

**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS
OF SAN BERNARDINO COUNTY, CALIFORNIA
AND RECORD OF ACTION**

January 14, 2003

Agreement No. 03-0083

FROM: KEN A. MILLER, Director
Department of Public Works - Flood Control

SUBJECT: AGREEMENT FOR OPERATION AND MAINTENANCE OF FACILITIES TO
IMPLEMENT THE CHINO RECHARGE BASIN MASTER PLAN

RECOMMENDATION: Acting as the governing body of the Flood Control District (District), approve agreement between the District, Inland Empire Utilities Agency, Chino Basin Water Conservation District, and Chino Basin Watermaster for Operation and Maintenance of Facilities to implement the Chino Basin Recharge Master Plan.

BACKGROUND INFORMATION: The projected population in the Santa Ana Watershed area is projected to increase by 2,000,000 over the next 25 years. To adequately provide water for the growth, efforts must be taken to capture storm water and reclaimed water and recharge it into the Chino Groundwater Basin to replenish the groundwater. On January 29, 2002, the Board approved a Memorandum of Agreement with the water agencies that are a party to this agreement to allow Flood Control Facilities to be used for this recharge program as stated in the Memorandum of Agreement. The present agreement sets forth the conditions for reimbursement of Maintenance and Operations costs to the District and other parties for the recharge program. The agreement also establishes the Groundwater Recharge Coordinating Committee that will plan and coordinate the schedules for recharge water conveyance in district channels and diversion into District basins. Each party is entitled to appoint one member and one alternate member to the Committee. The term of the agreement is 30 years.

REVIEW BY OTHERS: This item was reviewed by Deputy County Counsel Charles S. Scolastico on December 6, 2002 and by the County Administrative Office (Tom Forster, Administrative Analyst) on December 9, 2002.

FINANCIAL IMPACT: There will be no financial impact to the District. The cost to improve the flood control facilities, to recharge the water, and the construction of the water distribution systems necessary to transport water to the flood control facilities will be at no expense to the District. Any additional maintenance and operational costs incurred by the District will be reimbursed by the Chino Basin Water Agencies.

SUPERVISORIAL DISTRICT(S): 2nd and 4th

PRESENTER: Ken A. Miller, 387-7906

cc: PW-Miller
PW-Golondzinier w/4
agreements
Contractors c/o PW
Auditor w/agreement
IDS w/agreement
CAO-Forster
County Counsel-Scolastico
File w/agreement

jr

Record of Action of the Board of Supervisors
Agreement No. 03-0083

**APPROVED BOARD OF SUPERVISORS
SAN BERNARDINO**

MOTION	AYE	AYE	SECOND
J. RENEE BASTIAN	3	4	5

BY _____

BY _____

DATED January 14, 2003

ITEM 013



FOR COUNTY USE ONLY

ORIGINAL

SAN BERNARDINO COUNTY
FLOOD CONTROL DISTRICT
F A S
CONTRACT TRANSMITTAL

E	<input checked="" type="checkbox"/>	New	Vendor Code		SC	Dept.	097	A	Contract Number		03-0083
M	<input type="checkbox"/>	Change							Contractor's License No.		
X	<input type="checkbox"/>	Cancel							Amount of Contract		
County Department					Dept.		Orgn.				
Public Works					097		097				
County Department Contract Representative					Ph. Ext.						
Theodore M. Golondzinler, Assistant Director					77914						
Fund	Dept.	Organization	Appr.	Obj/Rev Source	Activity	GRC/PROJ/JOB Number					
RFZ	097	097									
Commodity Code				Estimated Payment Total by Fiscal Year							
				FY	Amount	I/D	FY	Amount	I/D		
Project Name											
Chino Basin Recharge											
Master Plan Implementation											
Operation and Maintenance											

CONTRACTOR Chino Basin Watermaster, Chino Basin Water Conservation District, Inland Empire Utilities Agency

Birth Date _____ Federal ID No. or Social Security No. _____

Contractor's Representative John V. Rossi

Address 8632 Archibald Avenue, Suite 109, Rancho Cucamonga CA 91730 Phone (909) 484-3888

Nature of Contract: (Briefly describe the general terms of the contract)

This Agreement sets forth the conditions for reimbursement of Maintenance and Operations costs to the District and other parties for the recharge program and establishes the Groundwater Recharge Coordinating Committee that will plan and coordinate the schedules for recharge water conveyance in district channels and diversion into District basins with District Operation and Maintenance schedules. The term of the agreement is 30 years.

THIS IS NOT A CONTRACT
THIS IS A COVER
TRANSMITTAL ONLY

(Attach this transmittal to all contracts not prepared on the "Standard Contract" form.)

Approved as to Legal Form

Reviewed as to Affirmative Action

Reviewed for Processing

City Counselor

Agency Administrator/CAO

Date

Date

Date

12-6-02

12-9-02

**AGREEMENT
FOR
OPERATION AND MAINTENANCE OF FACILITIES
TO IMPLEMENT THE
CHINO BASIN RECHARGE MASTER PLAN**

The parties that are signatories to this Agreement are the San Bernardino County Flood Control District (SBCFCD), the Chino Basin Water Conservation District (CBWCD), the Chino Basin Watermaster (Watermaster), and the Inland Empire Utilities Agency (IEUA), and shall be known collectively as "the Parties."

WHEREAS, the Parties are signatories to the Recharge Master Plan Implementation Memorandum of Agreement (RMPIMOA) (Attachment 1 hereto) which sets forth some of the operational policies and actions necessary to implement *Program Element 2 – Develop and Implement Comprehensive Recharge Program* of the Optimum Basin Management Program for the Chino Basin; and

WHEREAS, the Parties, in accordance with their respective Acts and Powers, desire to cooperate in a program to implement certain portions of the Recharge Master Plan for the purpose of assisting Watermaster in developing adequate groundwater recharge capabilities to meet the future needs of the Chino Basin; and

WHEREAS, the RMPIMOA calls for subsequent Agreements among the Parties to address the specifics of Facilities' operations, maintenance, conservation plans, cost sharing and other elements necessary to define how and by whom each recharge Facility will be operated and maintained; and

WHEREAS, the Parties have agreed to enter into this Agreement in partial fulfillment of the need for the subsequent Agreements that are called for in the

RMPIMOA and to set forth the relationship among the Parties relative to cooperation in and coordination of groundwater recharge at Facilities owned or operated by SBCFCD, CBWCD or IEUA.

NOW THEREFORE BE IT RESOLVED THAT THE PARTIES HEREBY AGREE THAT:

I. DEFINITIONS

1. **Definitions.** For the purposes of this Agreement the following terms shall have the following meanings:

- a. The term "Facilities" means facilities that may be used for groundwater recharge, which may include basins, channels, diversion structures, rubber dams and other facilities and appurtenances owned or operated by any of the Parties in the Chino Basin.
- b. The term "Supplemental Water" means both water imported to Chino Basin from outside Chino Basin watershed, and recycled water.
- c. The term "Rainy Season" typically means the six-month period from October 15 to April 15, however any time that weather predictions indicate that a storm is developing that may be capable of producing runoff shall be considered as occurring within the "Rainy Season."

II. PURPOSE

2. **Purpose.** Except as otherwise provided herein, and for the purpose of groundwater recharge, this Agreement, including any amendments and permits necessary to operate the Facilities, will govern the groundwater recharge related operation and maintenance of the Facilities identified in Attachment 2.

3. **Use of Facilities for Recharge.** In recognition of the capital investment being made by Watermaster, by IEUA, and by the State of California through grant funding to improve the overall recharge capabilities of SBCFCD, CBWCD and IEUA Facilities and to construct pipelines and appurtenances to convey Supplemental Water and native storm water to the Facilities for recharge, and subject to the priorities set forth in Section III and VI of this Agreement, the Parties will make all reasonable efforts to assure that the Facilities are made available to the maximum practicable extent for groundwater recharge.

