner in fee of real property located in the unincorporated area of Sacramento County, north of Del Paso Road and west of the Westlake residential subdivision in the City, APN 225 0030 065, consisting of approximately 33 acres.
- C. The School District is developing its property by constructing the Paso Verde K-8 School and requires a water supply for this purpose. The School District could construct and operate an on-site groundwater supply well system to serve the school through the provision of groundwater, but the City can provide potable water to the school at lower cost. The School District has requested that the City provide wholesale water service to the School District for the Paso Verde School from the City's water supply system.
- D. The City will use City facilities to provide potable water to the School District to allow the School District to achieve a level of service necessary to meet regulatory requirements for drinking water. The School District will be responsible for direct retail water services to the school.
- E. The School District has prepared and certified an environmental impact report (EIR) for the construction and operation of the Paso Verde K-8 School by Board action on March 13, 2019 (Resolution No. 19-06), adopted California Environmental Quality Act (CEQA) Findings of Fact and a Statement of Overriding Considerations.
- F. The proposed wholesale agreement is exempt from the Cortese-Knox-Hertzberg Local Governmental Reorganization Act of 2000 (pertaining to LAFCO) under Government Code section 56133. It would also comply with the City's General Plan and the Natomas Basin Habitat Conservation Plan, the Implementing Agreement, and the City's incidental

take permits issued by the U.S. Fish & Wildlife Service and California Department of Fish & Wildlife.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

- Section 1. The City has reviewed and considered the environmental impacts in the Final EIR certified by the School District on March 13, 2019 for the construction of the Paso Verde School.
- Section 2. The EIR concluded impacts to water supply and biological resources would be less than significant, and utilities has been considered in the EIR, in sections such as air quality, and other sections, with less than significant impacts. The impacts discussed in the EIR that remain significant even after mitigation included aesthetics and short term noise levels from construction, none of which are within the scope of the City's authority as responsible agency.
- Section 3. The City has determined that the operation of the wholesale water agreement as specified with recommended terms in the agreement would be an action in compliance with the Natomas Basin Habitat Conservation Plan, Implementation Agreement, and Incidental Take permits and the Sacramento General Plan LU 1.1.8 policy.
- Section 4. The City is a Responsible Agency under CEQA and is required to consider adoption of alternatives and mitigation measures within its authority that may reduce or avoid environmental impacts, if any, of those aspects of the project that the city decides to carry out or approve. No such significant impacts have been identified and no further CEQA review by the City is required.
- Section 5. The City hereby authorizes and directs the City Manager or the City Manager's designee execute the Water Wholesale Agreement between the City of Sacramento and the Natomas Unified School District in the form attached as Exhibit A.
- Section 6. The City Manager or the City Manager's designee is authorized to enter into minor amendments to the aforementioned agreement subject to approval as to form by the City Attorney or the City Attorney's designee.
- Section 7. Exhibit A is made a part of this Resolution.

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Exhibit A – Water Wholesale Agreement Between the City of Sacramento and the Natomas Unified School District

Adopted by the City of Sacramento City Council on June 25, 2019, by the following vote:

Ayes: Members Ashby, Carr, Guerra, Hansen, Harris, Jennings, Schenirer, Warren and Mayor Steinberg

Noes: None

Abstain: None

Absent: None

Attest: **Mindy Cuppy** Digitally signed by Mindy Cuppy
Date: 2019.06.28 14:40:29
-07'00'

Mindy Cuppy, City Clerk

The presence of an electronic signature certifies that the foregoing is a true and correct copy as approved by the Sacramento City Council.

WATER WHOLESALE AGREEMENT BETWEEN THE CITY OF SACRAMENTO AND THE NATOMAS UNIFIED SCHOOL DISTRICT

THIS AGREEMENT is made and entered into this ___ day of _____, 2019, by and between the CITY OF SACRAMENTO, a charter municipal corporation (hereafter referred to as "City") and the NATOMAS UNIFIED SCHOOL DISTRICT (hereafter referred to as "School District").

RECITALS

- A. City owns and operates public water systems and provides municipal and industrial ("M&I") water service to its service area customers in and adjacent to the City.
- B. School District owns and operates a small public water system and provides water service to certain facilities, employees, and students within the School District boundaries.
- C. The School District intends to develop the Paso Verde K-8 school ("School") west of Interstate 5 and north of Del Paso Road with the ultimate capacity to accommodate up to 1,000 students and approximately 60 staff members.
- D. The School District could construct and operate an on-site groundwater supply system well to serve the School through the provision of groundwater, but the City can provide potable water to the School at lower cost.
- E. City is willing to provide potable water to the School District on a wholesale basis to allow the School District to meet the water demand of the School as an alternative to water service provided by the School District or the Sacramento County Water Agency ("Agency"), which provides water to certain areas in the surrounding unincorporated Sacramento County ("County").
- F. The City will use City facilities to provide potable water to the School District to allow the School District to achieve a level of service necessary to meet regulatory requirements for drinking water.
- G. The proposed School site is located in the Natomas Basin adjacent to habitat conservation lands managed by The Natomas Basin Conservancy ("TNBC") pursuant to the Natomas Basin Habitat Conservation Plan ("NBHCP"). The City is a party to the Implementing Agreement for the NBHCP ("IA") and holds incidental take permits ("ITPs") issued by the U.S. Fish & Wildlife Service and California Department of Fish & Wildlife pursuant to the NBHCP.

- H. The NBHCP provisions do not apply to development projects outside the City or Sutter County permit areas. The City’s provision of water to the School District through existing City water infrastructure is not subject to the NBHCP and would not cause an effect on habitat protected under the NBHCP.
- I. On March 13, 2019, the School District certified the Final Environmental Impact Report for the School development project.

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants herein contained, the parties hereto agree as follows:

1. Recitals Incorporated:

The foregoing recitals are incorporated by reference.

2. Purpose:

The purpose of this Agreement is to establish the conditions under which the City will provide Wholesale Water Service to the School District to meet the water demands of the School facilities.