III. PRIORITIES

4. **Flood Control Priority.** The priority for use of capacity in the Facilities is first for flood control, second for recharge of native water and third for recharge of Supplemental Water. To protect property and public safety, in the event of unplanned or emergency situations, each of the Parties will have the sole authority to determine when their respective Facilities are available for recharge of Supplemental Water and to release water or to order the cessation of the delivery of Supplemental Water to maintain the full flood control capacity of their Facilities.

5. **Overlapping Agreements.** During those times when the Watermaster and/or the IEUA are not physically utilizing the Facilities for the recharge of Supplemental Water, the SBCFCD, CBWCD or IEUA may have and enter into subsequent and overlapping Agreements for use of their respective Facilities with others having similar needs. Provided however, actual use, as opposed to planned or scheduled use, of the Facilities by the Watermaster and/or IEUA for spreading Supplemental Water shall take precedence over all other uses except those related to controlling, managing, and recharging local storm water flows, or scheduled or emergency maintenance. Notwithstanding the above, the Parties acknowledge that recharge of Supplemental Water in the Chino Basin may only take place after approval by the Watermaster.

6. **Ownership and Easements.** All Facilities owned by the SBCFCD are under the exclusive control of its Board of Supervisors and its designated officers and employees and, except as agreed-to herein, no other person shall interfere with, regulate, or control any of such Facilities, or the water flowing therein, without the special written authority from the Board of Supervisors or its duly authorized representatives. All Facilities owned by the CBWCD are under the exclusive control of its Board of Directors and its designated officers and employees and, except as agreed-to herein, no other person shall interfere with, regulate, or control any of such Facilities, or the water flowing therein, without the special written authority from the Board of Directors of the CBWCD or its duly authorized representatives. All Facilities owned by IEUA are under the exclusive control of its Board of Directors and its designated officers and employees and, except as agreed-to herein, no other person shall interfere with, regulate, or control any of such Facilities, or the water flowing therein, without the special written authority from the Board of Directors of IEUA or its duly authorized representatives.

IV. MONITORING

7. **Accounting for Recharged Water.** Watermaster will be responsible for the accounting of all water recharged at the Facilities, including any water that is lost for whatever reason.

8. **Monitoring at Facilities.** IEUA will supply SBCFCD with a Supervisory Control and Data Acquisition (SCADA) monitoring and control system operating console along with maintenance and technical support. IEUA will also supply CBWCD and Watermaster with a SCADA monitoring console along with maintenance and technical support. The SBCFCD system will have a maintenance lock-out feature so that all gate and dam controls can not be overridden, but can be locked closed during maintenance operations. Where SCADA monitoring sensors can provide data for flood control purposes, IEUA will allow, where possible, their connection to the SBCFCD Automated

Local Evaluation in Real Time (ALERT) system. IEUA will have access to information from the ALERT system. To the greatest extent possible, all information systems will share data with the other Parties.

V. BASIN IMPROVEMENTS

9. **Approval of Improvements to Facilities.** Where Watermaster or IEUA desires to provide improvements within SBCFCD or CBWCD Facilities, they shall submit plans and specifications thereof for SBCFCD or CBWCD review and approval. The approving Party thereafter agrees to allow such improvements and to issue any necessary permits in an expeditious manner, and Watermaster or IEUA agrees to assume all costs in connection therewith. With the SBCFCD's or CBWCD's concurrence, Watermaster or IEUA may contract with any other public or private entity or entities to provide said improvements. If Watermaster or IEUA has not already obtained a permit to perform the improvements in SBCFCD Facilities, then the entity who is contracted to perform the improvements shall apply for any required permits. Whenever Watermaster or IEUA contracts with others to perform work within SBCFCD or CBWCD Facilities, they shall ensure that the contractors comply with the terms and conditions of this Agreement and any relevant permits prior to entry upon such Facilities. When Watermaster or IEUA contracts for work, any and all procurement of labor, equipment, materials and services necessary to carry out construction of improvements shall be in accordance with the normal bidding and procurement procedures and policies of the respective Parties.

10. **Removal of Improvements from Facilities.** All water conveyance, discharge, monitoring, and spreading Facilities constructed under this Agreement shall be removed from SBCFCD's or CBWCD's Facilities at Watermaster's or IEUA's expense should this Agreement be terminated, unless SBCFCD's or CBWCD's approval is given to allow said Facilities to remain in place.

VI. ONGOING FIELD OPERATIONS

11. **Coordination of Field Operations.** To the extent practicable, the Parties will coordinate their field operations, which includes maintenance activities, relative to the delivery of Supplemental Water to the Facilities.

12. **Security at Facilities.** Watermaster shall be responsible for appropriate security and surveillance of the areas used for ponding, conveying and spreading of Supplemental Water when such water is present at the Facilities. Watermaster will assume responsibility for security and surveillance of the improvements they make to the Facilities. Watermaster may employ guards or other security systems for this purpose.

13. **Maintenance Priorities at Facilities.** Maintenance personnel for SBCFCD Zone 1 assets will be allocated first for the purpose of providing flood control related maintenance and secondarily for the purpose of providing recharge related maintenance.

14. **Performance of Maintenance.** Watermaster and IEUA may utilize contractors to provide recharge related Additional Activities at the Facilities.

Watermaster may choose to have the Additional Activities, as identified in the budget, performed by an entity other than SBCFCD, CBWCD or IEUA, but only after consultation with and in coordination with SBCFCD, CBWCD or IEUA. SBCFCD, CBWCD and IEUA after consultation will cooperate with Watermaster to facilitate such performance by another entity. Any such entity and its contractors must comply with the rules and regulations of SBCFCD, CBWCD, or IEUA, including obtaining a permit(s), providing insurance, and reimbursement of costs for administration and inspection. As applicable, any and all procurement of labor, equipment, materials and services necessary to carry out performance of Additional Activities shall be in accordance with the normal bidding and procurement procedures and policies of Watermaster or the respective party performing the maintenance.

15. **Encroachment.** The Parties hereto shall not authorize or permit encroachment by others upon the Facilities owned by the other Parties.

16. **Damage to Facilities.** Under no circumstances shall the use of the Facilities by Watermaster or IEUA result in damage or degradation to the Facilities owned by the Parties hereto. Joint periodic inspections by the Parties to this Agreement shall be made if one or more of the Parties report that Facilities have received damage or are experiencing degradation. The purpose of the joint inspection will be to agree upon whether the work performed under this Agreement has caused the damage or degradation to the Facilities and to agree upon the corrective action needed to repair the damage or degradation. Once agreement has been reached, documentation shall be submitted to Watermaster identifying said damage or degradation, along with the agreed corrective action. Watermaster shall pay all costs for the corrective action. During the Rainy Season should the SBCFCD, CBWCD or IEUA discover that their respective Facilities have been damaged and require emergency corrective repair work in order to safely capture and detain storm water runoff, such agency or agencies will document the cause and extent of damage (e.g., through the use of photos, etc.) and shall proceed to make the necessary emergency corrective repairs. As soon as practicable following the discovery that such Facilities require emergency corrective work, such agency shall inform Watermaster of its decision to perform the emergency corrective work and of its intent to invoice Watermaster for the costs associated therewith. Scheduling priorities and dispute resolution, including but not limited to resolution of disputes relating to emergency repairs, and operation and maintenance issues will be addressed through the Groundwater Recharge Coordinating Committee (GRCC).

VII. RECYCLED WATER

17. **Recycled Water.** Subject to approval by Watermaster, IEUA will have the primary responsibility for supplying and physically delivering recycled water to the

Facilities in coordination with the other recharge and flood control activities at those Facilities. Excluding the real property and the existing fixtures and structures that are presently owned by others, and further excluding any new fencing that is installed by IEUA under the Chino Basin Recharge Facilities Implementation Project, IEUA will be the owner of all recycled water installations and works installed by IEUA. Relative to the use of the Facilities for recharge of recycled water:

- a. Prior to the physical recharge of recycled water under this Agreement, IEUA shall prepare and process a request to, and shall obtain any necessary approvals from, the State of California Regional Water Quality Control Board, Santa Ana Region ("SARWQCB") and California Department of Health Services ("DHS"). Copies of such approvals shall be provided to CBWCD, SBCFCD and Watermaster.
- b. IEUA shall take all necessary and feasible steps to ensure that at all times, all recycled water supplies delivered by IEUA comply with the water quality and discharge provisions established in NPDES Permits from the SARWQCB and DHS.
- c. IEUA shall prepare and submit to the SARWQCB, as required, project monitoring and reporting requirements, which are established for the project by the SARWQCB and the DHS. Copies of all documents will be submitted simultaneously to Watermaster. IEUA shall continue to provide project monitoring, as required by the SARWQCB and DHS, after termination of this Agreement.
- d. Ownership of monitoring equipment and other Facilities installed by IEUA under the terms of this Agreement will continue to vest with IEUA after termination of this Agreement. Any costs incurred to comply with any of the requirements set forth herein with regard to recycled water shall be the sole responsibility of IEUA.
- e. IEUA will ensure that any necessary approvals and agreements between those third parties to whom IEUA provides recycled water and the Watermaster are obtained for storage and/or recharge of

- recycled water in the Chino Groundwater Basin, at no cost to SBCFCD, CBWCD or Watermaster.
- f. No provision of any other permit or agreement between IEUA and any other third party shall operate to relieve IEUA from any of its obligations under this Agreement.
 - g. IEUA shall cease spreading of recycled water immediately should levels of chemicals and other constituents increase beyond permitted levels identified in IEUA's NPDES and DHS Permits and/or in any other regulatory or permitting agency's permits or agreements. IEUA will have the sole responsibility for mitigation or cleanup activities required by regulatory entities related to the spreading of recycled water.
 - h. No provision of this Agreement is intended to require, nor shall it be deemed to require, that SBCFCD or CBWCD become a primary user of, or otherwise become responsible for, any monitoring and/or testing of recycled water that is recharged by IEUA, or that CBWCD or SBCFCD be required to accept responsibility for compliance with any and all requirements imposed by the SARWQCB, which, in the absence of this Agreement, would be the responsibility of IEUA or other third parties.
 - i. IEUA shall complete the design and construction of improvements at Facilities necessary to connect, convey and deliver recycled water supplies for recharge purposes, at no cost to CBWCD and SBCFCD.

VIII. COSTS

18. **Budgeting.** Each fiscal year, using the procedures described in Attachment 2, IEUA will prepare, with the assistance of the other Parties, for consideration by Watermaster for each of the Facilities, a proposed budget of expenditures for operation, maintenance, repairs and improvements as well as for

establishing and maintaining prudent operating and improvement reserves for the next fiscal year (the "Consolidated Budget") and a planning budget of such expenditures for each of the following two fiscal years (the "Planning Budget"). Each of the Consolidated Budget and the Planning Budget will include: (a) a description of the activities that would normally be performed by SBCFCD, CBWCD and IEUA absent this Agreement ("Normal Activities") and the estimated costs that would normally be incurred for the performance of such activities ("Base Costs"); and (b) a description of Additional Activities identified by the Parties to be performed to facilitate and accommodate recharge of Supplemental Water or to correct any conditions, created by the use of Facilities for recharge of Supplemental Water, that cause SBCFCD, CBWCD, or IEUA to incur additional costs ("Additional Activities") and the estimated costs that would be incurred for the performance of such additional activities ("Additional Costs"). Normal Activities and Additional Activities include but are not limited to the activities listed in Attachment 2.

19. **Approval of Budgets.** In accordance with Attachment 2, Watermaster may approve or disapprove the Additional Costs in the Consolidated Budget and the Planning Budget submitted by IEUA or, after consultation with the other Parties, approve amended versions, provided, however, that Watermaster may not disapprove budgeted Additional Costs incurred in order to correct any conditions, as identified under the procedures of paragraph 16 of this Agreement, created by the use of Facilities for recharge of Supplemental Water. Upon approval of the Consolidated Budget and Planning Budget, Watermaster will notify the other Parties of such approval and authorize the other Parties to perform the Additional Activities.

20. **Books and Records.** SBCFCD, CBWCD and IEUA will maintain their books and records to adequately and accurately, describe and separately itemize all expenditures for Base Costs and for Additional Costs to the best practical extent. [See Attachment 2.]

21. **Submission of Invoices.** Not more often than monthly, SBCFCD and CBWCD will submit to IEUA, and IEUA will submit to itself, invoices, with supporting documentation, for actual Additional Costs, including overhead (i.e., payroll burden plus departmental overhead) charged on labor only, incurred by SBCFCD and CBWCD for either completed or partially completed Additional Activities which are included in the Consolidated Budget (as such budget may be amended from time to time in accordance with Attachment 2). Watermaster will also transmit to IEUA its claim for reimbursement for costs incurred which are included in the Consolidated Budget (as such budget may be amended from time to time in accordance with Attachment 2). Within 30 days of the received date of the invoice IEUA will pay the Parties for the amounts invoiced. In the event of a dispute over the amounts invoiced, IEUA will pay the amount invoiced and the applicable Parties will meet and confer with Watermaster and IEUA within 30 days to resolve the dispute.

22. **No Fees or Charges.** SBCFCD, CBWCD and IEUA will not impose fees or charges for use of their Facilities for the recharge of Supplemental Water and native storm water under this Agreement by Watermaster or IEUA.

IX. INDEMNITY

23. **Mutual Indemnification.** Each of the Parties except the SBCFCD agrees to indemnify, defend and hold harmless each of the other Parties except the SBCFCD and their authorized officers, employees, directors, managers, agents and volunteers from any and all claims, actions, losses, damages, and/or liability arising out of this Agreement that are based upon the negligence of the indemnifying party, including the acts, errors or omissions of any person and for any costs or expenses incurred by the Parties on account of any claim therefore, except where such indemnification is prohibited by law. Indemnification with regard to SBCFCD shall be governed by Paragraph 24, below.

24. Indemnification Regarding SBCFCD.

24A. Watermaster, IEUA, and CBWCD agrees to indemnify, defend and hold harmless the County, SBCFCD and its officers, employees, agents, and volunteers from any and all claims, actions, losses, damages, and/or liability arising out of this Agreement that are based upon their negligence including the acts, errors or omissions of any person and for any costs or expenses incurred by Watermaster, IEUA, CBWCD and their officers, employee, agents, and volunteers in connection with this Agreement.

24B. The County and SBCFCD agrees to indemnify and hold harmless Watermaster, IEUA, CBWCD and their officers, employees, directors, managers, agents, and volunteers from any and all claims, actions, losses, damages, and/or liability arising out of this Agreement that are based upon its negligence including the acts, errors or omissions of any person and for any costs or expenses incurred by the County, SBCFCD and its officers, employees, agents, and volunteers in connection with this Agreement.

24C. In the event the County, SBCFCD, and/or Watermaster, IEUA, CBWCD is found to be comparatively at fault for any claim, action, loss or damage which results from their respective obligations under this Agreement, the County, SBCFCD and/or Watermaster, IEUA, CBWCD shall indemnify the other to the extent of its comparative fault.