3. Definitions:

The following terms, when used in this Agreement, shall have the definitions given in this Section 3.

- a. *School District Service Area:* Those lands within the Natomas Unified School District portion of County in which the City will deliver potable water to the School using City infrastructure, as shown on Exhibit A to this Agreement.
- b. *Capital Costs:* Costs incurred by the City to design and construct pumping, diversion, treatment, storage and transmission facilities used to provide potable water to the School District under this Agreement and that exist or for which debt financing has been issued at the time the School District's obligation to pay a Connection Fee for such Capital Costs commences in accordance with Section 9.b., below, including reasonable administrative costs.
- c. *City Transmission Facilities:* Facilities, including transmission mains, connections, storage facilities and all appurtenances that are or will be owned and operated by the City to deliver potable water to the School District under this Agreement, as they exist today and as they may be constructed, modified or expanded in the future.
- d. *City Treatment Facilities:* Facilities that are or will be owned and operated by the City to provide potable water that meets the requirements established for drinking water by the California Division of Drinking Water (“DDW”) and the United States Environmental Protection Agency (“USEPA”), including groundwater facilities and

the Sacramento River Water Treatment Plant, as they exist today and as they may be constructed, modified or expanded in the future.

- e. *City Water*: Potable water that the City conveys to its retail and wholesale customers from the City's municipal water supply, including groundwater pumped by the City from municipal wells and surface water diverted by City pursuant to any of the City's surface water rights and entitlements.
- f. *City Water Rights and Entitlements*: The City's pre-1914 rights to divert from the Sacramento River, five water right permits issued by the State Water Resources Control Board, groundwater rights, and a 1957 water rights settlement contract with the United States Bureau of Reclamation (hereafter referred to as the "USBR").
- g. *Connection Fee*: The fee paid by the School District for its share of the Capital Costs associated with the Firm Capacity that will be available to provide Wholesale Water Service to the School District under this Agreement, as provided in Section 9.b., below.
- h. *Delivery Criteria*: The operating guidelines and criteria governing the delivery of potable water under this Agreement, as set forth in Section 4 of this Agreement.
- i. *School District Water Facilities*. All facilities, including transmission mains, storage facilities and all appurtenances as they exist today and as they may be modified and expanded in the future, which are or will be owned and operated by the School District to supply water to its customers that is delivered under this Agreement to the School District Service Area.
- j. *School District Water Requirements*. The maximum-day volume rate of potable water that the City will deliver to the School District as specified in Section 5.a., below, utilizing Firm Capacity in accordance with the provisions of this Agreement, plus an emergency connection to the City system for purposes of fire suppression.
- k. *Firm Capacity*: Capacity in the City Treatment and Transmission Facilities that is available to supply water to the School District with an equal priority to the use of such capacity to meet the demands of the City's other water supply customers, except as may be provided otherwise in this Agreement.
- l. *Potable Water*. Potable water is water that meets the drinking water standards established by the DDW and the USEPA.
- m. *Service Charge*: A monthly fee for City's fixed administrative costs billed to the School District as part of the Wholesale Water Charge, as provided in Section 9.a., below.

- n. *Service Connection*: The point of connection for delivery of potable water from the City transmission facilities to the School District pursuant to this Agreement, as shown on Exhibit C to this Agreement, and any other connection point the parties may agree upon in the future.
- o. *Transmission and Distribution Improvements*: Planned improvements to the City transmission and distribution facilities and School District water facilities that will enable City to provide Wholesale Water Service to the School District Service Area under this Agreement, as shown on Exhibit C to this Agreement.
- p. *Wholesale Unit Rate*: The cost per unit quantity of potable water delivered by City to School District using Wholesale Water Service as provided in Section 9.a., below.
- q. *Wholesale Use Charge*: The cost billed by the City to the School District at the Wholesale Unit Rate for a measured volume of water delivered to School District using Wholesale Water Service as provided in Section 9.a, below.
- r. *Wholesale Water Charge*: The sum of the Wholesale Use Charge and Service Charge, billed by the City to the School District, as provided in Section 9.a., below.
- s. *Wholesale Water Service*: The City's delivery of potable City Water in accordance with the provisions of this Agreement.

4. Delivery Criteria:

The delivery of potable water under this Agreement will be governed by the operating guidelines and criteria set forth in the Delivery Criteria attached hereto as Exhibit D. The Delivery Criteria may be modified from time to time by the mutual written agreement of the City's Director of Utilities and the School District's Executive Director of Facilities and Strategic Planning, provided that such modifications are consistent with the provisions of this Agreement.

5. Maximum Treated Water Diversions and Deliveries:

- a. Maximum Amount: The amount of potable water that the City delivers to School District under this Agreement using Wholesale Water Service shall not exceed a cumulative maximum rate of 0.40 million gallons per day (mgd). This maximum amount exceeds the initial rate that the School District has initially requested but does not include access to water supply for emergency fire suppression that the City is willing to provide per the Delivery Criteria.
- b. City Service Shutdowns: The City shall pump, divert, treat, and deliver water to the School District in accordance with the terms of this Agreement, except when the occurrence of an emergency condition requires shutting down any City facilities necessary to do so, provided that such shutdown also prevents the use of

such facilities for the City's retail water customers served by such facilities and the City does not have facilities remaining in operation during the shutdown with capacity available to supply potable water to School District under this Agreement.

- c. Allowable Uses of City Water: Potable water delivered to the School District under this Agreement shall be used by the School District to provide M&I water service within the School District Service Area and will not be used by the School District for any other purpose.

6. Services Performed by City:

The City will utilize Firm Capacity to deliver Potable Water to the School District in accordance with the terms of this Agreement. City Water delivered to the School District under this Agreement will be provided from the City Transmission Facilities to the School District solely for use in the School District Service Area as shown on Exhibit A. The City shall provide water to the School District at the Service Connection shown on Exhibit C. The City will provide School District with the City's water quality testing data on an annual basis or on such other schedule as may be agreed to by the parties or required by regulatory agencies.

7. Wholesale Water Service:

- a. Condition Precedent: School District shall design and construct the Transmission and Distribution Improvements as specified in Section 10, below. School District's performance of this obligation is a condition precedent to the City's obligation to provide wholesale water as specified in this Agreement.
- b. Wholesale Water Procedure:
 - (1) School District shall notify City annually by March 1 of each year, or at such other time as may be mutually agreed to by City and School District staff, and in such form as may be specified by City, that School District desires City to wholesale City Water pursuant to this Agreement. Such notification shall include the School District's desired monthly delivery schedule and estimated amounts of water to be wholesaled during the succeeding 12-month period commencing on July 1.
 - (2) Subject to satisfaction of the School District's obligations under this Agreement, including the condition precedent set forth in subsection a, above, City shall wholesale City Water to the School District in accordance with the terms of this Agreement and the Delivery Criteria.
 - (3) All City Water delivered to the Service Connection shall meet the drinking water standards established by DDW and the USEPA. School District shall have sole responsibility for the quality and delivery of City Water wholesaled pursuant to this Agreement after the water is delivered to the Service Connection.

c. Water Wholesaling Requirements:

- (1) School District shall be solely responsible at School District's sole cost and expense for: (i) obtaining all permits or other approvals required for the use of the City Water in the School District Service Area, including, but not limited to, compliance with all applicable local, state, and Federal laws and regulations such as the Porter-Cologne Water Quality Control Act and the Federal Clean Water Act; and (ii) compliance with any conditions which apply to the use of such water, including but not limited to any measures which are imposed by any public agency to mitigate for potential impacts to the environment through California Environmental Quality Act (CEQA), Federal Reclamation Laws, the National Environmental Policy Act (NEPA), and the Federal and State Endangered Species Acts. The City shall not be responsible for any costs associated with obtaining such permits or other approvals and complying with any conditions required for the use of such City Water in the School District Service Area. City shall, however, fully cooperate with School District as School District seeks to obtain the necessary permits or other regulatory approvals required for the use of City Water in the School District Service Area.
- (2) School District shall use any City Water wholesaled pursuant to this Agreement only within the School District Service Area.
- (3) City shall deliver Wholesale Water Service in accordance with all operating, engineering and water supply requirements set forth in this Agreement and the Delivery Criteria. If the City determines in the exercise of reasonable discretion that a suspension of Wholesale Water Service is necessary due to a condition that poses an immediate threat to public health or safety, such service may be suspended by City without notice for the duration of such condition. The City shall notify School District as soon as is practicable of any suspension of service, the reason for such suspension, the potential availability of alternative interim sources of water supplies, and an estimate of when such service will be restored.
- (4) School District shall be solely responsible for any and all costs incurred by City in order to comply with: (i) any law or regulation to the extent applicable to the use of any City Water in the School District Service Area; (ii) any mitigation measures to the extent applicable to the use of any City Water in the School District Service Area; and (iii) any requirements that are imposed on the City specifically for the use of any City Water in the School District Service Area by any federal, state or local agency, including but not limited to the United States Bureau of Reclamation, Department of Water Resources, the State Water Resources Control Board, the U.S. Fish and Wildlife Service, the National Marine Fisheries Service, the California Department of Fish and Wildlife, or the DDW.

8. Obligations of the School District:

- a. The School District will take delivery of the potable water made available by the City pursuant to the Delivery Criteria.

- b. The School District will pay all costs associated with providing potable water to the School District pursuant to this Agreement, as set forth in Sections 9 and 10 of this Agreement. In addition, the School District will be responsible for its pro rata share (comparing the quantities of water that the City delivers to the School District and to other City retail, wholesale and wheeling customers) of any and all costs reasonably incurred by the City in order to comply with all laws and regulations that may apply to the pumping, diversion, treatment and/or delivery of water to the School District hereunder, including but not limited to, CEQA, NEPA, the Federal and State Endangered Species Acts, the Federal Reclamation Laws, the Clean Water Act and the Porter-Cologne Water Quality Control Act. Further, the School District will be responsible for its pro rata share (comparing the quantities of water that the City delivers to the School District and to other City retail, wholesale and wheeling customers) of any and all costs associated with any other requirements and/or conditions that are or may be imposed on the pumping, diversion, treatment and/or delivery of water to the School District by any federal, state or local agency, including but not limited to the U.S. Bureau of Reclamation, the California Department of Water Resources, the State Water Resources Control Board, the U.S. Fish and Wildlife Service, the National Marine Fisheries Service or the California Department of Fish and Wildlife.
- c. Any deliveries of City Water by City to the School District will be subject to all applicable requirements and conditions contained in or in the future imposed on any of the City Water Rights and Entitlements.

9. Cost Allocation and Payment:

The cost allocations and payment for any City Water delivered pursuant to this Agreement will be governed by the following paragraphs.

a. Wholesale Water Charges

- (1) The School District will be charged a Wholesale Water Charge for City Water delivered by the City using Wholesale Water Service. The Wholesale Water Charge shall consist of a Wholesale Use Charge calculated on the Wholesale Unit Rate basis (the cost-per-unit quantity) for water actually delivered, plus a monthly Service Charge for fixed administrative costs incurred irrespective of the quantity of water delivered. The Wholesale Water Charge will be determined by the City in an equitable manner such that the School District neither subsidizes nor is subsidized by any other City customer or contractor. The Wholesale Unit Rate shall include the City's annual operating, maintenance, repair and applicable capital improvement costs and an equitable proration of appropriate overhead distribution, but in no event will the Wholesale Unit Rate exceed such costs for water pumping, diversion, treatment and conveyance divided by the number of gallons produced. Operating, maintenance, repair and capital improvement costs included in the Wholesale Unit Rate will also include any costs attributable to

any applicable limitation, requirement, modification or other condition that applies, or that may in the future be applied, to any of the City Water Rights and Entitlements, but will exclude those costs that have no relationship to wholesaling City Water to the School District, such as unrelated distribution system expenses or unrelated capital improvement costs. The estimated Wholesale Unit Rate and the monthly Service Charge for the Fiscal Year (FY) 2018-2019 is shown on Exhibit E to this Agreement.