25. Insurance. Without in any way affecting the indemnity herein provided and in addition thereto, the Watermaster and IEUA shall secure and maintain throughout the term of the Agreement the following types of insurance with limits as shown:

- a. Workers' Compensation. A program of Workers' Compensation insurance or a State-approved Self-Insurance Program in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employer's Liability with two hundred fifty thousand dollar (\$250,000) limits, covering all persons providing services on behalf of the Watermaster and IEUA and all risks to such persons under this Agreement.

- b. Comprehensive General and Automobile Liability Insurance. This coverage to include contractual coverage and automobile liability coverage for owned, hired, and non-owned vehicles. The policy shall have combined single limits for bodily injury and property damage of not less than one million dollars (\$1,000,000).
- c. Additional Named Insured. All policies, except for Workers' Compensation policies shall contain additional endorsements naming the Parties hereto, their directors and managers, the County and their officers, employees, agents, and volunteers as additional named insured with respect to liabilities arising out of the performance of services hereunder.
- d. Waiver of Subrogation Right. Watermaster and IEUA shall require the carriers of the above required coverages to waive all rights of subrogation against the SBCFCD and the County and the CBWCD, their officers, employees, agents, volunteers, contractors, directors, managers and subcontractors.
- e. Policies Primary and Non-Contributory. All policies required above are to be primary and non-contributory with any insurance or self-insurance programs carried or administered by the SBCFCD or CBWCD.
- f. Proof of Coverage. The Watermaster and IEUA shall immediately furnish certificates of insurance to the SBCFCD and CBWCD evidencing the insurance coverage, including endorsements, above required prior to the commencement of performance hereunder, which certificates shall provide that such insurance shall not be terminated or expire except without thirty (30) days written notice to the SBCFCD and CBWCD, and Watermaster and IEUA shall maintain such insurance from the time Watermaster and IEUA commence performance hereunder until the completion of such performance. Within sixty (60) days of the commencement of this

Agreement, the Watermaster and IEUA shall furnish certified copies of the policies and all endorsements.

- g. Insurance Review. The above insurance requirements are subject to periodic review by the SBCFCD and CBWCD. The San Bernardino County Risk Manager is authorized, but not required, to reduce or waive any of the above insurance requirements whenever the Risk Manager determines that any of the above insurance is not available, is unreasonably priced, or is not needed to protect the interests of the SBCFCD. In addition, if the Risk Manager determines that heretofore unreasonably priced or unavailable types of insurance coverage or coverage limits become reasonably priced or available, the Risk Manager is authorized, but not required, to change the above insurance requirements to require additional types of insurance coverage or higher coverage limits, provided that any such change is reasonable in light of past claims against the SBCFCD, the County, inflation, or any other item reasonably related to the SBCFCD's or County's risk.
- h. Reduction or Waiver. Any such reduction or waiver for the entire term of the Agreement and any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this Agreement. Watermaster and IEUA agree to execute any such amendment within thirty (30) days of receipt.
- i. General Liability Insurance. During the term of this Agreement, Watermaster and IEUA shall maintain \$10,000,000 in general liability insurance.

X. GENERAL

26. General Compliance Responsibilities. No provision of this Agreement is intended to require, nor shall it be deemed to require, that any of the Parties will become responsible for or accept any responsibility for compliance with any

requirements imposed by other entities which, in the absence of this Agreement, would be the responsibility of the other Parties.

27. **Independent Contractors.** It is agreed that in the performance of the services by each Party to this Agreement, each Party and their officials, employees, and agents, shall act and be independent contractors of the other Party, and not as an agent or employee of the other Party, and shall obtain no rights to any benefits which accrue to employees of the other Party.

28. **Neutral Interpretation.** This Agreement constitutes the product of negotiations of the Parties hereto and any enforcement hereof will be interpreted in a neutral manner and not more strongly for or against any Party based upon the source of the draftsmanship hereof. This Agreement shall be construed in accordance with the laws of the State of California. The Parties agree and acknowledge that counsel for the Parties have mutually reviewed this Agreement and that the provisions of Civil Code § 1654 shall not apply to the interpretation of this Agreement.

29. **Material Covenants.** The failure or refusal of one Party to perform a material covenant within a reasonable time shall relieve the other Parties from any further performance under this Agreement with respect to that individual Party. Absent a material breach, the covenants contained in this Agreement shall continue in full force and effect.

30. **Other Agreements.** No provision of this Agreement is intended to require, nor shall it be deemed to require, that the Parties enter into any agreements, or obtain any approvals from any other agency or third party which would constitute a violation of or prevent any of the Parties from complying with any other agreement or permit in effect as of the date of this Agreement, or which would require the SBCFCD, CBWCD or IEUA to waive, compromise, or violate any of their respective statutory duties or responsibilities, or which would require Watermaster to compromise or violate the Judgment. No provision of this Agreement is intended to interfere with or in any way

supercede other agreements between the Parties or between any of the Parties and third parties. Each Party will notify the other Parties should it enter into other agreements with third parties that might affect the Facilities.

31. **Workers Compensation Claims.** If any of the Parties or San Bernardino County attempts to seek recovery from the other Parties for Workers Compensation benefits paid to an employee, the Parties agree that any alleged negligence of the employee shall not be construed against the employer of that employee.

32. **No Discrimination.** The Parties each covenant that there shall be no discrimination against or segregation of any person, group or employee due to race, color, creed, religion, sex, marital status, age, disability, nation origin, ethnicity or ancestry, in any action or activity pursuant to this Agreement.

33. **Notices.** All notices, approvals, consents or other documents required or permitted under this Agreement shall be in writing and, except as otherwise provided herein, shall be effective upon personal delivery or three days after deposit in the United States mail, registered or certified, with first class postage fully prepaid, addresses as follows:

San Bernardino County Flood Control District
825 East Third Street
San Bernardino CA 92415-0835

Chino Basin Water Conservation District
PO Box 2400
Montclair, CA 91763-0900

Inland Empire Utilities Agency
P.O. Box 697
Rancho Cucamonga, CA 91729

Chino Basin Watermaster
8632 Archibald Avenue, No. 109
Rancho Cucamonga, CA 91730

34. **Term.** The initial term of this Agreement shall be until December 31, 2032 unless it is earlier terminated for any of the following reasons by any of the Parties:

- a. Substantial breach of the terms or conditions of this Agreement and failure to cure after notice.
- b. Violation of any of the covenants and conditions of this Agreement, or the inability to perform under the terms of this Agreement, on thirty (30) days written notice to the other Party. The 30-day notice requirement shall not apply in the event of an emergency.
- c. Subsequent enactment or amendment of laws, rules or regulations which render performance under this Agreement impracticable for any Party.

35. **No Liability Upon Termination.** In the event that this Agreement is terminated, no Party shall incur any further liability or obligation under the Agreement, except to fulfill any obligations then-existing at the time of termination, if any, based upon prior actions already taken pursuant to this Agreement (for example, any continuing duty to make payments for outstanding claims and legal actions, and services rendered and/or material and property purchases).

36. **Meet and Confer.** The Parties agree to meet and confer to review this Agreement whenever any of them may request such review, but at least once every five years. This Agreement may be amended by agreement of all of the Parties. This Agreement may be terminated by any Party without cause after December 31, 2032 provided notice of such termination is given one year prior.

37. **Successors and Assigns.** This Agreement shall inure to the benefit of and be binding upon the successors and assigns of the Parties.