- (2) The City will adjust the Service Charge and Wholesale Unit Rate in January of each year to reflect actual or anticipated cost increases or decreases.
- (3) The quantity of City Water actually delivered pursuant to this Agreement shall be measured by the City at the Service Connection meters located as shown on Exhibit C to this Agreement. Unless otherwise determined necessary by the Director of Utilities, Fire Service connections will neither be metered nor constructed in such a way to be used for any activity but fire suppression support. Billing procedures and payment for water will be in accordance with the City's standard practice. The Wholesale Water Charge will be in addition to the Connection Fees described in subsection b., below.

- b. Connection Fees. The School District will pay Connection Fees for its share of Capital Costs for Firm Capacity in the City's pumping, diversion, treatment, storage and transmission facilities that will be used to provide Wholesale Water Service under this Agreement, which fees will include reasonable administrative costs. The Connection Fees shall be paid in increments of one mgd, or pro-rata portions thereof, up to the maximum rate specified in Section 5.a., above. The Connection Fee shall become due on the date (hereafter the "Due Date") that the School District first requests Wholesale Water Service and shall be paid in one payment not later than 30 days after the Due Date. The City will adjust the Connection Fee annually prior to the commencement of each Fiscal Year, commencing July 1 2020, based on the Capital Costs for that Fiscal Year, and such adjusted Connection Fee shall apply to any additional increment and/or portion thereof of Firm Capacity for which Connection Fees become due during that Fiscal Year. The estimated Connection Fee for FY 2018-2019 for the use of one mgd of Firm Capacity is shown on Exhibit F to this Agreement. An estimate of the needed capacity is also shown on Exhibit F.

10. Transmission and Distribution Improvements:

- a. The School District will be wholly responsible for designing, bidding and constructing the Transmission and Distribution Improvements, as well as preparing all environmental documents and obtaining all permits, property rights or other approvals required for construction, operation, and maintenance of the Transmission and Distribution Improvements. The School District shall be solely responsible for the costs and expenses of any and all such activities, and such activities will be subject to the following requirements:

- (1) Prior to the construction of the Transmission and Distribution Improvements by the School District, both the preliminary design and the final design must be approved in writing by the City Director of Utilities, which approval will not be unreasonably withheld. The design plans shall comply with all standard City specifications and requirements for the design of City water lines and comply with such other requirements as may reasonably be specified by the City Director of Utilities. If either or both the preliminary design or final design is not approved by the City Director of Utilities, the City will notify the School District in writing of the reason or reasons why such design is not acceptable, and the School District will perform such revisions as may be necessary to obtain the approval of the City.
- (2) After the final design is approved by the City, the School District shall bid construction of the Transmission and Distribution Improvements in accordance with the School District's standard procedures and requirements for public works construction. The School District's construction contract shall require compliance with the standard City specifications and requirements for the construction of City water mains, in addition to any additional requirements reasonably specified by the City, and shall require the School District's contractor to:
 - (i) indemnify, hold harmless and defend City, its officers and employees against any and all liabilities, damages, claims or costs (including reasonable attorney fees) arising from any action or failure to act by the contractor or any subcontractor in connection with the permitting, design, construction, and operation of the water main or other related facilities located in the City right of way (City Portion) and the Service Connection; and
 - (ii) provide the City, its officers and employees with the same insurance coverage provided to the School District, by naming the City as an additional insured on the contractor's general liability and automobile liability insurance policies.
- (3) All work on the City Portion and the Service Connection shall be performed in accordance with the plans and specifications approved by the City, and any City-approved changes thereto, and in full compliance with the City's standard specifications and requirements for water main construction, unless exceptions are approved by the City. Such plans and specifications, upon approval by the City Utilities Director or his or her designee, shall be deemed incorporated herein and made a part of this Agreement.
- (4) City shall be allowed to enter the construction site to perform construction inspection whenever deemed necessary by City. Upon completion and testing of the Transmission and Distribution Improvements, City shall inspect the

City Portion and the Service Connection and either (i) accept the work as complete, or (ii) identify any deficiencies to be corrected before the City will accept the work as complete. The City Portion and the Service Connection shall become the sole and exclusive property of the City upon completion of construction, final inspection and testing, and final acceptance by City, after the correction by School District of any deficiencies identified by City. As a precondition to final acceptance by City: (i) School District shall take any and all actions necessary to insure that the work is free and clear of all liens, stop notices and encumbrances of any kind, and that the City is in possession of all rights and approvals necessary to operate, maintain and repair the City Portion and the Service Connection upon final acceptance by City; and (ii) School District shall provide City a set of as-built plans.

- (5) The School District guarantees and agrees, at no cost to the City, to remedy any defects in the City Portion or the Service Connection arising from faulty or defective construction occurring at any time within one year after final acceptance thereof by the City. In the event that School District fails to remedy any and all such defects within ten days after being notified of the defects in writing by City, or such longer period as may be reasonably necessary to remedy such defects so long as School District is acting in good-faith to diligently remedy the defects, City shall have the right, but shall not be obligated, to repair or cause to be repaired such defects, and School District shall pay to City on demand all costs and expenses reasonably incurred by City to repair or cause to be repaired such defects. Notwithstanding anything herein to the contrary, if any defects in the improvements result in a condition that, in the City's sole and exclusive judgment, constitutes an imminent hazard to public health or safety, or to any person or property, City shall have the right to immediately repair or cause to be repaired such defects, with or without prior notice to School District, and School District shall pay to City on demand all costs and expenses reasonably incurred by City to repair or cause to be repaired such defects.
- c. The City will own, operate, maintain and repair all facilities associated with the Service Connection(s), including flowmeter, transmitters, and housings necessary to contain and power all related metering equipment. As part of such operation, maintenance and repair, the City will calibrate instrumentation at reasonable scheduled intervals, at least annually, and will report such calibration as requested by the School District. All operation, maintenance and repair costs incurred by the City will be reimbursed by the School District by including such costs in the Wholesale Unit Rates paid by the School District under Section 9, above. For metering errors in excess of 2 percent, Wholesale Water Charges may be adjusted upward or downward, as appropriate.
- d. The School District will own, operate and maintain all facilities downstream of the Service Connection, including, if necessary, surge control facilities to mitigate the effects of flow stoppage if necessary. The School District will submit plans for any

necessary surge control facilities for review and approval of the City prior to construction, which approval will not be unreasonably withheld.