XI. Groundwater Recharge Coordinating Committee

38. A Groundwater Recharge Coordinating Committee (GRCC) is hereby created.

- a. Each Party is entitled to appoint one member and one alternate member to the GRCC. Members will serve at the pleasure of their respective appointing Parties.
- b. The initial meeting of the GRCC will be held at the call of Watermaster. The initial meeting of the GRCC shall be scheduled by Watermaster to occur no later than March 31, 2003.
- c. At the initial meeting, and annually thereafter, the members will select a chairperson and such other officers as they deem appropriate.
- d. The GRCC will meet at least quarterly and as often as necessary to facilitate full coordination of groundwater recharge operations.
- e. The primary function of the GRCC is to provide coordination of the operation, maintenance and use of the Facilities for groundwater recharge in the Chino Basin in order to achieve the purposes set forth in this Agreement.
- f. The GRCC is charged with developing and maintaining detailed criteria for groundwater recharge operations for each Facility consistent with this Agreement, creating and maintaining a communications plan and network to assure that the multiple uses of the Facilities are properly coordinated and to enable planned activities to be modified when necessary without convening meetings of the GRCC.
- g. The GRCC will prepare an annual operating plan for the recharge related activities at the Facilities and will coordinate the preparation of the budgets for the Facilities described in Paragraph 18 of this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement with an effective date of the 23rd day of January 2002. ³ also

Dated: 12/18/02

INLAND EMPIRE UTILITIES AGENCY

By John L. Anderson

Approved as to Form:

[Signature]
Title: General Counsel

Dated: 12/11/02

CHINO BASIN WATER CONSERVATION DISTRICT

By [Signature]

Approved as to Form:

W. J. R.
Title: District Counsel

Dated: 1-23-03

SAN BERNARDINO COUNTY FLOOD CONTROL DISTRICT

Approved as to Form:

Title: _____

SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE CHAIRMAN OF THE BOARD
J. HENRI BASTIAN
Chair of the Board of Supervisors
of the County of San Bernardino

By [Signature]

Dated: 12/12/02

CHINO BASIN WATERMASTER

By [Signature]

Approved as to Form:

[Signature]
Title: General Counsel

Attachment No. 1
To Agreement
FOR
OPERATION AND MAINTENANCE OF FACILITIES
TO IMPLEMENT THE
CHINO BASIN RECHARGE MASTER PLAN

**RECHARGE MASTER PLAN IMPLEMENTATION
MEMORANDUM OF AGREEMENT**

AND

TABLE 1 RECHARGE GOALS FOR EACH BASIN

RECHARGE MASTER PLAN IMPLEMENTATION
MEMORANDUM OF AGREEMENT

The purpose of this Memorandum of Agreement (MOA) is: to define some of the operational policies and actions necessary to implement *Program Element 2 - Develop and Implement Comprehensive Recharge Program* of the Optimum Basin Management Program (OBMP) for the Chino Basin, to define the PARTIES that are tasked with its implementation and the specific actions to be taken by each party. The PARTIES that are signatories to this MOA include the Chino Basin Watermaster (Watermaster), the Chino Basin Water Conservation District (CBWCD), Inland Empire Utilities Agency (IEUA), and the San Bernardino County Flood Control District (SBCFCD). Watermaster, CBWCD, IEUA and SBCFCD are collectively referred to herein as the PARTIES.

RECITALS

Whereas the need for a comprehensive recharge program is described in the OBMP Phase I report dated August 1999 and the Peace Agreement dated June 29, 2000; and

Whereas Watermaster completed a Recharge Master Plan Phase II Report dated August 2001 which contains descriptions of the existing and potential recharge facilities in the Chino Basin; and

Whereas the PARTIES, in accordance with their respective Acts and Powers, desire to cooperate in a program to implement certain portions of the Recharge Master Plan for the purpose of assuring that the Chino Basin has adequate recharge capabilities to meet its future needs; and

Whereas increasing the yield of the Chino Basin by increased capture of storm flow will improve ambient water quality and increase the assimilative capacity of the Chino Basin; and

Whereas the Recharge Master Plan investigations demonstrated that the best and least expensive way to put this available storm flow runoff to beneficial use is groundwater recharge; and

Whereas IEUA, acting on behalf of the Watermaster, has submitted an application for Proposition 13 grant funding to pay for half of the capital cost of the recharge facility improvements, up to \$19 million, described in the Recharge Master Plan; and

Whereas IEUA will retain a design consultant in December 2001 to complete a preliminary design report; and

Whereas the final design and specifications for the recharge facility improvements must be completed by April 15, 2002 to ensure that the projects can be constructed and that IEUA will receive funding under Proposition 13 for these facilities.

NOW THEREFORE BE IT RESOLVED THAT:

1. The PARTIES to this MOA hereby agree that the flood control function of the various basins or facilities capable of artificial recharge in the Chino Basin takes priority over the artificial recharge function. For the purposes of this MOA, artificial recharge includes storm and supplemental water recharge that occurs only through active and discretionary activities of the PARTIES. The PARTIES agree that to the extent that artificial recharge can be incorporated into the operation of the basins without risk of flood damage and loss of life or without impeding or impairing flood control activities, recharge will be optimized. Multi-purpose projects are high priority and will be considered on a case-by-case basis.
2. Facilities Operations. In order for water to be stored in the basins, the PARTIES will need to know in advance of the coming of significant storms. Currently, long range forecasting of the weather is obtained by SBCFCD. When significant storms are predicted to occur in the Chino Basin area, the volume of water in conservation storage in each basin will be reduced accordingly to preserve the flood control function in anticipation of storm water inflows. Conservation plans will be developed for each of the facilities that include a schedule of conservation pool elevations, criteria that define when water can be stored for conservation and when water in conservation storage must be released to restore the full flood protection capabilities of the basins or allow for facility maintenance and repair, etc. Preliminary conservation goals for each basin are included in Table 1. Initially, for basins that receive supplemental water (as defined in the Judgment at

Memorandum of Agreement
Maximization of Recharge in the Chino Basin Phase 2 - Optimum Basin Management Program

Peace Agreement), the volume of water in conservation storage will be reduced by either reducing or stopping altogether supplemental water inflows to the basins to provide adequate storage space to capture the runoff from the expected storm event. These conservation plans will be developed in detail in subsequent agreements, and they may be modified over time based on operational experience, improvements in weather and flood forecasting, management technologies and other considerations.

3. Many facilities listed in Table 1 will be monitored remotely for flood control and other purposes. These facilities may be operated either through an automatic control system or by manually operating controls at each facility. A PARTY can delegate the operation and control of some or all of its facilities to others. The SBCFCD shall have the authority to empty its basins at its sole discretion to prevent risk of flood damage or loss of life or for immediate maintenance. Pursuant to Article 5.1(f) of the Peace Agreement, the PARTIES agree to undertake Recharge using water of the lowest cost and the highest quality, giving preference as far as possible to the augmentation and the Recharge of native storm water.
4. Maintenance. Activities to maintain or improve recharge performance at basins will be done at periods chosen by the PARTIES to optimize recharge of storm water and supplemental water. The PARTIES will identify the entities to perform this maintenance for each facility. Watermaster will pay the incremental cost increase of basin operations that are in addition to the ordinary and customary operation and maintenance activities presently practiced. Such incremental cost increases will include charges resulting from the planned optimization of recharge and other percolation restoration efforts arising or made more costly due to the presence of supplemental water in the basins. The planned optimization of recharge will include the environmental impacts that are present and policies will be established to maintain the optimum characteristics of the recharge facilities.
5. Financing and Accounting. It is the intent of the PARTIES that the costs associated with implementation of the Recharge Master Plan will be paid by Chino Basin Watermaster and IEUA (including SAWPA Proposition 13 funding). It is also not the intent of the PARTIES that capital costs associated with the Recharge Master Plan projects be borne by either CBWCD or SBCFCD. The PARTIES will account for their efforts associated with the Recharge Master Plan projects in order that "in-kind" contributions are consistent with the contractual requirements to demonstrate local share matching funds required for Proposition 13 funding are being contributed. It is the intent of the PARTIES that other projects that are not otherwise committed and that meet the intent of the Recharge Master Plan activities, will be counted toward the local share of matching funds.
6. Subsequent Agreements. The PARTIES will immediately work to develop subsequent agreements necessary to address the specifics of facilities operations, maintenance, repayment, etc. It is anticipated the Subsequent Agreements will be completed in the first quarter of 2002, prior to completion of final design.

IN WITNESS WHEREOF, the PARTIES hereto have caused this Memorandum of Agreement to be executed on the dates herein shown.

_____, 2002

INLAND EMPIRE UTILITIES AGENCY
By *Richard L. Swartz*

_____, 2002

CHINO BASIN WATER CONSERVATION DISTRICT
By *Bonett Kell*

FEB 12 2002

SAN BERNARDINO COUNTY FLOOD CONTROL DISTRICT
By *Paul Lopez*

Jan 24, 2002

CHINO BASIN WATERMASTER
By *John*

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

J. RENEE BASTIAN
Clerk of the Board of Supervisors
of the County of San Bernardino

Table 1
Recharge Goals for Each Basin

Basin	Storm Water Conservation Goal	Supplemental Water Recharge Capacity Goals	
		Imported Water	Recycled Water
	(acre-ft/yr)	(acre-ft/yr)	(acre-ft/yr)
<i>Management Zone 1</i>			
Montclair Basin 1	350	2,215	1,846
Montclair Basin 2	780	4,438	3,598
Montclair Basin 3	370	953	794
Montclair Basin 4	440	1,075	896
Brooks Street Basin	1800	1,881	1,568
Upland Basin	1000	4,935	4,112
College Heights Basins	100	8,958	7,465
Seventh and Eighth Street Basins	1550	1,181	984
Subtotal Management Zone 1	<u>6,390</u>	<u>25,625</u>	<u>21,362</u>
<i>Management Zone 2</i>			
San Sevaire No. 1	820	7,288	6,073
San Sevaire No. 2	20	2,484	2,079
San Sevaire No. 3	640	3,127	2,606
Rich Basin	860	2,524	2,104
San Sevaire No.'s 4 and 5 (combined into one basin)	500	4,601	3,834
Ely Basins	2,800	2,907	2,423
Etiwanda spreading area (joint use of Etiwanda debris basin)	1,635	4,886	4,886
Hickory Basin	840	2,606	2,172
Victoria Basin	940	2,883	2,402
Turner Basin No. 234	1,300	1,895	1,579
Lower Day Basin	500	2,345	1,954
Turner Basin No. 1	860	505	421
Subtotal Management Zone 2	<u>12,215</u>	<u>38,051</u>	<u>32,523</u>
<i>Management Zone 3</i>			
Jurupa Basin	650	635	529
Wineville Basin	600	586	489
Etiwanda Conservation Ponds	1,060	3,257	2,714
IEUA RFB Ponds	1,700	4,886	4,072
Decker Basin	260	977	814
Banana Basin	800	1,020	1,683
Subtotal Management Zone 3	<u>5,070</u>	<u>12,361</u>	<u>10,301</u>
Totals	<u>23,675</u>	<u>76,047</u>	<u>64,187</u>

Attachment No.2
to
Agreement
FOR
OPERATION AND MAINTENANCE OF FACILITIES
TO IMPLEMENT THE
CHINO BASIN RECHARGE MASTER PLAN

The purpose of this Attachment No. 2 is generally to describe (1) the budgeting, funding, billing and payment processes to be used by the Parties in the implementation of this Agreement, (2) the Facilities covered by this Agreement, (3) the lists of normal and additional maintenance activities referred to in Paragraph 18 of the Agreement and paragraphs C2, C3, D2, D3, E2 and E3 of this Attachment and (4) the guidelines for creation and operation of annual operating plans for each Facility. This Attachment 2 may be amended periodically by unanimous agreement of the members of the Groundwater Resources Coordinating Committee (GRCC) It is the intent of the Parties that the GRCC will have reasonable flexibility to create procedures or time schedules that may deviate somewhat from those set forth below, provided that all of the affected Parties agree.

A. Budgeting and Funding Process. In order to facilitate the timely review and approval by Watermaster of the Consolidated Budget and Planning Budget called for in Paragraph 18 of the Agreement, the Parties will each submit individual budgets for Additional Costs for the ensuing fiscal year to IEUA, with copies to the other Parties, no later than February 1st of each fiscal year. IEUA will then prepare a Consolidated Budget and Planning Budget and circulate such budgets for review and comment by March 1st. IEUA will consult with the GRCC as part of the preparation process. IEUA will use its best efforts to resolve any questions or concerns of the Parties during such review. IEUA will submit the Consolidated Budget and Planning Budget, with any changes, to Watermaster by April 1st. Watermaster will adopt a final Consolidated Budget and Planning Budget on or before June 1st of each year. Watermaster shall

supply a copy of said Consolidated Budget and Planning Budget to the Parties on or before June 15th. Any amendment to the Consolidated Budget shall be submitted to the Parties for review and comment at least 30 days prior to action thereon by Watermaster. The Consolidated Budget for Additional Costs for the ensuing fiscal year will be the sum of the amounts approved by Watermaster for IEUA, CBWCD and SBCFCD plus the amount budgeted by Watermaster for its own costs. Quarterly, in advance, Watermaster will pay to IEUA the portion, as shown by the Consolidated Budget, of the estimated amount needed to fund the portion of the total budget to be expended during the quarter. IEUA will place the amounts received into a Recharge O & M Account. If the Consolidated Budget is amended during the fiscal year and the result of such amendment is to increase appropriations, such increased amounts will be paid quarterly over the remaining fiscal year.

B. Payment Process. Not later than the 15th day of each month CBWCD and SBCFCD will transmit to IEUA, and IEUA will transmit to itself, with copies to Watermaster, the invoices that are called for in Paragraph 21 of the Agreement, and Watermaster will transmit to IEUA its claim for reimbursement for costs incurred. IEUA will then, within fifteen days, pay each of the four agencies separately for their invoiced amounts from amounts received from Watermaster.

C. San Bernardino County Flood Control District Facilities.

1. **Facilities.** The following Facilities owned or operated (either through contract or easement) by SBCFCD, collectively the SBCFCD Facilities, may be subject to this Agreement:

- Brooks Basin, also known as the Brooks Street Basin (through contract)
- Ely Basins Nos. 1 and 2
- Ely Basin No. 3 (through easement)
- Etiwanda Spreading Grounds

- Hickory Basin
- Lower Day Creek Basin, also known as Day Creek Basins Nos. 1 and 2
- Montclair Basins Nos. 1-3 (through easement)
- San Sevaine Basins Nos. 1, 2, 3, 4 and 5
- Turner Basin No.1
- Turner Basins Nos. 2,3 and 4
- Victoria Basin
- Banana Basin
- Declez Basin
- Etiwanda Conservation Basins, leased through 2004
- Jurupa Basin
- Wineville Basin
- Other facilities such as channels, diversion structures, and appurtenances

2. Nonexclusive List of Maintenance Activities that may normally be performed by SBCFCD at facilities owned or operated by SBCFCD("Normal Activities").

- a. Generally, any activities that SBCFCD would have performed in the absence of this Agreement.
- b. Maintenance, repair and replacement of the exterior fencing.
- c. Maintenance, repair and replacement of SBCFCD signage on the exterior fencing and at entrances to warn against and prohibit trespass.
- d. Maintenance, repair and reconstruction of the pre-existing stormwater diversion, conveyance and discharge structures and their appurtenances, excluding any additional maintenance, repair and reconstruction attributable to the conveyance or recharge of Supplemental Water.