- e. Unless required by the City's Director of Utilities or otherwise required by law or regulation, backflow prevention devices will not be required at the Service Connection provided that all facilities within the School District Service Area meet the standards of the DDW and USEPA.
- f. Although delivery pressure cannot be guaranteed under all circumstances, delivery pressure at the Service Connection will be maintained above a minimum of 30 pounds per square inch ("psi"), and below a maximum of 80 psi under normal operating conditions. The City will not be obligated to supply water to any or all Service Connection points at an aggregate rate exceeding the maximums set forth in Section 5.a., above.

11. Compliance with NBHCP:

The City is in compliance with the NBHCP, the IA, and the ITPs as this Agreement shall only provide for the wholesale of City Water to the School District and shall not in any way be construed as the City's intent to annex any property outside of the City's NBHCP permit area during the term of the NBHCP. The School District further agrees that it shall not seek annexation of the School site to City during the term of this Agreement and the City shall not consider annexation of the School site prior to the termination of the NBHCP, the IA, and the ITPs issued pursuant to the NBHCP.

12. Term of Agreement:

This Agreement will become effective as of the date it is signed by the last signatory and is approved by the Board of Trustees of the School District and the City Council. This Agreement shall terminate on July 1, 2052. This Agreement shall continue in full force and effect until the date of termination unless: (i) terminated by mutual written agreement of the parties hereto; or (ii) terminated by the School District with six months prior written notice to the City on the basis that the School District has obtained an alternative supply of water from the Sacramento County Water Agency, its own on-site groundwater supply system well, or another water purveyor.

13. Failure to Deliver Water:

It is understood and agreed that, while the City will make every reasonable effort to deliver potable water pursuant to the terms of this Agreement, the City is not warranting or guaranteeing that it will be able to pump, divert, treat, store and/or deliver water when prevented from doing so due to an emergency or other circumstances beyond the City's direct control, nor will the City be liable for any failure to deliver water to the School District hereunder, provided such failure is caused in whole or in part by an emergency condition or other factors beyond the direct control of the City.

14. City Water Rights and Entitlements:

This Agreement will not affect or limit in any way the City Water Rights and Entitlements. Notwithstanding anything herein to the contrary, it is understood and agreed that the School District's rights hereunder will at all times be subject to, and exercised in accordance with, any applicable limitation, requirement, modification or other condition that applies, or that may in the future be applied, to any of the City Water Rights and Entitlements.

15. Fluoridation:

The School District acknowledges that potable water delivered to the School District will contain fluoride, and agrees that the School District will be solely responsible for: (1) any public notification to all or any portion of the School District Service Area that the water provided hereunder has been treated with fluoride; and (2) for all costs associated with or resulting from the introduction of fluoridated water into the School District Water Facilities, including monitoring and testing costs. The School District will comply, at no cost to the City, with any requirements pertaining to such fluoridation imposed by any governmental agencies with jurisdiction, including without limitation, DDW. If the School District receives notice of any such requirements applicable to the use of water delivered hereunder and subsequently fails to comply with such requirements within a reasonable period of time, the City will be relieved of any responsibility to deliver water pursuant to this Agreement until such requirements are fulfilled.

16. Notices:

Unless indicated otherwise herein, all notices, invoices, payments, statements or other writing authorized or required by this Agreement may be delivered personally, or sent in the United States mail, postage prepaid, or sent by electronic mail if the recipient confirms receipt, and addressed to the respective parties as follows:

To City:

Director, Department of Utilities
City of Sacramento
1395 35th Avenue
Sacramento, CA 95822
Email: bbusath@cityofsacramento.org

To School District:

Executive Director of Facilities and Strategic Planning
Natomas Unified School District
1901 Arena Boulevard
Sacramento, CA 95834
Email: lrothenberger@natomasunified.org

All notices, invoices, payments or other writings will be deemed served on the day that they are personally served, deposited, postage prepaid, in the United States mail, or if served

electronically, on the day that the recipient acknowledges receipt. A party may change the above designations by providing notice thereof to the other party.

17. Indemnification and Defense:

- a. By the School District: School District shall fully release, indemnify and hold harmless, City, its officers, employees, and agents from and against all actions, damages, costs, liability, claims, losses, and expenses (including fees for staff attorneys and/or outside counsel reasonably incurred by City) of every type and description (collectively referred to as "Liabilities") to which any or all of them may be subjected, by reason of, or resulting from, directly or indirectly: (i) any act or failure to act by School District, its agents, contractors or subcontractors, or their respective officers or employees, in connection with the design, construction, operation, condition, maintenance or repair of the Transmission and Distribution Improvements; (ii) any allegation by any entity that this Agreement or the City's provision of water service under this Agreement constitutes a duplication of service within the meaning of California's Service Duplication Law (California Public Utilities Code §§ 1501 et seq.) or a taking of property without just compensation or otherwise constitutes an infringement of the rights or authority of any entity in violation of any common law, statute or regulation, or actionable in equity; or (iii) any challenge to the validity of the proceedings taken for the approval of the construction of the School, including the requirements of the California Environmental Quality Act or Federal or State Endangered Species Act. In addition to the above, School District shall, upon City's request, defend at its sole cost, with counsel reasonably approved by City, any action, claim or suit or portion thereof which asserts or alleges any such Liabilities.
- b. By the City: Notwithstanding anything to the contrary herein, the City will fully indemnify, hold harmless and defend the School District, its officers and employees, from any claims, actions or liability for any damages, any injury to persons or property, or any violation of any law or regulation, occurring by reason of anything done or omitted to be done by the City, its officers, employees, contractors or agents in connection with the processing, treating or conveyance of water by the City Treatment and Transmission Facilities. Such duty to indemnify, hold harmless and defend will include all claims, actions or liability occurring by reason of anything done or omitted to be done by the City in connection with any delivery by the City of water that fails to comply with the definition of potable water contained herein.

18. Dispute Resolution:

If a dispute arises concerning any controversy or claim arising out of or relating to this Agreement or the breach thereof, or relating to its application or interpretation, the aggrieved party will notify the other party of the dispute in writing within 20 days after such dispute arises. If the parties fail to resolve the dispute within 30 days after delivery of such notice, each party will promptly nominate a senior officer of its organization to meet at any mutually-agreed time and location to resolve the dispute. The parties agree to use their best efforts to reach a just and equitable solution satisfactory to all parties.

19. Records Inspection:

Each party will be entitled to inspect and photocopy the records of the other party that pertain to this Agreement, upon providing reasonable notice to such other party of its intent to do so. Each party may also appoint an auditor or auditors to examine the financial records of the other party to determine the adequacy of cost accumulation and billing information maintained by each party. After reasonable notice, each party will make available to the other party's auditor or auditors all requested records and will assist and cooperate with such auditors. Each party will keep its accounting and financial records in accordance with generally-accepted accounting principles and any applicable laws or regulations. Nothing in this Section shall be deemed to waive any applicable privilege.

20. Amendments:

No amendment or modification to this Agreement will be valid unless executed in writing and approved by the governing bodies of the parties, provided, however, that the Delivery Criteria may be modified by mutual written agreement of the City's Director of Utilities and the School District's Executive Director of Facilities and Strategic Planning without obtaining approvals from the governing bodies of the parties hereto, as specified in Section 4, above.

21. No Third-Party Beneficiary:

This Agreement is not intended to, and will not be interpreted as conferring, any benefit or right whatsoever upon any person or entity that is not a party hereto.

22. Exhibits Incorporated:

All Exhibits referred to herein and attached hereto are fully incorporated into this Agreement as if such Exhibits were set forth in their entirety at this place.

23. General Provisions:

- a. This Agreement will be construed in accordance with, and governed by, the laws of the State of California. The place where this Agreement is to be performed and its situs or forum will at all times be in the County of Sacramento.
- b. The headings of the sections and paragraphs in this Agreement are inserted for convenience only. They do not constitute part of this Agreement and will not be used in its construction.
- c. This Agreement is the result of the joint efforts and negotiations of the parties, and the parties agree that this Agreement will be interpreted as though each of the parties participated equally in the drafting and composition of this Agreement and each and every part hereof.

- d. This Agreement may not be assigned by any party without the written consent of the non-assigning parties, and any purported assignment without such consent will be void.
- e. The provisions of this Agreement shall bind the parties, successor entities, and authorized assigns.
- f. Neither City nor School District, nor their respective agents, consultants or contractors, are or shall be considered to be agents of the other party in connection with the performance of this Agreement. Nothing in this Agreement shall be construed to create a joint venture, partnership or other relationship between the City and School District, other than the City acting in its municipal capacity with respect to the provision of wholesale water service to the School District Service Area.
- g. The waiver by a party to this Agreement of a breach of any provision of this Agreement shall not be deemed a continuing waiver or a waiver of any subsequent breach of that or any other provision of the Agreement.
- h. This Agreement constitutes the entire agreement of the Parties with respect to the subject matter of this Agreement and, save as expressly provided in this Agreement, supersedes any prior oral or written agreement, understanding, or representation relating to the subject matter of this Agreement.

Signature Block

CITY OF SACRAMENTO

NATOMAS UNIFIED SCHOOL DISTRICT

By: _____

By: _____

Title: _____

Title: _____

Approved as to Form:

Approved as to Form:

Senior Deputy City Attorney

Attest:

City Clerk

List of Exhibits

Exhibit A: Map Showing School District Service Area

Exhibit B: Site Vicinity Map

Exhibit C: Map showing Transmission and Distribution Improvements, with details of Service Connection