- e. Debris removal, weed control and pest management work, excluding any such work that is attributable to or made more difficult by the conveyance or recharge of Supplemental Water.
 - f. Routine inspections weekly during the storm season and quarterly during the non-storm season.
 - g. Environmental or other permit processing for maintenance activities excluding additional environmental or other permit processing attributable to the conveyance or recharge of Supplemental Water or the extended holding of storm water.
3. Nonexclusive List of Additional Maintenance Activities that may be identified by Watermaster, IEUA and SBCFCD. (Additional Activities)
- a. Generally, any activities specifically requested by Watermaster or IEUA or other activities that are made necessary due to recharge of Supplemental Water.
 - b. Any additional maintenance, repair, and reconstruction work to the Facilities themselves, including any of their existing storm water diversion, conveyance, and discharge structures and their respective appurtenances that is attributable to or made more difficult by the conveyance or recharge of Supplemental Water.
 - c. Any vector control and nuisance abatement and also any additional debris removal, weed control, and pest management attributable to or made more difficult by the conveyance or recharge of Supplemental Water.
 - d. Additional inspections or mitigation monitoring.
 - e. Maintenance, repair and replacement of pre-existing gravity-type water measurement structures and their appurtenances that are necessary to measure the flow rates of water diverted to the Facilities.

- f. Additional data processing, meeting attendance, budget preparation, operations coordination or other similar additional activities.
- g. Any additional slope area cleaning and weeding to remove material attributable to or made more difficult by the conveyance or recharge of Supplemental Water.
- h. The removal and disposal of silt, vegetation or debris deposits that are attributable to or made more difficult by the conveyance or recharge of Supplemental Water.
- i. Compliance with any requirements of the California Division of Safety of Dams or other local, state or federal agencies when such requirements are attributable to the use of Facilities for recharge of Supplemental Water.
- j. SCADA system operation, monitoring, and maintenance.
- k. Rubber Dam operation, maintenance and energy costs
- l. Repair of Facilities due to liquefaction or to the presence of recharge water.
- m. Any pumping necessary to gain access to the floor or sides of a Facility and its appurtenances in order to perform maintenance and repair functions.
- n. Security patrols.
- o. Clean-up of biofilms and insoluble non-biodegradable metabolites.
- p. Odor control.
- q. Repairing, maintaining, cleaning and reconstructing any gates, structures, housing, trash racks/grates, conduits, dams, buildings, fencing, SCADA components, berms and the appurtenances, parts and fixtures of each that are constructed as part of the Chino Basin Recharge Facilities Implementation Project or that become clogged, impaired, damaged or contaminated as a result of the conveyance, delivery, percolation or recharge of imported water.

- r. Repairing, maintaining, cleaning and reconstructing any gates, structures, housing, trash racks/grates, conduits, dams, buildings, fencing, SCADA components, berms and the appurtenances, parts and fixtures of each that are constructed and used for the delivery of recycled water to SBCFCD's Facilities, including but not limited to those works, Facilities and recharge surfaces that become clogged, impaired, damaged or contaminated as a result of the recharge of recycled water.
4. Annual Operating Plans. Through the GRCC, the Parties will coordinate the annual preparation of an operating plan for each Facility, including estimated schedules for planned outages to facilitate maintenance activities. While the details of the plans are expected to be developed over time by the Parties, the plans should take cognizance of the following general guidelines:
- a. SBCFCD will notify Watermaster and IEUA a minimum of two weeks in advance as to when and for what duration any of the Facilities will be unavailable for recharge of Supplemental Water due to planned maintenance and Watermaster and IEUA will promptly discontinue delivery of Supplemental Water to such Facilities.
 - b. Watermaster and IEUA will interrupt diversions of Supplemental Water to the Facilities immediately upon notification by SBCFCD that such interruption is necessary due to pending storms or unforeseen emergency conditions. It is the responsibility of IEUA or Watermaster to either cease making deliveries of Supplemental Water to, or release Supplemental Water from, the Facilities that are used for regulating storm water flows so as to restore the required storage space for stormwater containment in the Facilities.
 - c. Watermaster and IEUA will notify SBCFCD at least two weeks in advance as to when Supplemental Water will be available, the expected duration of such availability and the total volume of

Supplemental Water that Watermaster or IEUA would like to recharge, and request from SBCFCD information about the availability of Facilities for such recharge.

- d. IEUA will notify the SBCFCD within two weeks, weekends and holidays excepted, of communicating instructions to Metropolitan Water District of Southern California (MWDSC) to begin, increase, reduce or cease the release of imported water for delivery to any Facility, or of deciding to begin, increase, decrease or cease the delivery of recycled water to any Facility, and request from SBCFCD information about the availability of Facilities for such recharge.
- e. During any period of time that SBCFCD Facilities are available for recharge of Supplemental Water and Supplemental Water is available the Parties will use their best efforts to recharge the full amount of Supplemental Water Watermaster and IEUA request to recharge during that period.
- f. Watermaster and IEUA will interrupt deliveries or diversions of Supplemental Water to the Facilities pursuant to requests by SBCFCD in order to accommodate inspection, maintenance or construction functions by SBCFCD.
- g. Water occupying that portion of the Facilities whose purpose is flood control shall be emptied by order of SBCFCD 24 hours in advance of storms to provide full flood control capacity.
- h. Watermaster and IEUA will control deliveries of Supplemental Water to the Facilities as necessary to prevent exceeding the design capacity of the channels.
- i. In general, the floors of the Facilities will not be ripped or disked except following an activity involving the operation of heavy equipment there, and then only after the floor has been cleansed of silt and other materials that might impede the percolation rate of the Facilities. All Facility floors that are ripped or disked will be floated

or otherwise made smooth to avoid having silt deposited in cuts or furrows made by the ripping or disking operation. The Watermaster shall determine and fund activities to improve Facility recharge capability. The work activities described in this paragraph will be conducted only when authorized in advance by SBCFCD and only upon first receiving environmental permits and clearances from others when so required.

D. CHINO BASIN WATER CONSERVATION DISTRICT FACILITIES.

1. Facilities. The following Facilities owned by CBWCD, collectively the CBWCD Facilities, are subject to this Agreement:

- Brooks Basin, also known as the Brooks Street Basin
- Montclair Basins
- College Heights Basin, also known as the College Heights Basins
- Ely Basin No. 3
- Other facilities existing at the time of this Agreement that are a part of the above identified Facilities such as channels and diversion structures, and the appurtenances of each, except for such facilities that may, by way of law or otherwise, be the property of others.

2. Nonexclusive List of Maintenance Activities that would normally be performed by CBWCD at Facilities owned by CBWCD. ("Normal Activities").

- a. Generally, any activities that CBWCD would have performed in the absence of this Agreement.
- b. Maintenance, repair and replacement of the exterior fencing.
- c. Maintenance, repair and replacement of CBWCD signage on the exterior fencing and at entrances to warn against and prohibit trespass.

- d. Maintenance, repair and replacement of exterior landscaping and irrigation works.
- e. Maintenance, repair and reconstruction of the existing stormwater diversion, conveyance and discharge structures and their appurtenances, excluding any additional maintenance, repair and reconstruction attributable to the conveyance or recharge of Supplemental Water.
- f. Maintenance, repair and replacement of existing water level sensor installations and their appurtenances, including but not limited to their structural and electronic components.
- g. Debris removal, weed control and pest management work, excluding any such work that is attributable to or made more difficult by the conveyance or recharge of Supplemental Water.
- h. Routine inspections weekly during the storm season and twice monthly during the non-storm season.

3. Nonexclusive List of Additional Maintenance Activities that may be identified by Watermaster, IEUA and CBWCD. ("Additional Activities")

- a. Generally, any activities specifically requested by Watermaster or IEUA or other activities that are made necessary or more difficult due to recharge of Supplemental Water.
- b. Any additional maintenance, repair, and reconstruction work to the Facilities themselves, including any of their existing stormwater diversion, conveyance, and discharge structures and their respective appurtenances that is attributable to or made more difficult by the conveyance or recharge of Supplemental Water.
- c. Maintenance, repair and operation of the flow measurement device installed within CBWCD's diversion structure on the San Antonio Creek Channel including any required calibration.
- d. Any vector control and nuisance abatement and also any additional debris removal, weed control, and pest management

attributable to or made more difficult by the conveyance or recharge of Supplemental Water.