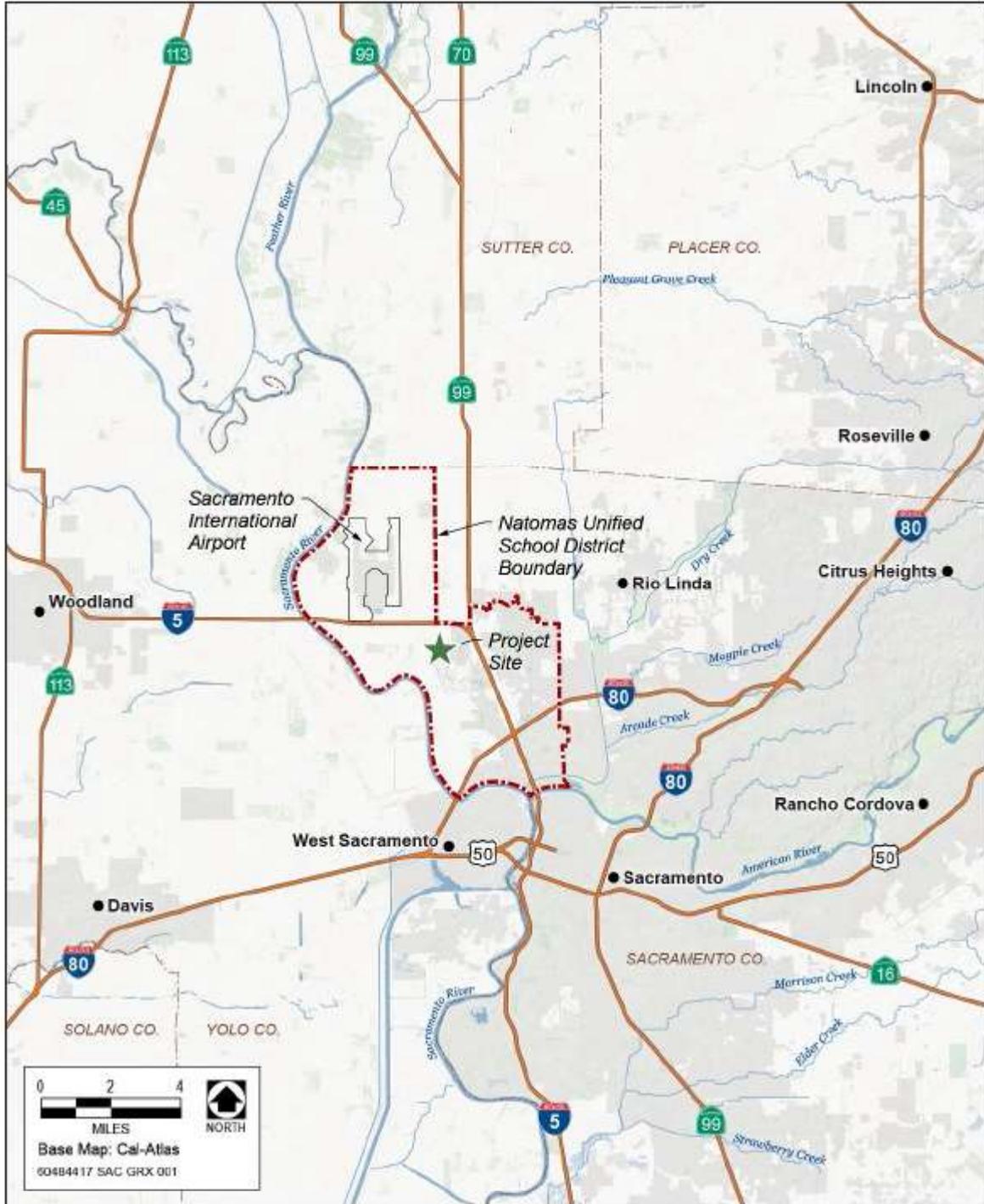
Exhibit D: Delivery Criteria

Exhibit E: Estimated Fiscal Year 2018-19 Wholesale Unit Rate and Service Charge

Exhibit F: Estimated FY 2018-19 Connection Fee

Exhibit A

Map Showing School District Service Area



Source: AECOM 2017.

Exhibit B
Site Vicinity Map



Source: AECOM 2016

Exhibit C

Map showing Transmission and Distribution Improvements, with details of Service Connection



Source: AECOM 2016

Exhibit D

Delivery Criteria

CITY OF SACRAMENTO / NATOMAS UNIFIED SCHOOL DISTRICT (NUSD)

PASO VERDE K-8 SCHOOL SERVICE CONNECTION

This document outlines the general delivery guidelines and criteria for the operation of service connections between the City of Sacramento (City) and the Natomas Unified School District. The initial wholesale water service connections will be located at the edge of the City limits near the intersection of Snelling Lane and Westlake Parkway.

LIST OF CONTACTS:

The following listing of City and County contact names and phone numbers is provided in order of contact priority:

| | |
|---|--------------|
| NUSD: | WORK |
| Executive Director of Facilities and Strategic Planning | 916-567-5466 |
| Deputy Superintendent | 916-567-5457 |
| City of Sacramento: | WORK |
| Utility Service Requests | 916-808-5011 |
| Utility Billing Questions | 916-808-5454 |
| E.A. Fairbairn WTP Control Room | 916-808-3106 |
| E.A. Fairbairn WTP Hotline | 916-808-1516 |
| Rod Frizzell, Plant Operator Supervisor | 916-808-5165 |
| David Hermann, Water Superintendent | 916-808-5652 |

OPERATIONAL PROCEDURES AND PARAMETERS:

1. For initial start-up, and for subsequent service requests NUSD will call Utility Service Requests 916-264-5011.
2. The City shall be responsible for reading and recording the time and flow quantities.
3. NUSD can take an initial maximum instantaneous flow rate of up to 0.245 mgd (170 gpm) as measured by the City maintained service connection flow meters.
4. The parties acknowledge the site is required by the California Fire Code to maintain to maintain 3,250 gpm of hydrant capacity if sprinklered or 1625 gpm if sprinklered. This will be a sprinklered site. These services shall be designed such that no other domestic or

irrigation use can be reasonable foreseen to pass through a fire service. The facility fire suppression shall be designed in such a fashion to prevent the City system from dropping below 20 psig.

5. Any increase flow rate above and beyond specified herein may trigger updating the capacity impact fee using the latest development impact fee charge methodology employed by the City
6. The minimum pressure at the service connection between the City and NUSD will be 30 psig for domestic and irrigation demands.
7. The minimum pressure at the service connection between the City and NUSD will be 20 psig during fire demands.
8. Should the pressure go below 30 psig as a result of the NUSD domestic and irrigation operations, the City shall contact the NUSD Operator. Should the pressure go below 30 psig as a result of the City's operations, the NUSD shall contact the FWTP Control Room. The agency responsible for decreasing the pressure below 30 psig will endeavor to quickly correct the system deficiency causing pressure drop. The City's and NUSD Operations staff will work cooperatively to assist each other until the system deficiency causing the pressure drop is corrected.
9. SERVICE CONNECTIONS: Upon payment of connection fees and satisfaction of all other conditions specified in this Agreement, City will deliver water under this Agreement for transmission into the various service connections as specified below:
 - a. Up to two 4" Meter Connections at Snelling Lane and Westlake, or at an alternative location as mutually agreed.
 - b. Up to two 10" Unmetered Connections for exclusive fire suppression support at Snelling Lane and Westlake, or at an alternative location as mutually agreed.
10. Changes in aforementioned delivery criteria can be modified if mutually agreed to in writing by the City and NUSD.

Exhibit E

Estimated Fiscal Year 2018/19 Wholesale Unit Rate and Service Charge

NATOMAS UNIFIED SCHOOL DISTRICT
Wholesale Volumetric Unit Cost Calculations
Fiscal Year 2018/2019
For period between 9/1/2018 and 8/31/2019

| | | | |
|--|------------------------|---|--------------------|
| Operating/CIP Budget: | \$ 111,922,768 | Fiscal Year 2018 Water Production (AF): | 94,522.0 |
| | | Fiscal Year 2018 Water Delivery (AF): | 85,069.8 |
| OPERATING | BUDGET | UNIT COST | |
| Labor | | | |
| Employee Services | \$ 42,096,610 | \$ 494.85 | |
| Cost Reimb-Credit | \$ (12,432,855) | \$ (146.15) | |
| Cost Reimbursement Debit | \$ 1,393,508 | \$ 16.38 | |
| CIP Reimbursement | \$ (5,051,994) | \$ (59.39) | |
| Labor Total | \$ 26,005,269 | \$ 305.69 | |
| Operations | | | |
| Utilities | \$ 4,024,539 | \$ 47.31 | |
| Operations Equipment | \$ 128,992 | \$ 1.52 | |
| Direct Operations Supplies | \$ 6,109,687 | \$ 71.82 | |
| Chem & Gases | \$ 1,157,731 | \$ 13.61 | |
| Operations Total | \$ 11,420,949 | \$ 134.25 | |
| Administration/Overhead | | | |
| Office/Admin | \$ 4,441,477 | \$ 52.21 | |
| Interdepartmental Allocation | \$ 6,884,133 | \$ 80.92 | |
| Comp Liability Exp | \$ 1,214,936 | \$ 14.28 | |
| Water Rights/Supplies | \$ 600,000 | \$ 7.05 | |
| Professional Services | \$ 5,730,652 | \$ 67.36 | |
| Administration/Overhead Total | \$ 18,871,198 | \$ 221.83 | |
| General Fund Tax | \$ 13,784,100 | \$ 162.03 | |
| TOTAL OPERATING | \$ 70,081,516 | \$ 823.81 | |
| CAPITAL IMPROVEMENT PROGRAM | | | |
| CIP | \$ 12,033,776 | \$ 141.46 | |
| Debt Services | \$ 29,807,476 | \$ 350.39 | |
| CIP/Debt Total | \$ 41,841,252 | \$ 491.85 | |
| TOTAL OPERATING/CIP COSTS | \$ 111,922,768 | \$ 1,315.66 | |
| EXCLUDED COSTS | | | |
| Unrelated Distribution Overhead | \$ (6,105,074) | \$ (71.77) | |
| Unrelated Distribution Labor & Ops | \$ (12,107,860) | \$ (142.33) | |
| General Fund Tax | \$ (13,784,100) | \$ (162.03) | |
| Unrelated CIP | \$ (12,033,776) | \$ (141.46) | |
| Unrelated Debt Services | \$ (25,511,045) | \$ (299.88) | |
| TOTAL EXCLUDED COSTS | \$ (69,541,855) | \$ (817.47) | |
| SUB TOTAL | \$ 42,380,913 | UNIT RATE \$ 498.19 | per AF |
| 11% General Fund Tax | \$ 4,661,900 | UNIT RATE \$ 54.80 | per AF |
| TOTAL COST | \$ 47,042,813 | UNIT RATE \$ 552.99 | per AF |
| | | \$ 1.2695 | per CCF |
| Capital Improvement charge Calculation CAL AM per contract sec 5a | 0.24 | CIP* | \$ 241.13 |
| Permitted Treatment Capacity: SRWTP & FWTP (160 MGD per TP) | 280 | *SERVICE CHARGE | \$ 910.34 |
| % available to Natomas School District | 0.09% | *FIRE SERVICE CONNECTION | \$ 402.06 |
| CIP Program Attributed to Wholesale | \$ 3,375,625.00 | SUB TOTAL | \$ 1,151.47 |
| Annual CIP Charge | \$ 2,893.56 | 11% GF TAX | \$ 126.66 |
| Monthly CIP Charge* | \$ 241.13 | TOTAL MONTHLY CHARGE | \$ 1,278.13 |

Exhibit F

Estimated FY 2018/19 Connection Fee

| Description | Net Replacement Costs as of 5/30/2019 | Capacity (mgd) | Unit Cost per MGD (FY18/19) |
|---|---------------------------------------|----------------|-----------------------------|
| Distribution* | | | |
| Transmission | 154,935,408.77 | 285 | \$543,633 |
| Hydrants* | | | |
| Storage* | | | |
| Wells | 9,342,918.53 | 25 | \$373,717 |
| Treatment | 378,259,406.82 | 260 | \$ 1,454,844 |
| Intakes | 80,265,069.29 | 260 | \$ 308,712 |
| General | 20,020,816.81 | 260 | \$ 77,003 |
| Total | | | \$ 2,757,909 |
| *Fire Hydrants, temporary Water Storage Facilities and the Distribution pipeline are dedicated to retail service within the City and are excluded from wholesale pricing. | | | |

| Estimated Capacity Fee for NUSD | | | |
|--|--------------------------|------------------|--------------------------------------|
| Capacity Purchased (gpm) | Capacity Purchased (mgd) | Connection Fee | |
| 130 | 0.18720 | \$516,280 | |
| 150 | 0.21600 | \$595,708 | |
| 170 | 0.24480 | \$675,136 | Max Simultaneous Rate w/ Scheduling |
| 190 | 0.27360 | \$754,564 | |
| 210 | 0.30240 | \$833,992 | |
| 230 | 0.33120 | \$913,419 | |
| 250 | 0.36000 | \$992,847 | |
| 270 | 0.38880 | \$ 1,072,275 | Max Simultaneous Rate w/o Scheduling |

Requested capacity is assumed to be 170 gpm per design.