- e. Additional inspections or mitigation monitoring.
- f. Additional data processing, meeting attendance, budget preparation, operations coordination or other similar additional activities.
- g. Any additional slope area cleaning and weeding to remove material attributable to or made more difficult by the conveyance or recharge of Supplemental Water.
- h. The removal and disposal of silt, vegetation or debris deposits that are attributable to or made more difficult by the conveyance or recharge of Supplemental Water.
- i. Compliance with any requirements of the California Division of Safety of Dams or other local, state or federal agencies when such requirements are attributable to the use of Facilities for recharge of Supplemental Water.
- j. CBWCD's downloading and processing of information stored on its water level sensors used to estimate the approximate volumes of the different categories of water recharged.
- k. Any pumping necessary to gain access to the floor or sides of a Facility and its appurtenances in order to perform maintenance and repair functions.
- l. Repairing, maintaining, cleaning and reconstructing any gates, structures, housing, trash racks/grates, conduits, dams, buildings, fencing, SCADA components, berms and the appurtenances, parts and fixtures of each that are constructed as part of the Chino Basin Recharge Facilities Implementation Project or that become clogged, impaired, damaged or contaminated as a result of the conveyance, delivery, percolation or recharge of imported water.
- m. Repairing, maintaining, cleaning and reconstructing any gates, structures, housing, trash racks/grates, conduits, dams, buildings,

fencing, SCADA components, berms and the appurtenances, parts and fixtures of each that are constructed and used for the delivery of recycled water to CBWCD's Facilities, including but not limited to those works, Facilities and recharge surfaces that become clogged, impaired, damaged or contaminated as a result of the recharge of recycled water.

- n. Clean-up of bio films and insoluble non-biodegradable metabolites.
- o. Odor control.

4. Annual Operating Plans. Through the GRCC, the Parties will coordinate the annual preparation of an operating plan for each Facility, including estimated schedules for planned outages to facilitate maintenance activities. While the details of the plans are expected to be developed over time by the Parties the plans should take cognizance of the following general guidelines:
 - a. CBWCD will notify Watermaster and IEUA at least two weeks in advance as to when and for what duration any of the Facilities will be unavailable for recharge of Supplemental Water for reasons other than storm events or unforeseen emergency conditions and Watermaster and IEUA will promptly discontinue delivery of Supplemental Water to such Facilities.
 - b. Watermaster and IEUA will interrupt diversions of Supplemental Water to the Facilities immediately upon notification by SBCFCD or CBWCD that such interruption is necessary due to pending storms or unforeseen emergency conditions. It is the responsibility of IEUA or Watermaster to either cease making deliveries of Supplemental Water to, or release Supplemental Water from, the Facilities that are used for regulating stormwater flows so as to restore the required storage space for stormwater containment in the Facilities.
 - c. Watermaster and IEUA will notify CBWCD as soon as possible but at least one week in advance as to when Supplemental Water will be available, the expected duration of such availability and the total volume of Supplemental Water that Watermaster or IEUA would

like to recharge, and request from CBWCD information about the availability of Facilities for such recharge.

- d. Any of the Parties will notify the other Parties and the SBCFCD within twelve hours, weekends and holidays excepted, of communicating instructions to MWDSC to begin, increase, reduce or cease the release of Supplemental Water for delivery to any Facility, or of deciding to begin, increase, decrease or cease the delivery of recycled water to any Facility.
- e. During any period of time that CBWCD Facilities are available for recharge of Supplemental Water and Supplemental Water is available, the Parties will use their best efforts to recharge the full amount of Supplemental Water Watermaster and IEUA request to recharge during that period.
- f. Watermaster and IEUA will interrupt diversions of Supplemental Water to the Facilities pursuant to requests by CBWCD in order to accommodate inspection, maintenance or construction functions by CBWCD or SBCFCD. CBWCD will make every effort to plan and coordinate such functions in order to minimize interruptions of recharge activities.
- g. Watermaster and IEUA will control deliveries of Supplemental Water to the Facilities as necessary to prevent overflow into the San Antonio and West State Street Channels except during periods when the U.S. Army Corps of Engineers or the SBCFCD, respectively, have advised them in writing that capacity for such overflows exists in the Channels.
- h. CBWCD, after notifying the Army Corps of Engineers, and Watermaster, will open fully the diversion gate to the Montclair Basins in advance of storms predicted to exceed one quarter of an inch. Except when such storms are expected or when the diversion gate is being used to divert water for Watermaster, the gate will be kept closed.

- i. At the Montclair Basins during the Rainy Season, in order to create sufficient storage space for the capture and containment of stormwater, Watermaster and IEUA will be limited to recharge of Supplemental Water at Basins Nos. 1 and 2 and, upon receiving special authorization from CBWCD, in limited quantities at Basins Nos. 3 and 4.
- j. In general, the floors of the Facilities will not be ripped or disked except following an activity involving the operation of heavy equipment there, and then only after the floor has been cleansed of silt and other materials that might impede the percolation rate of the Facilities. All basin floors that are ripped or disked will be floated or otherwise made smooth to avoid having silt deposited in cuts or furrows made by the ripping or disking operation. The work activities described in this paragraph will be conducted only when authorized in advance by CBWCD. The work activities described in this paragraph will be conducted only when authorized in advance by CBWCD and only upon first receiving environmental permits and clearances from others when so required.

E. INLAND EMPIRE UTILITIES AGENCY FACILITIES

1. Facilities. The following Facilities owned by IEUA, collectively the IEUA Facilities, are subject to Agreement:
 - RP-3 Basins
2. List of Maintenance Activities that would normally be performed by IEUA at Facilities owned by IEUA (normal activities).
 - a. Generally, any activities that IEUA would have performed in the absence of Agreement.
 - b. Maintenance, repair and replacement of exterior fencing;
 - (1) signage on the exterior fencing and at entrances to warn against and prohibit trespass;

- (2) exterior landscaping and irrigation works;
 - (3) diversion, conveyance and discharge structures and their appurtenances, excluding any additional maintenance, repair and reconstruction attributable to the conveyance or recharge of imported water;
 - (4) water level sensor installations and their appurtenances, including but not limited to their structural and electronic components;
 - c. debris removal, weed control and pest management, excluding any additional maintenance, repair and reconstruction attributable to the conveyance or recharge of imported water; and
 - d. routine inspections.
3. List of Additional Maintenance Activities that may be identified by Watermaster (additional activities).
- a. Generally, any activities specifically requested by Watermaster or other activities that are made necessary due to recharge of imported water.
 - b. Additional maintenance, repair and reconstruction of stormwater diversion, conveyance and discharge structures and their appurtenances.
 - c. Additional debris removal, weed control or pest management.
4. General Operating Plan. Subject to the need to respond to unexpected events the Parties will operate generally as follows:
- a. IEUA will notify Watermaster at least one month in advance as to when and for what duration any of the Facilities will be available for recharge of Supplemental Water subject only to unexpected storm flows.

- b. Watermaster will notify IEUA at least two weeks in advance as to the total volume of Supplemental Water that Watermaster would like to recharge.
- c. IEUA will use its best efforts to recharge the full amount of Supplemental Water that Watermaster would like to recharge, subject to the priorities set forth in Agreement.
- d. IEUA, after due reasonable notification of Watermaster, may interrupt diversions of Supplemental Water to the Facilities in order to accommodate inspection, maintenance or construction functions or in order to capture storm flows for recharge.